

**COOPERATIVE CONSTRUCTION AGREEMENT  
BETWEEN  
BLUE EARTH COUNTY  
AND  
CITY OF MANKATO**

This Agreement is between the City of Mankato acting through its City Council ("City") and Blue Earth County acting through its Board of Commissioners ("County") concerning reconstruction of CSAH 5 (3<sup>rd</sup> Avenue) from Riverfront Drive to 60' North of Cleveland Street.

**RECITALS**

1. The County will perform pavement removal, city utility (sanitary sewer and water main) replacements, storm sewer replacements, grading, aggregate base, curb and gutter, concrete & bituminous surfacing, ADA improvements, retaining walls, street lighting, bridge (No. 07J44) replacement and other associated construction (improvements) upon, along and adjacent to CSAH 5 (3<sup>rd</sup> Avenue) including intersection reconfiguration and/or reconstruction at Riverfront Drive, Maxfield Street, Spruce Street, Chestnut Street, Pine Street, Brooks Street, 1<sup>st</sup> Avenue, Harper Street, Lind Street, and Cleveland Street according to the project construction plans, specifications and special provisions.
2. The majority of the reconstruction is planned to occur in 2026, with some work being completed in 2027.
3. The City and County will participate in the costs of the improvements and associated construction engineering covered under this agreement.
4. This partnership will result in a more economical, effective, and safer corridor project for our citizens. The project investment will improve the overall corridor safety and operation and result in lower long-term costs. ADA and sidewalk improvements will benefit the urban environment by replacing the sidewalks from Riverfront Drive to Pine Street and adding sidewalk on the west side of 3<sup>rd</sup> Avenue north of Pine Street, thus improving safety and attractiveness of the urban corridor. It will comply with current ADA requirements and improve access for pedestrians, elderly and handicapped.
5. Minnesota State Statutes § 162.17 authorizes the City and County to make arrangements with and cooperate with any county and city authority for the purposes of constructing, maintaining, and improving City Streets and County Roads.

**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 City and County obtain all signatures required.
- 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: 7. Liability; Worker Compensation Claims; Insurance; 9. State Audits; 10. Government Data Practices; 11. Governing Law; Jurisdiction; Venue; and 13. Force Majeure. The terms and conditions set forth in Article 3. Maintenance Responsibilities will survive the expiration of this Agreement but may be terminated by another Agreement between the parties.

- 1.4 **Plans, Specifications, Special Provisions.** Plans, specifications and special provisions designated as County State Aid Project Number 007-605-021, 'CSAH 5' when completed, will be on file in the office of the City's Engineer and in the office of the Blue Earth County Engineer, and incorporated into this Agreement by reference ("Project Plans"). The County shall require, in the general provisions that the Contractor comply with payment of prevailing wage rates in accordance with MnDOT State Aid requirements. Plans, Specifications, and Special Provisions will be developed to MnDOT State Aid, County, and City standards.
- 1.5 **Jurisdiction.** Upon final payment to the County by the City for costs eligible under this agreement, the County shall retain full jurisdictional responsibility for CSAH 5, and the City of Mankato shall retain jurisdictional responsibility for Riverfront Drive, Maxfield Street, Spruce Street, Chestnut Street, Pine Street, Brooks Street, 1<sup>st</sup> Avenue, Harper Street, Lind Street, and Cleveland Street. Jurisdictional responsibility shall include, but not be limited to all maintenance activities, future improvements, signing, striping, mowing, utilities, permits and other incidentals unless spelled out under separate agreements between the City and County.
- 1.6 **Exhibits.** Revised Schedule "I" Cost participation breakdown and Engineers Estimate of Construction Cost are attached and incorporated into this Agreement:

## 2. **Contract Award and Construction**

- 2.1 **Bids and Award.** The County will advertise for bids and award a construction contract to the lowest responsible bidder according to the Project Plans. The contract construction will be performed according to the Project Plans. The County will only request City concurrence in the bids if the City's share of construction and engineering costs exceed \$3,378,266.66.
- 2.2 **Bid Documents furnished by County.** The County will, within 7 days of opening bids for the construction contract, submit to the City Engineer, a copy of the low bid and an abstract of all bids. If the City's portion of the construction and engineering costs exceed \$3,378,266.66, the County will not award the construction contract without written approval of the City Engineer.
- 2.3 **Supervision of Construction.** The contract construction will be under the supervision of the County; however, the County will utilize the services of a registered professional engineer, inspectors and other resources, as required, to perform the construction engineering in connection with said contract construction and the following:
- A. The County will give the City five days' notice of its intention to start the contract construction.
  - B. Construction that impedes the flow of traffic will be communicated in advance of road closures to facilitate public notifications for both agencies.
  - C. The County will be responsible for public involvement including individual notification of construction impacts to affected residents and businesses. The general public will be notified through press releases.
  - D. Public information will note this is a County Highway and a partnership between the County and the City for improved safety, operation and mobility.
- 2.4 **Performance of Construction Engineering.** The County will perform the construction inspection and material inspection for the construction project in the manner currently used by the County and in accordance with the following:
- E. The County will provide all labor, equipment, and materials necessary to perform the construction inspection and material inspection for the contracts.
  - F. All inspection, control of materials, and associated documentation for the construction to be performed in accordance with the construction plans, specifications, and/or special provisions will be performed by County engineering staff assigned to the construction. Construction inspection and contract administration will meet all State Aid standards and County contract

administration requirements. City staff will have full access to construction and if the City becomes aware of significant deviations from the plans and specifications it may halt construction if not promptly resolved through coordination with the County.

