



## STAFF REPORT

DATE: March 21, 2017

**CONSENT**

ITEM #: 22

**AGENDA ITEM:** CSAH 15/50th Street Traffic Signal and Pedestrian Improvements – Resolution Approving Cooperative Agreements with Washington County for Design and Construction and for Maintenance

**SUBMITTED BY:** Jack Griffin, City Engineer

**REVIEWED BY:** Kristina Handt, City Administrator  
Rob Weldon, Public Works Director  
Chad Isakson, Assistance City Engineer

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**ISSUE BEFORE COUNCIL:** Should the City Council approve the Cooperative Agreements with Washington County for Design and Construction and for Maintenance of the CSAH 15/50th Street Traffic Signal and Pedestrian Improvements?

**PROPOSAL DETAILS/ANALYSIS:** In 2017, Washington County will install a new wood pole and span wire traffic control signal system at the intersection of CSAH 15 and 50th Street North. A wood pole and span wire signal system is recommended by the County to improve access to CSAH 15 through this area of the corridor until this portion of the roadway is realigned and reconstructed into a 4-lane divided roadway. The expansion of this corridor to a 4-lane divided roadway is not anticipated to occur for several years. At the time of this expansion, the intersection will be re-reviewed for potential permanent traffic signal installation as part of that future project.

A Signal Justification Report (SJR) dated January 23, 2017 was completed to evaluate the need to provide traffic control at this intersection. Through this study the County concluded that the 50<sup>th</sup> Street North stop condition is not the preferred long term intersection operational and safety solution. Currently the report found that no traffic signal warrants are met, however the signal is deemed necessary to improve left turning movements onto CSAH 15 from 50<sup>th</sup> Street, 55<sup>th</sup> Street, 53<sup>rd</sup> Street/Marquess Trail, and Linden Trail/McDonald Drive due to the existing 18,000 to 23,000 vpd with high AM and PM peak hours. Furthermore it is anticipated that traffic volumes will continue to increase such that MnMUTCD Signal Warrant 1B (Interruption of Continuous Traffic), Warrant 2 (Four Hour Volumes), and Warrant 3 (Peak Hour Volume) will be met over the next several years.

In accordance with the County Cost Participation Policy for Highway Improvement Projects, the County is requesting City cost participation for these improvements in the amount of \$60,133.00. This includes City contribution for 1/3 of the construction costs, 1/3 of the County furnished material costs, and 1/3 of the engineering design and construction administration costs.

The County has finalized the Signal Justification Report and the project design and has submitted the report and plans to the Office of State Aid for review and approval. Once approved the County will advertise the project and receive contractor bids with the intent of proceeding with the construction of the improvements this summer. The Cooperative Agreement sets forth the provisions that authorizes the County to implement the improvements including engineering design, construction administration, and testing, and retaining a

contractor for project construction. The Agreement also outlines the City's obligations for cost participation including payment terms and schedule. The costs are estimated for the purpose of the Cooperative Agreement, however the actual cost participation by the City will be determined using the City's share of the actual project costs for each respective cost participation item.

The Cooperative Maintenance Agreement for the project assigns County/City ongoing ownership, maintenance, and cost responsibilities. The County will own, operate and maintain the traffic control system including the EVP system, master controller, responsibility for any physical damage, relamping, and maintaining the control cabinet (except for painting). The County also maintains luminaires (overhead street lights) but charges the City for luminaire replacement, and is the responsible party for Gopher State One Call system locates. The City pays monthly electrical costs including cabinet/control equipment, streetlights and electrical service, and is responsible for painting the traffic control system and streetlights. The City may request painting work to be done by the County at City cost.

**FISCAL IMPACT:** Estimated by County at \$60,133.00.

Washington County has estimated the City cost share in the amount of \$60,133.00. The actual costs will be assigned to the City based on actual incurred project costs and in accordance with the Cooperative Agreement and County Cost participation Policy for Highway Improvement Projects.

**RECOMMENDATION:** Staff is recommending that the City Council approve Cooperative Agreement 10856 for the Design and Construction Costs, and approve Cooperative Maintenance Agreement 10780 with Washington County for the County State Aid Highway 15/50th Street North Traffic Signal and Pedestrian Improvements. The recommended motion for the action is as follows:

***“Move to approve Resolution No. 2017-025 approving Cooperative Agreement 10856 and Cooperative Maintenance Agreement 10780 with Washington County for the CSAH 15/50th Street Traffic Signal and Pedestrian Improvements.”***

**ATTACHMENTS:**

1. Resolution No. 2017-025 Approving Cooperative Agreement 10856 and Cooperative Maintenance Agreement 10780.
2. Cooperative Agreement 10856.
3. Cooperative Agreement 10780.

