

ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: June 7, 2021
Item No.: 9.d

Department Approval



City Manager Approval



Item Description: Approve MnDOT Cooperative Agreement for Snelling Avenue and Lydia Improvements

BACKGROUND

As part of the 2021 Pavement Management Project, the City has been working with the Minnesota Department of Transportation (MnDOT) for improvements to the Snelling Avenue and Lydia Avenue intersection. Major work includes converting the eastbound leg of the intersection to a double left and thru-right configuration to help alleviate congestion during the p.m. peak. Additionally, all legs of the intersection will be upgraded to flashing yellow arrows. In order to complete this work, a Cooperative Agreement (Attachment B) must be entered into.

The agreement states that the City will oversee the contract. MnDOT will supply the new signal cabinet at their cost and a video detection system at City cost (\$24,847).

Council previously approved a joint powers agreement with St. Paul Traffic on April 12, 2021, to complete the signal work installation. The associated pavement and curb work will be completed under the 2021 Pavement Management Project contract.

POLICY OBJECTIVE

It is City policy to keep utility infrastructure in good operating condition and to keep systems operating in safe conditions. City policy is to cooperate with other agencies for mutual benefit, whenever possible.

FINANCIAL IMPACTS

The City's cost of the improvement related to this agreement is \$24,847. MnDOT will be supplying a new signal cabinet in the amount of \$35,000. St. Paul Traffic cost of the improvement is \$50,000. The 2021 PMP portion of the cost is estimated at \$28,408. Overall City cost is estimated at \$103,255 and will be paid using Municipal State Aid Funds.

STAFF RECOMMENDATION

Staff recommends approving a resolution entering into MnDOT Cooperative Agreement for Snelling Avenue and Lydia Avenue improvements.

REQUESTED COUNCIL ACTION

Approve a resolution entering into MnDOT Cooperative Agreement for Snelling Avenue and Lydia Avenue improvements.

Prepared by: Jesse Freihammer, Asst Public Works Director/City Engineer
Attachments: A: Resolution
B: Cooperative Agreement

**EXTRACT OF MINUTES OF MEETING
OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

* * * * *

1 Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of
2 Roseville, County of Ramsey, Minnesota, was duly held on the 7th day of June, 2021, at
3 6:00 p.m.

4 The following members were present: ; and and the following were absent: .

5 Member introduced the following resolution and moved its adoption:

RESOLUTION No.

**RESOLUTION ENTERING INTO MNDOT COOPERATIVE AGREEMENT
FOR SNELLING AVENUE AND LYDIA AVENUE IMPROVEMENTS**

9 WHEREAS, the City of Roseville desires to perform improvements to the intersection of
10 TH 51 (Snelling Avenue) and Lydia Avenue; and

11 WHEREAS, TH 51 (Snelling Avenue) is managed by the State of Minnesota, Department of
12 Transportation.

13 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Roseville,
14 Minnesota:

- 15 1. That the City of Roseville enter into MnDOT Agreement No. 1046654 with the State
16 of Minnesota, Department of Transportation for the following purposes:
 - 17 a. To provide for payment by the City to the State of the City's share of the
18 costs of the State Furnished Materials for construction to be performed
19 upon, along, and adjacent to Trunk Highway No. 51 (Snelling Avenue) at
20 Lydia Avenue within the corporate City limits under State Project No.
21 6216-146.
 - 22 b. That the Mayor and the City Manager are hereby authorized to execute the
23 agreement and any amendments to the agreement.

24 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Roseville,
25 Minnesota:

26 The motion for the adoption of the foregoing resolution was duly seconded by Member , and
27 upon vote being taken thereon, the following voted in favor thereof: ; and and the
28 following voted against the same: .

29 WHEREUPON said resolution was declared duly passed and adopted.

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, the undersigned, being the duly qualified City Manager of the City of Roseville, County of Ramsey, State of Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a regular meeting of said City Council held on the 7th day of June, 2021, with the original thereof on file in my office.

WITNESS MY HAND officially as such Manager this 7th day of June, 2021.

Patrick Trudgeon, City Manager

(SEAL)

MnDOT Contract No.: 1046654

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
CITY OF ROSEVILLE
COOPERATIVE CONSTRUCTION
AGREEMENT**

State Project Number (S.P.):	<u>6216-146</u>	Original Amount Receivable
Trunk Highway Number (T.H.):	<u>51=125</u>	<u>\$24,847.00</u>
State Aid Project Number (S.A.P.):	<u>160-226-009</u>	
Signal System ID:	<u>1735348</u>	

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

Recitals

1. The City will perform performing mill and overlay and signal system revision construction and other associated construction upon, along, and adjacent to Trunk Highway No. 51 (Snelling Avenue) at Lydia Avenue according to City-prepared plans, specifications, and special provisions designated by the City as S.A.P. 160-226-009 and by the State as State Project No. 6216-146 (T.H. 51=125) ("Project"); and
2. The City requests State Furnished Materials for the signal system revision and the State is willing to provide State Furnished Materials, the costs of which are described in this Agreement; and
3. Minnesota Statutes § 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining, and improving the trunk highway system.