- G. The City of Mankato will provide City engineering staff to perform inspection of City sanitary sewer and watermain utilities constructed as part of the project. The City will be responsible for any associated costs outside of this agreement.
- H. At regular intervals after County's contractor has started construction, the County will prepare partial estimates of construction costs in accordance with the terms of the construction contract. The County will be responsible for making payments to the contractor based on the partial estimates and final cost certified by the County Engineer.
- I. County and City concurrence must be obtained before the County authorizes change orders that significantly increase their cost. The City will concur with, or object to, authorization of additional work within a reasonable amount of time of notification by the County that additional work is deemed necessary. The County will not approve change orders or supplemental agreements that would increase the City's total cost participation above \$3,378,266.66 without the written approval of the City Engineer.

2.5 **Completion of Construction.** The County will cause the contract construction to be started and completed according to the time schedule in the construction contract special provisions. The completion date for the contract construction may be extended, by an exchange of letters between the appropriate County and City officials, for unavoidable delays encountered in the performance of the contract construction.

2.6 **Compliance with Laws, Ordinances, Regulations.** The County will comply and cause its contractor to comply with all Federal, State and Local laws, and all applicable ordinances and regulations.

A. The County will obtain all necessary permits to complete the Improvements.

2.7 **Construction Documents Furnished by the County.** The County will keep records and accounts that enable it to provide to the City, when requested, with the following:

- A. Copies of the Contractor's invoice(s) covering all contract construction.
- B. Copies of the endorsed and canceled County warrant(s) or checks(s) paying for final contract construction, or computer documentation of the warrants(s) issued, certified by an appropriate County official that final construction contract payment has been made.
- C. Copies of all construction contract change orders and supplemental agreements.
- D. A certification form signed by the County 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 current "Standard Specifications for Construction".
  - iii. Full payment by the County to its contractor for all contract construction.
- E. Copies, certified by the County engineer, of material sampling reports and of material testing results for the materials furnished for the contract construction.

### 3. Basis of Cost

3.1 **SCHEDULE "I".** The Revised SCHEDULE "I" includes all anticipated County and City participation construction items; contingency; and the design engineering cost share covered under this agreement and is based on engineer's estimated unit prices.

3.2 **City Participation Construction.** The City will participate in the following at the amount indicated. The project cost includes all costs associated with the completion of the project.

A. The City will be responsible for the costs associated with the construction of City streets outside of County right of way, one half of sidewalk costs, its respective share of storm drainage, City utility construction and associated work up to \$3,378,266.66 unless a higher limit is approved by the City Engineer. The project cost includes, but is not limited to, those project items tabulated in the Preliminary SCHEDULE "I".

3.3 **Contingency.** The City will pay the actual contingency amount used for City participation items, currently estimated at 10% of the total City participation item construction costs covered under this Agreement.

3.4 **Design Engineering.** The City will pay the actual design engineering amounts for City participation items, currently estimated at 10% of the total City participation item construction costs covered under this Agreement.

#### 4. **City Cost and Payment by the City**

4.1 **City Cost.** \$3,378,266.66 is the City's estimated share of the costs of the contract construction as shown in Revised SCHEDULE "I". Revised SCHEDULE "I" was prepared using estimated quantities and unit prices. Upon review of the construction contract bid documents, the County will prepare a Bid SCHEDULE "I" based on construction contract unit prices.

4.2 **Initial Payment by the City.** The City will pay the County 90% of the construction costs as shown in the Bid SCHEDULE "I" within 30-days of contract award.

4.3 **Final Payment by the City.** Upon completion of all contract construction and upon computation of the final amount due to the contractor, the County will prepare a Final SCHEDULE "I" and submit a copy to the City. The Final SCHEDULE "I" will be based on final quantities and include all County and City participation construction items; the design engineering cost; and any contingency used covered under this Agreement. If the final cost of the City participation construction exceeds the amount of funds advanced by the City, the City will pay the difference to the County without interest. If the final cost of the City participation construction is less than the amount of funds advanced by the City, the County will refund the difference to the City without interest.