**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2017-025**

**A RESOLUTION APPROVING COOPERATIVE AGREEMENT 10856  
FOR DESIGN AND CONSTRUCTION COSTS AND COOPERATIVE  
MAINTENANCE AGREEMENT 10780 WITH WASHINGTON COUNTY  
FOR THE STILLWATER BOULEVARD AND 50TH STREET NORTH  
TRAFFIC SIGNAL SYSTEM**

**WHEREAS**, the County and the City desire to install a wood pole traffic signal system on County State Aid Highway No. 15, also known as Stillwater Boulevard and formerly known as State Trunk Highway No. 5, at its intersection with 50th Street North in the City of Lake Elmo; and

**WHEREAS**, items included in the project require City cost participation in accordance with “Washington County Cost Participation Policy #8001 for Cooperative Highway Improvement Projects”; and

**WHEREAS**, the City desires to use local funds for these improvements; and

**WHEREAS**, the County desires to use local funds and/or State Aid for these improvements; and

**WHEREAS**, a cooperative effort between the City and County is the appropriate method to facilitate the construction of the improvements and to facilitate the ongoing maintenance of the Traffic Signal System; and

**WHEREAS**, this Agreement is made pursuant to statutory authority contained in Minnesota Statute 162.17 sub.1 and Minnesota Statute 471.59.

**NOW, THEREFORE, BE IT RESOLVED,**

1. That Cooperative Agreement 10856 and Cooperative Maintenance Agreement 10780 between the City of Lake Elmo and Washington County are hereby approved and the Mayor and City Administrator are hereby authorized execute the agreements on behalf of the City of Lake Elmo.

**ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE TWENTY FIRST DAY OF MARCH, 2017.**

**CITY OF LAKE ELMO**

By: \_\_\_\_\_  
Mike Pearson  
Mayor

(Seal)  
ATTEST:

\_\_\_\_\_  
Julie Johnson  
City Clerk

**COOPERATIVE AGREEMENT BETWEEN  
THE CITY OF LAKE ELMO AND WASHINGTON COUNTY  
FOR THE DESIGN AND CONSTRUCTION COST OF  
TRAFFIC SIGNAL AND PEDESTRIAN IMPROVEMENTS  
AT COUNTY STATE AID HIGHWAY 15 AND 50TH STREET NORTH**

WASHINGTON COUNTY	
CONTRACT NO.	10856
DEPT.	PUBLIC WORKS
DIVISION	TRANSPORTATION
TERM	SIGNATURE - END OF PROJECT

**THIS AGREEMENT**, by and between the City of Lake Elmo, a municipal corporation, herein after referred to as the "City", and Washington County, a political subdivision of the State of Minnesota, hereinafter referred to as the "County."

**WITNESSETH:**

WHEREAS, the County and the City desire to install a traffic signal on County State Aid Highway No. 15 (Stillwater Blvd) at its intersection with 50th Street North in the City of Lake Elmo; and

WHEREAS, items included in the project require City cost participation in accordance with "Washington County Cost Participation Policy #8001 for Cooperative Highway Improvement Projects"; and

WHEREAS, the City desires to use local funds for these improvements; and

WHEREAS, the County desires to use local funds and/or State Aid for these improvements; and

WHEREAS, a cooperative effort between the City and County is the appropriate method to facilitate the construction of these transportation improvements; and

WHEREAS, this Agreement is made pursuant to statutory authority contained in Minnesota Statute 162.17 sub.1 and Minnesota Statute 471.59.

**NOW THEREFORE, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:**

**A. PURPOSE**

The purpose of this agreement is set forth in the above whereas clauses which are all incorporated by reference as if fully set forth herein and shall consist of this agreement, Exhibit A (Location Map) and Exhibit B (Projected Cost and Cost Splits).

**B. PLANS AND SPECIFICATION PREPARATION**

1. The County shall be responsible for the preparation of all the plans and specifications for the project, including but not limited to, compliance with all applicable standards and policies and obtaining all approvals required in formulating the bid specifications for all County and City components of this Project.
2. The following County project numbers have been assigned to the project: SAP 082-615-033 (CSAH 15).