Agreement

1. Term of Agreement; Survival of Terms; Plans

- 1.1. **Effective Date.** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2. **Expiration Date.** This Agreement will expire when all obligations have been satisfactorily fulfilled.
- 1.3. **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 2.4. State Ownership of Improvements; 9. Liability; Worker Compensation Claims; Insurance; 12. State Audits; 13. Government Data Practices; 14. Governing Law; Jurisdiction; Venue; and 16. Force Majeure. The terms and conditions set forth in Article 5. Signal System and EVP System Operation and Maintenance will survive the expiration of this Agreement, but may be terminated by another agreement between the parties.
- 1.4. **Plans, Specifications, and Special Provisions.** City plans, specifications, and special provisions designated by the City as State Aid Project No. 160-226-009 and by the State as State Project No. 6216-146 (T.H. 51=125) are on file in the office of the City's Engineer and incorporated into this Agreement by reference ("Project Plans").

2. Right-of-Way Use

- 2.1. Limited Right to Occupy.** The State grants to the City (and its contractors and consultants) the right to occupy Trunk Highway Right-of-Way as necessary to perform the work described in the Project Plans. This right is limited to the purpose of constructing the project, and administering such construction, and may be revoked by the State at any time, with or without cause. Cause for revoking this right of occupancy includes, but is not limited to, breaching the terms of this or any other agreement (relevant to this project) with the State, failing to provide adequate traffic control or other safety measures, failing to perform the construction properly and in a timely manner, and failing to observe applicable environmental laws or terms of applicable permits. The State will have no liability to the City (or its contractors or consultants) for revoking this right of occupancy.
- 2.2. State Access; Suspension of Work; Remedial Measures.** The State's District Engineer or assigned representative retains the right to enter and inspect the Trunk Highway Right-of-Way (including the construction being performed on such right-of-way) at any time and without notice to the City or its contractor. If the State determines (in its sole discretion) that the construction is not being performed in a proper or timely manner, or that environmental laws (or the terms of permits) are not being complied with, or that traffic control or other necessary safety measures are not being properly implemented, then the State may direct the City (and its contractor) to take such remedial measures as the State deems necessary. The State may require the City (and its contractors and consultants) to suspend their operations until suitable remedial action plans are approved and implemented. The State will have no liability to the City (or its contractors or consultants) for exercising its rights under this provision.
- 2.3. Traffic Control; Worker Safety.** While the City (and its contractors and consultants) are occupying the State right-of-way, they must comply with the approved traffic control plan, and with applicable provisions of the Work Zone Field Handbook (<http://www.dot.state.mn.us/trafficeng/workzone/index.html>). All City, contractor, and consultant personnel occupying the State's Right-of-Way must be provided with required reflective clothing and hats.
- 2.4. State Ownership of Improvements.** The State will retain ownership of its Trunk Highway Right-of-Way, including any improvements made to such right-of-way under this Agreement, unless otherwise noted. The warranties and guarantees made by the City's contractor with respect to such improvements (if any) will flow to the State. The City will assist the State, as necessary, to enforce such warranties and guarantees, and to obtain recovery from the City's consultants, and contractor (including its sureties) for non-performance of contract work, for design errors and omissions, and for defects in materials and workmanship. Upon request of the State, the City will undertake such actions as are reasonably necessary to transfer or assign contract rights to the State and to permit subrogation by the State with respect to claims against the City's consultants and contractors.
- 2.5. Utility Relocation.** The State authorizes the City to issue Notices and Orders for utility relocation in accordance with Minnesota Statutes §161.45 and Minnesota Rules Part 8810.3100 through 8810.3600.

3. Contract Award and Construction

3.1. Direction, Supervision, and Inspection of Construction.

- A. The contract construction will be under the direction of the City and under the supervision of a registered professional engineer; however, the State participation construction covered under this Agreement will be open to inspection by the State District Engineer's authorized representatives. The City will give the State Aid Agreements Engineer at Roseville five days' notice of its intention to start the contract construction.

B. Responsibility for the control of materials for the contract construction will be on the City and its contractor.

3.2. Completion of Construction. The City will cause the contract construction to be started and completed according to the time schedule in the construction contract special provisions. The completion date for the contract construction may be extended, by an exchange of letters between the appropriate City official and the State District Engineer's authorized representative, for unavoidable delays encountered in the performance of the contract construction.

3.3. Plan Changes. All changes in the Project Plans and all addenda, change orders, supplemental agreements, and work orders entered into by the City and its contractor for State participation contract construction must be approved in writing by the State District Engineer's authorized representative.