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

#### 5. **Authorized Representatives**

Each Party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive notice or demand permitted by this agreement

5.1 The City's Authorized Representative will be:

Name/Title: Susan MH Arntz, City Manager  
Address: 10 Civic Center Plaza, Mankato, MN 56001  
Email: sarntz@mankatomn.gov  
Telephone: 507.387.8695

5.2 The County's Authorized Representative will be:

Name/Title: Ryan Thilges, P.E., County Engineer / Public Works Director  
Address: 19505 Stoltzman Road, P.O. Box 3082, Mankato, MN 56002  
Email: ryan.thilges@blueearthcountymn.gov  
Telephone: 507.304.4025

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

- 6.1 **Assignment.** Neither 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 County and City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

## 7. **Liability; Worker Compensation Claims; Insurance**

- 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 Chapter 466 and other applicable law govern liability of the County and City. Notwithstanding the foregoing, each party will indemnify and hold harmless, the other party against any claims, causes of actions, damages, costs, (including reasonable attorney's fees), and expenses arising in connection with the project covered by this Agreement, regardless of whether such claims are asserted by the indemnifying party's contractor(s) or consultant(s) or by a third party because of an act or omission by the indemnifying party or its contractor(s) or consultant(s).
- 7.2 Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.
- 7.3 The County shall require its contractor to carry insurance to cover claims for damages asserted against the contractor.

## 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. **State Audits**

Under Minnesota Statutes § 16C.05, subdivision 5, the City's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

## 10. **Government Data Practices**

The County and City, 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 and 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 County or the City.

#### 11. **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 Blue Earth County, Minnesota.

#### 12. **Termination**

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

#### 13. **Force Majeure**

Neither 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.

## CITY OF MANKATO

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.

Approved:

By: \_\_\_\_\_  
(City Manager)

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

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

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

## BLUE EARTH 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.

Attested:

By: \_\_\_\_\_  
(County Board Chair)

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

By: \_\_\_\_\_  
(County Administrator)

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

**REVISED SCHEDULE "I"**  
**BLUE EARTH COUNTY**

**CSAH 5 (Third Avenue) from Madison Avenue to 0.09 miles south of Summit Avenue**  
**County Project Numbers - SAP 007-605-021 /// CP 7052**  
**City Project Numbers - 11141**  
**County Contractor: TBD**

Preliminary: February 2, 2024  
Revised: December 29, 2025  
Bid:  
Final:

| <b>COUNTY COST PARTICIPATION</b>   |                    |    |                |    |            |    |              |
|------------------------------------|--------------------|----|----------------|----|------------|----|--------------|
|                                    | <u>PRELIMINARY</u> |    | <u>REVISED</u> |    | <u>BID</u> |    | <u>FINAL</u> |
| Road & Storm Sewer Participating   | \$ 4,700,000.00    | \$ | 5,528,193.13   | \$ | -          | \$ | -            |
| Sidewalk (50/50)                   | \$ 400,000.00      | \$ | 189,485.92     | \$ | -          | \$ | -            |
| City Utilities / Non-Participating | \$ -               | \$ | -              | \$ | -          | \$ | -            |
| Subtotal                           | \$ 5,100,000.00    | \$ | 5,717,679.04   | \$ | -          | \$ | -            |
| Contingency (10%)                  | \$ 510,000.00      | \$ | 571,767.90     | \$ | -          | \$ | -            |
| Subtotal                           | \$ 5,610,000.00    | \$ | 6,289,446.95   | \$ | -          | \$ | -            |
| Right of Way (Est.)                | \$ 110,000.00      | \$ | 110,000.00     | \$ | -          | \$ | -            |
| Subtotal                           | \$ 5,720,000.00    | \$ | 6,399,446.95   | \$ | -          | \$ | -            |
| Engineering (10%)                  | \$ 572,000.00      | \$ | 639,944.69     | \$ | -          | \$ | -            |
| Subtotal                           | \$ 6,292,000.00    | \$ | 7,039,391.64   | \$ | -          | \$ | -            |

| <b>CITY COST PARTICIPATION</b>       |                    |    |                |    |            |    |              |
|--------------------------------------|--------------------|----|----------------|----|------------|----|--------------|
|                                      | <u>PRELIMINARY</u> |    | <u>REVISED</u> |    | <u>BID</u> |    | <u>FINAL</u> |
| Road & Storm Sewer Participating     | \$ -               | \$ | -              | \$ | -          | \$ | -            |
| Sidewalk (50/50)                     | \$ 400,000.00      | \$ | 189,485.92     | \$ | -          | \$ | -            |
| City Utilities / Non-Participating * | \$ 2,433,000.00    | \$ | 2,602,470.00   | \$ | -          | \$ | -            |
| Subtotal                             | \$ 2,833,000.00    | \$ | 2,791,955.92   | \$ | -          | \$ | -            |
| Contingency (10%)                    | \$ 283,300.00      | \$ | 279,195.59     | \$ | -          | \$ | -            |
| Subtotal                             | \$ 3,116,300.00    | \$ | 3,071,151.51   | \$ | -          | \$ | -            |
| Right of Way                         | \$ -               | \$ | -              | \$ | -          | \$ | -            |
| Engineering (10%)                    | \$ 311,630.00      | \$ | 307,115.15     | \$ | -          | \$ | -            |
| Subtotal                             | \$ 3,427,930.00    | \$ | 3,378,266.66   | \$ | -          | \$ | -            |

\* Includes sanitary sewer, water main, fiber conduit, lighting (50%), split for lump sum items (mobilization, traffic control, stabilized construction exit, erosion control supervisor)