**C. ADVERTISEMENT AND AWARD OF CONTRACT**

After plans and specifications have been approved by the County, all permits and approvals obtained, and acquisition of necessary rights-of-way and easements, the County shall advertise for construction bids and at the sole discretion of the County award the contract to the lowest responsible bidder.

#### **D. CONSTRUCTION ADMINISTRATION, OBSERVATION, AND TESTING**

The County shall be responsible for the construction administration, inspection, and for the observation and testing for all construction items.

#### **E. COST PARTICIPATION ITEMS AND ESTIMATED COSTS**

Items included in the project require City cost participation in accordance with "Washington County Cost Participation Policy #8001 for Cooperative Highway Improvement Projects", which is incorporated into this agreement by reference. The City's cost participation for this project is broken down into three categories which are: 1.) Construction; 2) Design Engineering; and 3) Construction Engineering/Contract Administration

1. Construction

Construction costs include the cost to construct the project, including but not limited to the construction contract and County-furnished materials. The County has prepared a projection cost and cost splits hereto attached as Exhibit B. The total project cost for construction is estimated to be \$190,113.80 as indicated in Exhibit B. The City shall pay to the County its share of the total cost as shown in Exhibit B and summarized in Table 1. After the County has awarded the construction contract, Exhibit B will be updated to reflect the actual contractor's unit prices.

2. Design Engineering

Design engineering costs include the cost for professional design engineering services, project coordination, preparation of plans and specification, stake holder engagement, geotechnical studies and other administrative functions necessary for the project. The estimated cost for design engineering for the entire project is \$16,000. The City shall pay 33.33 percent of the final cost of design engineering for the entire project as summarized in Table 1.

3. Construction Engineering/Contract Administration

Construction Engineering/Contract Administration cost includes the cost of construction observation, construction testing, construction administration, staking, conducting and recording the pre-bid, pre-construction and weekly construction meetings, reviewing monthly pay estimates, labor compliance, and other administrative functions necessary for the project. The estimated cost for construction engineering/contract administration for the entire project is \$14,400. The City shall pay 33.33 percent of the final cost of construction engineering/contract administration as summarized in Table 1.

<b>Table 1 City of Lake Elmo Cost Summary</b>	
<b>ITEM</b>	<b>COST</b>
Estimated Construction (including County-furnished materials)	\$50,000
Estimated Design Engineering	\$5333
Estimated Construction Engineering/Contract Administration	\$4800
<b>TOTAL ESTIMATED COST</b>	<b>\$60,133</b>

4. The costs attributable to the City and payable to the County in Table 1 are merely estimated costs. Actual construction costs will be based on the contractor's unit prices and quantities, and a reconciliation of actual costs to the estimated costs will be made pursuant to section F of this agreement.

## **F. PAYMENT**

1. Construction
  - a. After the County has awarded the construction contract, Exhibit B will be updated to reflect the actual contractor's unit prices and will submit a copy of the revised summary to the City. Upon receipt of the revised summary and invoice, the City shall pay Washington County an amount equal to 10 percent of the City's estimated construction cost.
  - b. During construction the County shall submit to the City an estimated cost of the partial work performed by the Contractor. Upon receipt of this estimated cost, the City shall pay to the County its share of the cost of the partial work performed as determined in this Agreement.
  - c. Upon substantial completion of the work the County shall prepare a final cost participation summary which will be based upon the contract unit prices and the actual units of work performed and shall submit a copy of this summary to the City. The County shall submit to the City a final reconciliation of costs, which will add or subtract contract amendments to the City's Project components, adjustments for liquidated damages pursuant to Section H, and previous Project cost payments made by the City to the County. If the amount of the total of the payments made by the City is less than the actual cost to the City of its portion of the Project, the City agrees to pay the difference between the estimated amount paid by the City and the actual cost of the City's portion of the project.
2. Costs associated with design engineering, and construction engineering/contract administration shall be invoiced by the County and paid by the City on a reimbursable basis.
3. In the event that the City paid more in advance than the actual cost of the City's portion of the project, the County shall refund without interest the amount to the City.
4. The City shall pay 100 percent of an invoice amount within 30 days of receipt.

