

MINNESOTA DEPARTMENT OF TRANSPORTATION  
MAINTENANCE AGREEMENT

PREPARED BY  
MnDOT  
METRO DISTRICT  
MAINTENANCE OPERATIONS

AGREEMENT NO.  
**04109**

AGREEMENT BETWEEN

THE STATE OF MINNESOTA, DEPARTMENT OF TRANSPORTATION,

AND

THE CITY OF LAKE ELMO

For the maintenance of the Pedestrian Refuge island and crosswalk located on Trunk Highway 5, east of westerly Lake Elmo Ave (County State Aid Highway 17) within the corporate limits of the City of Lake Elmo upon the terms and conditions set forth in this Agreement. This is associated with S.P. 8214-163.

THIS AGREEMENT is made and entered into by and between the State of Minnesota, Department of Transportation, hereinafter referred to as the "State" and the City of Lake Elmo, Minnesota, acting by and through its City Council, hereinafter referred to as the "City".

WHEREAS, State will construct a Pedestrian Refuge Island on Trunk Highway (T.H.) 5 within the City limits, in accordance with State-prepared plans, specifications, and provisions; and

WHEREAS, The Pedestrian Refuge Island construction will be constructed as part of State Project No. 8214-163, and includes grading, concrete curb and sidewalk; and

WHEREAS, State and City are authorized to enter into this agreement pursuant to Minnesota Statutes Sections 161.20, and 161.38; and

WHEREAS, The parties have entered into this Agreement to set forth responsibility for the routine maintenance of the Pedestrian Refuge.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS

I. GENERAL PROVISIONS

- A. Once the State has accepted the completed Pedestrian Refuge Island shown in Exhibit A, the City will perform or provide for the proper routine maintenance of the Pedestrian Refuge Island. Such maintenance will be performed without cost or expense to the State. Maintenance includes snow and ice removal, debris removal, patching, crack repair, and any other maintenance activities necessary to perpetuate the pedestrian facility in a safe, usable, and aesthetically pleasing condition.
- B. If the City fails to maintain the Pedestrian Refuge in accordance with this Agreement, the State may perform such maintenance on its own initiative and after providing reasonable notice to the City. The City will promptly reimburse the State for the costs incurred by the State performing such maintenance. If the City fails to pay such costs, the State may avail itself of the remedy permitted by Minnesota Statutes §161.38 (subd. 6).

II. CONSIDERATION AND TERMS OF PAYMENT

The City agrees to maintain and operate the Pedestrian Refuge, without cost or expense to the State, in consideration of the State permitting the construction of the Pedestrian Refuge on trunk highway right-of-way.

III. TERM OF AGREEMENT

This Agreement will be in effect until superseded by another agreement between State and City or until such time that the Pedestrian Refuge Island is removed.

IV. AUTHORIZED REPRESENTATIVE

- A. State's Authorized Representative for the purposes of administering this Agreement is Beverly Farraher, Assistant District Engineer - Maintenance, Minnesota Department of Transportation Metro District, 1500 West County Road B2, Roseville, Minnesota 55113, (651) 234-7901, or her successor.
- B. The City's Authorized Representative for the purposes of administering this Agreement is Dean Zuleger, City Administrator, City of Lake Elmo, 3800 Laverne Ave. N., Lake Elmo, Minnesota 55042, (651) 747-3905, or his successor.
- C. State's Authorized Representative will have final authority for accepting maintenance services performed by City under this Agreement.

V. ASSIGNMENT

- A. No party will assign or transfer any rights or obligations under this Agreement, in whole or in part, without prior written consent of the other.
- B. If the City contracts out the performance of maintenance work covered by this Agreement, the City will award such contracts in accordance with the terms of this Agreement and in compliance with applicable state laws.
- C. This Agreement will not be construed as a relinquishment by State of any powers or control it may have over the trunk highway covered under this Agreement. This Agreement will not be construed to create an easement or any other interest in property in favor of the City.

VI. MERGER/AMENDMENTS

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

VII. LIABILITY

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

VIII. WORKERS COMPENSATION

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

IX. CIVIL RIGHTS

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

X. STATE AUDITS

The books, records, documents, and accounting procedures and practices of the City, relevant to this Agreement, will be subject to examination by the MnDOT Auditor, the Legislative Auditor, or the State Auditor, as appropriate, for no less than six years.

XI. DATA PRACTICES

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

XII. AGREEMENT APPROVAL

Before this Agreement will become binding and effective, it must be approved by a City of Lake Elmo City Council resolution, and be executed by State and City officers as provided by law.