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

3.5. Construction Documents Furnished by the City. If State participating construction is added to the Project, the City will keep records and accounts that enable it to provide the State, when requested, with the following:

A. Copies of the City contractor's invoice(s) covering all contract construction.

B. Copies of the endorsed and canceled City warrant(s) or check(s) paying for final contract construction, or computer documentation of the warrant(s) issued, certified by an appropriate City official that final construction contract payment has been made.

C. Copies of all construction contract change orders, supplemental agreements, and work orders.

D. A certification form, provided by the State, signed by the City's Engineer in charge of the contract construction attesting to the following:

i. Satisfactory performance and completion of all contract construction according to the Project Plans.

ii. Acceptance and approval of all materials furnished for the contract construction relative to compliance of those materials to the State's current "Standard Specifications for Construction".

iii. Full payment by the City to its contractor for all contract construction.

E. Copies, certified by the City's Engineer, of material sampling reports and of material testing results for the materials furnished for the contract construction.

F. A copy of the "as built" plan sent to the State Aid Agreements Engineer.

4. Right-of-Way; Easements; Permits

4.1. The City will obtain all rights-of-way, easements, construction permits, and any other permits and sanctions that may be required in connection with the local and trunk highway portions of the contract construction. Before payment by the State, the City will furnish the State with certified copies of the documents for rights-of-way and easements, construction permits, and other permits and sanctions required for State participation construction covered under this Agreement.

- 4.2. The City will convey to the State by quit claim deed, all newly acquired rights needed for the continuing operation and maintenance of the Trunk Highway, if any, upon completion of the Project, at no cost or expense to the State.
- 4.3. The City will comply with Minnesota Statutes § 216D.04, subdivision 1(a), for identification, notification, design meetings, and depiction of utilities affected by the contract construction.

5. Signal System and EVP System Operation and Maintenance

All operation and maintenance terms, including timing and power provisions, in Traffic Control Signal Agreement No. 86375 dated May 5, 2004, for the existing traffic control signals on T.H. 51 (Snelling Avenue) at Lydia Avenue will remain in full force and effect.

- 5.1. **State Furnished Materials.** The State will furnish a signal system cabinet at State's cost and video detection equipment at City's cost ("State Furnished Materials"), according to the Project Plans, to operate the traffic control signal system covered under this Agreement. The City's lump sum share for State Furnished Materials is **\$24,847.00**.

6. City Cost and Payment by the City

- 6.1. **City Cost.** **\$24,847.00** is the City's full and complete lump sum cost for State Furnished Materials.
- 6.2. **Conditions of Payment.** The City 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 City.
 - B. The City's receipt of a written request from the State for the advancement of funds.
- 6.3. **Limitations of State Participation; No State Payment to Contractor.** The State's participation will not change except by a mutually agreed written amendment to this Agreement. The City's contractor is not intended to be and will not be deemed to be a third party beneficiary of this Agreement. The City's contractor will have no right to receive payment from the State. The State will have no responsibility for claims asserted against the City by the City's contractor.

7. 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.

- 7.1. 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

- 7.2. The City's Authorized Representative will be:

Name, Title: Jesse Freihammer, City Engineer (or successor)
 Address: 2660 Civic Center Drive, Roseville, MN 55113
 Telephone: (651) 792-7042
 E-Mail: jesse.freihammer@cityofroseville.com

8. Assignment; Amendments; Waiver; Contract Complete

- 8.1. *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.
- 8.2. *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.
- 8.3. *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.
- 8.4. *Contract Complete.*** This Agreement contains all prior negotiations and agreements between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

9. Liability; Worker Compensation Claims; Insurance

- 9.1.** Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the City. Notwithstanding the foregoing, the City will indemnify, hold harmless, and defend (to the extent permitted by the Minnesota Attorney General) the State against any claims, causes of actions, damages, costs (including reasonable attorneys fees), and expenses arising in connection with the project covered by this Agreement, regardless of whether such claims are asserted by the City's contractor(s) or consultant(s) or by a third party because of an act or omission by the City or its contractor(s) or consultant(s).
- 9.2.** Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.
- 9.3.** The City may require its contractor to carry insurance to cover claims for damages asserted against the City's contractor.

10. Nondiscrimination

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

11. Title VI/Non-discrimination Assurances

The City 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. The City will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. The State may conduct a review of the City's compliance with this provision. The City must cooperate with the State throughout the review process by supplying all requested information and documentation to the State, making City staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by the State.

12. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the City'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.

13. Government Data Practices

The City and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the City under this Agreement. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either the City or the State.

14. Governing Law; Jurisdiction; Venue

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

15. Termination; Suspension

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

15.2. *Termination for Insufficient Funding.* The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the City. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the City will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

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

16. Force Majeure

No party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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CITY OF ROSEVILLE

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

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION

Recommended for Approval:

By: _____
(District Engineer)

Date: _____

Approved:

By: _____
(State Design Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

By: _____
(With Delegated Authority)

Date: _____

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