## **G. CONTRACT CHANGES**

1. Any modifications or additions to the final approved plans and/or specifications of the City's portion of the project shall be made part of the construction contract through a written amendment to the construction contract, but only after concurrence by the City Engineer, and the cost for such changes shall be appropriated as set forth in the County Cost Participation Policy.
2. Any utility or facility which is subsequently modified or added to the final approved plans and/or specifications shall become part of the construction contract and shall be paid for in accordance with the Washington County Cost Participation Policy.

## **H. LIQUIDATED DAMAGES**

Any liquidated damage assessed the contractor in connection with the work performed on the project shall be shared by the City and the County in the following proportion: The respective total share of construction work to the total construction cost without any deduction for liquidated damages.

## **I. CONDITIONS**

The City shall not assess or otherwise recover any portion of its cost for this project through levy on County-owned property.

## **J. CIVIL RIGHTS AND NON-DISCRIMINATION**

The provisions of Minn. Stat. 181.59 and of any applicable ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set further herein, and shall be part of any Agreement entered into by the parties with any contractor subcontractor, or material suppliers.

## **K. WORKERS COMPENSATION**

It is hereby understood and agreed that any and all employees of the City and all other persons employed by the City in the performance of construction and/or construction engineering work or services required or provided for under this agreement shall not be considered employees of the County and that any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said City employees while so engaged on any of the construction and/or construction engineering work or services to be rendered herein shall in no way be the obligation or responsibility of the County.

## **L. INDEMNIFICATION**

1. The City agrees that it will defend, indemnify and hold harmless the County against any and all liability, loss, damages, costs and expenses which the County may hereafter sustain, incur or be required to pay by reason of any negligent act by the City, its agents, officers or employees during the performance of this agreement.
2. The County agrees that it will defend, indemnify and hold harmless the City against any and all liability, loss, damages, costs and expenses which the City may hereafter sustain, incur or be required to pay by reason of any negligent act by the County, its agents, officers or employees during the performance of this agreement.
3. To the fullest extent permitted by law, actions by the parties to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the parties that they shall be deemed a "single governmental unit" for the purposes of liability, as set forth in Minnesota Statutes, Section 471.59, subd. 1a(b). The parties to this Agreement are not liable for the acts or omissions of another party to this Agreement except to the extent they have agreed in writing to be responsible for the acts or omissions of the other parties as provided for in Section 471.59, subd. 1a.
4. Each party's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 and other applicable law. The parties agree that liability under this Agreement is controlled by Minnesota Statute 471.59, subdivision 1a and that the total liability for the parties shall not exceed the limits on governmental liability for a single unit of government as specified in 466.04, subdivision 1(a).

## **O. DATA PRIVACY**

All data collected, created, received, maintained, or disseminated, or used for any purposes in the course of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes 1984, Section 13.01, et seq. or any other applicable state statutes and state rules adopted to implement the Act, as well as state statutes and federal regulations on data privacy.

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

### **WASHINGTON COUNTY**

\_\_\_\_\_  
Chair Date  
Board of Commissioners

\_\_\_\_\_  
Molly O'Rourke Date  
County Administrator

### **CITY OF LAKE ELMO**

\_\_\_\_\_  
Mayor Date

\_\_\_\_\_  
City Administrator Date

Approved as to form:

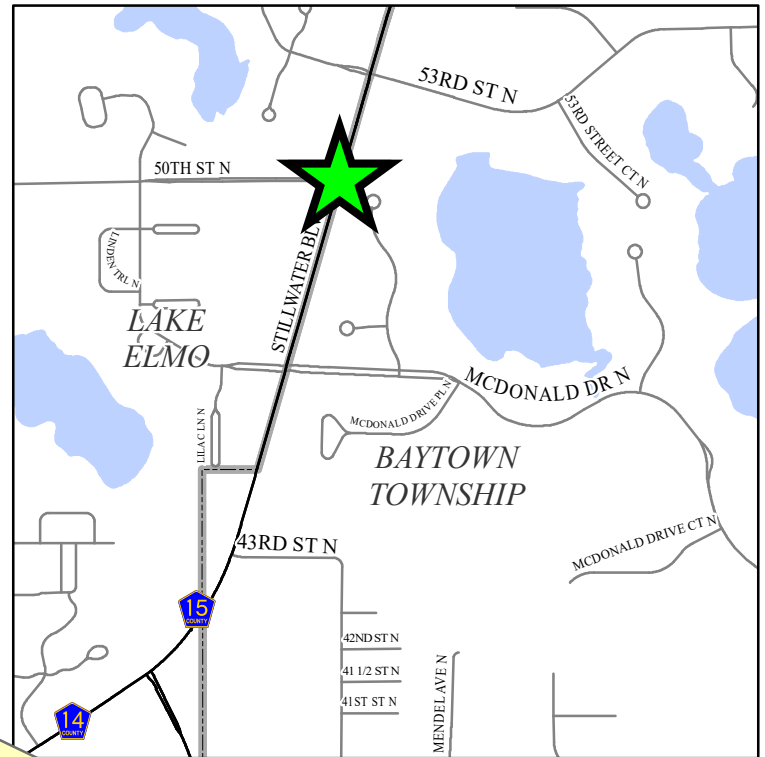
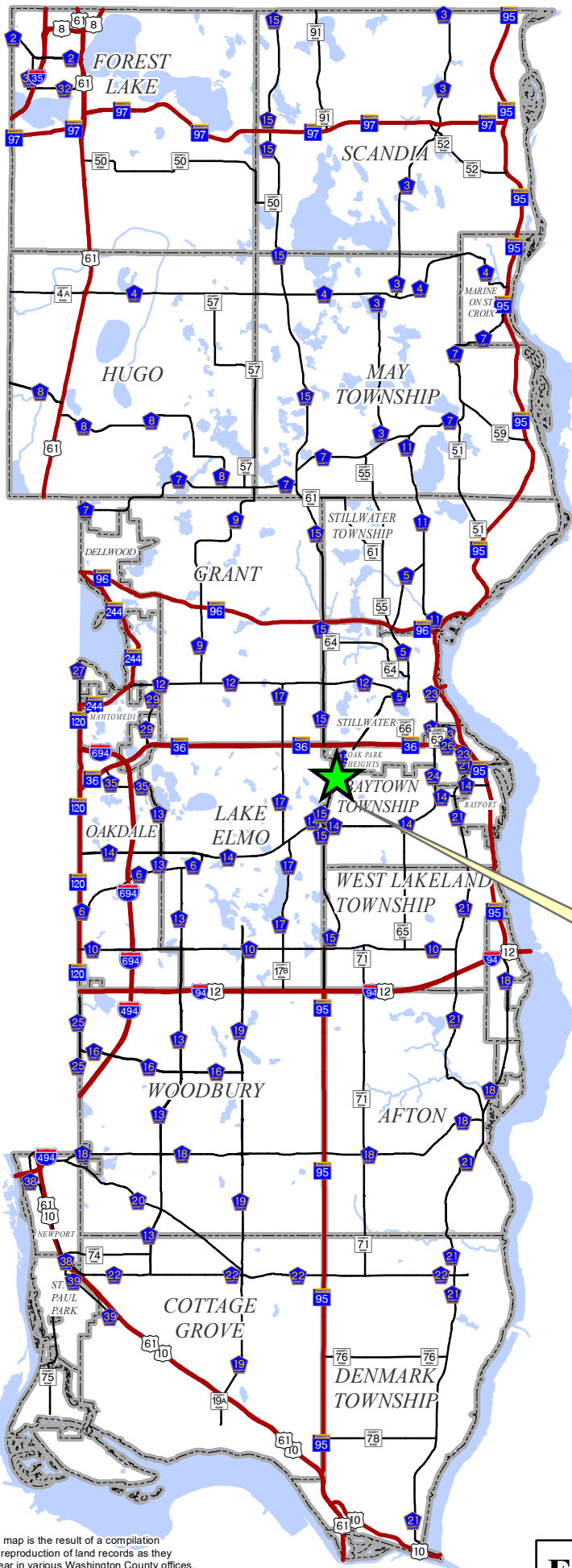
Approved as to form:

\_\_\_\_\_  
Assistant County Attorney                      Date

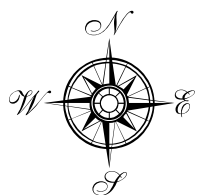
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City Attorney    Date

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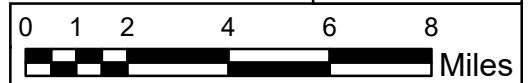




**CSAH 15 (Stillwater Blvd N) & 50th St N  
Baytown Twp & Lake Elmo**



Scale 1:240,000



**Exhibit A**

Estimated Costs and Quantities  
CSAH 15 at 50th Street North  
State Aid Project 082-615-033  
Lake Elmo and Baytown Township, Minnesota  
Prepared by JMG (SEH) on March 1, 2017