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

IN TESTIMONY WHEREOF the parties have executed this Agreement through their duly authorized officials:

**DEPARTMENT OF TRANSPORTATION**

Recommended for Approval:

By \_\_\_\_\_  
Assistant District Engineer – Metro  
District Maintenance

Date \_\_\_\_\_

Approved:

By: \_\_\_\_\_  
District Engineer

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

**CITY OF LAKE ELMO, MINNESOTA**

Recommended for Approval:

By \_\_\_\_\_  
Dean Zuleger, City Administrator

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

By \_\_\_\_\_  
Mike Pearson, Mayor

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

**COMMISSIONER OF ADMINISTRATION**

By \_\_\_\_\_  
Authorized Signature

Date \_\_\_\_\_

**(SAMPLE)**

**CITY OF LAKE ELMO**

**RESOLUTION**

IT IS RESOLVED that the City of Lake Elmo enter into MnDOT Agreement No. 04109 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for the proper maintenance of the Pedestrian Refuge Island within the corporate limits of the City of Lake Elmo on TH 5 upon the terms and conditions set forth in the Agreement.

IT IS FURTHER RESOLVED that the Mayor and City Administrator are authorized to execute the Agreement.

**CERTIFICATION**

State of Minnesota  
City of Lake Elmo

I certify that the above Resolution is an accurate copy of the Resolution adopted by the City Council of the City of Lake Elmo at an authorized meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, as shown by the minutes of the meeting in my possession.

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

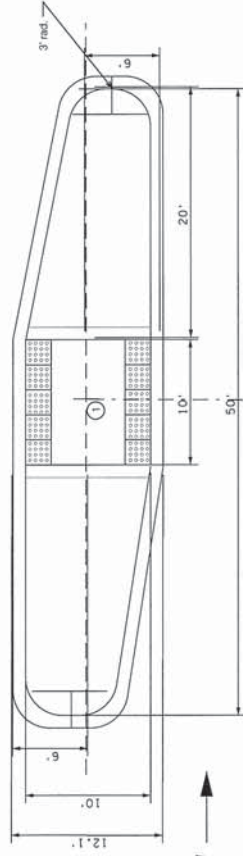
\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Title)

# PEDESTRIAN REFUGE DETAILS

Exhibit A, Pg. 1 of 2

Direction of Travel

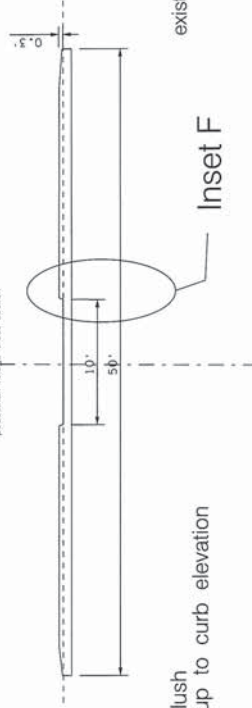


Field Locate to ensure that Refuge is Centered — Between Two Driveways on South Side of TH 5.

- ① Maximum 2% slope in all directions.

Direction of Travel

1' crown on ramp  
pedestrian refuge cross section

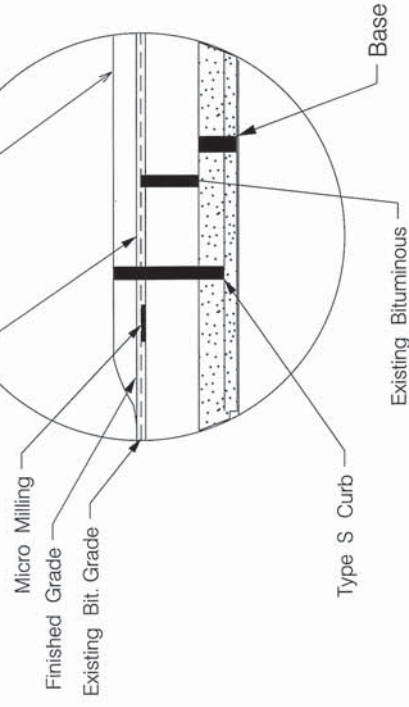


Refuge nose ends to be flush with bituminous. Ramping up to curb elevation

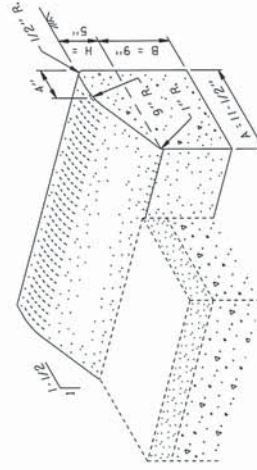
Inset F  
Top of Curb /Sidewalk

Elevation of ped. refuge ramp 1" higher than existing bit surface. UTBWC to Match to New Elev.

Inset F



DESIGN NO.	CONCRETE CU. YDS.	PER. LIN. FT.	PER. LIN. FT.	CU. YDS.
S5	0.0364	27.5		



DESIGN S

DETAILS

# Exhibit A, Pg. 2 of 2