Item Number	Item	UNIT	UNIT COST	TOTAL							
				EST. QTY.	EST. COST	082-615-033 QTY	082-615-033 COST	CITY QTY	CITY COST	COUNTY QTY	COUNTY COST
2021.501	MOBILIZATION	LS	\$6,900.00	1	\$6,900.00	0.67	\$4,623.00	0.33	\$2,277.00		
2102.502	PAVEMENT MARKING REMOVAL	LIN FT	\$10.00	40	\$400.00	40	\$400.00				
2104.501	REMOVE CURB & GUTTER	LIN FT	\$40.00	5	\$200.00	5	\$200.00				
2104.503	REMOVE BITUMINOUS WALK	SQ FT	\$5.00	120	\$600.00			120	\$600.00		
2104.513	SAWING BIT PAVEMENT (FULL DEPTH)	LIN FT	\$4.00	135	\$540.00	135	\$540.00				
2104.523	SALVAGE SIGN	EACH	\$100.00	7	\$700.00	3	\$300.00	2	\$200.00	2	\$200.00
2104.603	REMOVE & REPLACE BITUMINOUS PAVEMENT	LIN FT	\$50.00	135	\$6,750.00	135	\$6,750.00				
2105.501	COMMON EXCAVATION	CU YD	\$12.00	10	\$120.00	10	\$120.00				
2211.501	AGGREGATE BASE CLASS 5	TON	\$25.00	3	\$75.00	3	\$75.00				
2501.515	12" RC PIPE APRON	EACH	\$800.00	1	\$800.00	1	\$800.00				
2501.602	TRASH GUARD FOR 12" PIPE APRON	EACH	\$400.00	1	\$400.00	1	\$400.00				
2503.511	12" RC PIPE SEWER DESIGN 3006 CLASS V	LIN FT	\$50.00	49	\$2,450.00	49	\$2,450.00				
2506.501	CONSTRUCT DRAINAGE STRUCTURE DESIGN H	LIN FT	\$400.00	2.14	\$856.00	2.14	\$856.00				
2506.516	CASTING ASSEMBLY	EACH	\$800.00	1	\$800.00	1	\$800.00				
2521.511	2.5" BITUMINOUS WALK	SQ FT	\$8.00	234	\$1,872.00			234	\$1,872.00		
2521.618	CONCRETE WALK	SQ FT	\$10.00	188	\$1,880.00	188	\$1,880.00				
2531.603	CONCRETE CURB & GUTTER	LIN FT	\$40.00	135	\$5,400.00	135	\$5,400.00				
2531.618	TRUNCATED DOMES	SQ FT	\$60.00	48	\$2,880.00	48	\$2,880.00				
2563.601	TRAFFIC CONTROL	LS	\$5,000.00	1	\$5,000.00	0.67	\$3,350.00	0.33	\$1,650.00		
2563.602	TYPE III BARRICADE	EACH	\$1,000.00	1	\$1,000.00	1	\$1,000.00				
2564.531	SIGN PANELS TYPE C	SQ FT	\$50.00	74	\$3,700.00	54.2	\$2,710.00	19.8	\$990.00		
2564.550	DELINEATOR	EACH	\$200.00	4	\$800.00	4	\$800.00				
2564.602	INSTALL SIGN	EACH	\$150.00	3	\$450.00	3	\$450.00				
2565.511	TRAFFIC CONTROL SIGNAL SYSTEM	SIG SYS	\$96,000.00	1	\$96,000.00	0.67	\$64,320.00	0.33	\$31,680.00		
2573.530	STORM DRAIN INLET PROTECTION	EACH	\$200.00	1	\$200.00	1	\$200.00				
2573.533	SEDIMENT CONTROL LOG TYPE COMPOST	LIN FT	\$3.00	25	\$75.00	25	\$75.00				
2574.508	FERTILIZER TYPE 3	LB	\$2.00	15	\$30.00	15	\$30.00				
2574.525	COMMON TOPSOIL BORROW	CU YD	\$30.00	30	\$900.00	30	\$900.00				
2574.578	SOIL BED PREPARATION	ACRE	\$1,000.00	0.06	\$60.00	0.06	\$60.00				
2575.502	SEED MIXTURE 25-131	LB	\$3.00	15	\$45.00	15	\$45.00				
2575.523	EROSION CONTROL BLANKETS CATEGORY 3N	SY	\$2.00	40	\$80.00	40	\$80.00				
2575.560	HYDRAULIC MULCH MATRIX	LB	\$1.50	150	\$225.00	150	\$225.00				
2575.605	SEEDING	ACRE	\$4,500.00	0.06	\$270.00	0.06	\$270.00				
2582.502	24" SOLID LINE PREFORM THERMO GROUND IN	LIN FT	\$10.00	70	\$700.00	35	\$350.00	35	\$350.00		
2582.503	CROSSWALK PREFORM THERMOPLASTIC GROUND IN	SQ FT	\$10.00	240	\$2,400.00	240	\$2,400.00				

SUBTOTAL OPINION OF PROBABLE COST =

\$145,558.00

\$105,739.00

\$39,619.00

\$200.00

SUBTOTAL OPINION OF PROBABLE COST =

10% Contingency =

COUNTY ITEMS

TOTAL OPINION OF PROBABLE COST =

\$145,558.00

\$14,555.80

\$30,000.00

\$190,113.80

**COOPERATIVE AGREEMENT BETWEEN  
THE CITY OF LAKE ELMO AND  
THE COUNTY OF WASHINGTON  
FOR MAINTENANCE OF THE TRAFFIC SIGNAL SYSTEM  
AT THE INTERSECTION OF STILLWATER BOULEVARD  
AND 50<sup>th</sup> STREET NORTH**

WASHINGTON COUNTY	
CONTRACT NO.	10780
DEPT.	PUBLIC WORKS
DIVISION	TRANSPORTATION
TERM	PERPETUAL

**THIS AGREEMENT**, by and between the City of Lake Elmo, a municipal corporation, herein after referred to as the "City", and Washington County, a political subdivision of the State of Minnesota, hereinafter referred to as the "County", shall consist of this agreement and Exhibit A.

**WITNESSETH:**

WHEREAS, the County intends to construct a wood pole traffic signal system on County State Aid Highway No. 15, also known as Stillwater Boulevard and formerly known as State Trunk Highway No. 5, at its intersection with 50<sup>th</sup> Street North in the City of Lake Elmo; and

WHEREAS, a cooperative effort between the City and County is the appropriate method to facilitate the maintenance of the traffic signal system; and

WHEREAS, this Agreement is made pursuant to statutory authority contained in Minnesota Statute 162.17 sub.1 and Minnesota Statute 471.59.

**NOW THEREFORE, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:**

**A. PURPOSE**

The purpose of this agreement is set forth in the above whereas clauses which are all incorporated by reference as if fully set forth herein.

**B. MAINTENANCE RESPONSIBILITIES**

1. This agreement and all of its provisions shall apply only to the traffic control signal system to be located on Stillwater Boulevard, formerly known as Minnesota Trunk Highway No. 5 and now designated as County State Aid Highway No. 15, at its intersection with 50<sup>th</sup> Street North, said intersection being located approximately 1200 feet east of the northwest corner of Section 7 of Township 29 North, Range 20 West, as shown in Exhibit A.
2. The City shall, at its sole cost and expense, pay all monthly electrical service expenses necessary to operate the traffic control signal system including all cabinet and control equipment and integral streetlights, and including the cost of establishing and perpetuating a connection to the electrical service grid and subsequent ongoing electrical service expenses.
3. The County shall, at the sole cost and expense of the City, maintain and keep in repair the integral luminaires (overhead street lights) and all their components, including replacement of the existing luminaires if necessary, except that the County shall maintain and keep in repair the electrical connection to the luminaire heads at the sole cost and expense of the County.
4. The County owns the traffic control signal system and all of its components and shall, at its sole cost and expense, operate, maintain and keep in repair the traffic control signal system including but not limited to the relamping of vehicular and pedestrian traffic signal indications, cleaning and maintenance of the control cabinet, maintenance of the Emergency Vehicle Preemption (EVP) system, attached signage, traffic signal interconnection and master controller, and repair of any and all physical damage, except as set forth in the following section.

5. The County considers paint to be an aesthetic component of the traffic signal system. Therefore the City shall, at its sole cost and expense, clean and paint the traffic control signal system and integral streetlights at the sole cost and expense of the City, having first obtained a permit from the County which may place conditions on activities within the right-of-way. Alternatively, the City may, at its discretion, request in writing that the County paint the traffic control signal system and integral streetlights at the sole cost and expense of the City.
6. The County shall, at its sole cost and expense, be responsible for identification and location of the underground components of the traffic control signal system as required by the Gopher State One Call system.
7. Any EVP equipment currently installed on the signal covered by this agreement, including optical detectors, control electronics, and confirmation lights shall become the property of Washington County if not already so established, with no direct compensation made to the City for said transfer.
8. The City shall not revise by addition or deletion, nor alter or adjust any component, part, sequence, or timing of the aforesaid traffic control signal system or EVP systems; however nothing herein shall be construed as restraint of prompt, prudent action by properly constituted authorities in situations where part of such traffic control signal systems may be directly involved in an emergency.
9. The EVP systems provided for in this agreement shall be installed, operated, maintained, upgraded, or removed in accordance with the following conditions and requirements:
  - a. Emitter units may be installed and used only on vehicles responding to an emergency as defined in Minnesota Statutes Sections 169.011, subd. 3 and 169.03. The City will, provide the County Engineer or his duly appointed representative a list of all such vehicles with emitter units upon request.
  - b. Malfunctions of the EVP systems shall be reported to the County immediately.
  - c. Only in the event said EVP systems or components are, in the opinion of the County, being misused or the terms set forth herein are violated, and such misuse or violation continues after receipt by the City of written notice thereof from the County, the County may remove, modify, restrict, or deactivate the EVP systems. Upon removal of the EVP systems pursuant to this paragraph, the field wiring, cabinet wiring, detector receivers, infrared detector heads, and indicator lamps and all other components shall become the property of the County.
  - d. All timing of said EVP systems shall be determined by the County.

#### **C. CIVIL RIGHTS AND NON-DISCRIMINATION**

The provisions of Minn. Stat. 181.59 and of any applicable ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein, and shall be part of any Agreement entered into by the parties with any contractor subcontractor, or material suppliers.

#### **D. WORKERS COMPENSATION**

It is hereby understood and agreed that any and all employees of the County and all other persons employed by the County in the performance of construction and/or construction engineering work or services required or provided for under this agreement shall not be considered employees of the City and that any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said County employees while so engaged on any of the construction and/or construction engineering work or services to be rendered herein shall in no way be the obligation or responsibility of the City.

## **E. INDEMNIFICATION**

1. The City agrees that it will defend, indemnify and hold harmless the County against any and all liability, loss, damages, costs and expenses which the County may hereafter sustain, incur or be required to pay by reason of any negligent act by the City, its agents, officers or employees during the performance of this agreement.
2. The County agrees that it will defend, indemnify and hold harmless the City against any and all liability, loss, damages, costs and expenses which the City may hereafter sustain, incur or be required to pay by reason of any negligent act by the County, its agents, officers or employees during the performance of this agreement.
3. To the fullest extent permitted by law, actions by the parties to this Agreement are intended to be and shall be construed as a “cooperative activity” and it is the intent of the parties that they shall be deemed a “single governmental unit” for the purposes of liability, as set forth in Minnesota Statutes, Section 471.59, subd. 1a(b). The parties to this Agreement are not liable for the acts or omissions of another party to this Agreement except to the extent they have agreed in writing to be responsible for the acts or omissions of the other parties as provided for in Section 471.59, subd. 1a.
4. Each party’s liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 and other applicable law. The parties agree that liability under this Agreement is controlled by Minnesota Statute 471.59, subdivision 1a and that the total liability for the parties shall not exceed the limits on governmental liability for a single unit of government as specified in 466.04, subdivision 1(a).

## **G. DATA PRIVACY**

All data collected, created, received, maintained, or disseminated, or used for any purposes in the course of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes 1984, Section 13.01, et seq. or any other applicable state statutes and state rules adopted to implement the Act, as well as state statutes and federal regulations on data privacy.

## **F. CONDITIONS**

The City shall not assess or otherwise recover any portion of its cost for this project through levy on County-owned property.

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

**WASHINGTON COUNTY**

**CITY OF LAKE ELMO**

\_\_\_\_\_  
Chair Date  
Board of Commissioners

\_\_\_\_\_  
Mayor Date

\_\_\_\_\_  
Molly O'Rourke Date  
County Administrator

\_\_\_\_\_  
City Administrator Date

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Assistant County Attorney Date

\_\_\_\_\_  
City Attorney Date

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