

Wabasha County
Board of Commissioners
Meeting Agenda
September 19, 2023
9:00 a.m.

Agenda Item:

1.0 **Call to Order**

- Please be respectful and turn off all cell phones and pagers during the Board meeting.

2.0 **Pledge of Allegiance**

3.0 **Roll Call** (Key, Powers, Springer, Walkes, Wobbe)

4.0 **Approve Agenda**

5.0 **Staff Updates**

6.0 **Administrator Update**

7.0 **Citizen Involvement** MS13D.01. subd 6

Any person may observe Board meetings. Citizens must be able to hear the discussion at a meeting and must be able to determine who votes for or against a motion. One copy of the agenda and all materials made available to the Board should be made available to the audience unless doing so would violate the Minnesota Government Data Practices Act. Although anyone can attend Board meetings, citizens cannot speak or otherwise participate in any discussions unless the Board recognizes them for this purpose.

8.0 **Public Forum**

- Sign-up for the public forum will be done prior to the beginning of the meeting.
- No personal attacks to persons present or not.
- No inflammatory language used during time that you have the platform.
- Thank you for participating in County government.

9.0 **Consent Agenda**

Items on the Consent Agenda are considered to be routine by the County Board of Commissioners and may be enacted through one motion. Any item on the Consent Agenda may be removed by any of the Commissioners for separate consideration.

- A. Minutes: September 5, 2023
- B. Claims
- C. Per Diems
- D. Meal Vouchers
- E. **Administration:** Approve Updated Policy 317 (2023-140)
- F. **Administration:** Approve Settlement Agreement with Brian McKnight (2023-141)
- G. **Highway:** Approve Advertisement for Bids for Highway Projects (2023-142)
- H. **Highway:** Approve Final Payment to Scott Construction, Inc. For Completion of Project CP 079-234-000 (2023-143)
- I. **Highway:** Approve Purchase of Culvert Materials for Projects SAP 079-602-043 (2023-144)
- J. **Highway:** Approve Purchase of Replacement Pressure Washer (2023-145)
- K. **Highway:** Approve and Accept Quote for Furnishing Aggregate Base from Bruening Rock Products (2023-146)
- L. **Highway:** Approve County Hwy 6 Grant Agreement from the Minnesota State Transportation Fund (2023-147)
- M. **Highway:** Approve County Hwy 86 Grant Agreement from the Minnesota State Transportation Fund (2023-148)
- N. **Highway:** Approve and Award Bid to Fitzgerald Excavating for Contract SAP 079-598-031 (2023-149)
- O. **Highway:** Approve and Award Bid to Fitzgerald Excavating for Contract SAP 079-598-029 (2023-150)
- P. **Sheriff:** Approve Transfer of 2014 Dodge Ram 1500 to Highway Dept (2023-151)

10.0 **Action/Discussion Items**

- A. **Finance:** Adoption of Proposed 2024 SEMMCHRA Property Tax Levy (2023-152)
- B. **Finance:** Adoption of Proposed 2024 SEMMCHRA Special Tax Levy (2023-153)
- C. **Finance:** Adoption of Proposed 2024 Property Tax Levy (2023-154)
- D. **Finance:** Adoption of Proposed 2024 Budget (2023-155)

11.0 **Commissioner Reports**

12.0 **Board Concerns**

13.0 **Recess/Adjourn**

MINUTES - REGULAR MEETING – TUESDAY, SEPTEMBER 5, 2023

The Board of County Commissioners of Wabasha County, Minnesota, convened in Regular Session at the Wabasha County Courthouse, in the City of Wabasha, Minnesota on Tuesday, September 5, 2023 at 9:00 a.m.

09/05/23

The meeting was called to order by Board Vice-Chairperson Walkes.

CALL TO ORDER

The following Commissioners were present: Key, Powers, Walkes, Wobbe Absent: Springer

ROLL CALL

WOBBE-KEY

Motion to approve the agenda

APPROVE AGENDA

Adopted Unanimously

Staff Updates:

STAFF UPDATES

Administrator Updates:

- Anniversaries:
 - a. Chris Binner, Social Services, 10 Years of Service
 - b. Jill LaFond, Social Services, 5 Years of Service
 - c. Kirsten Schuth, Social Services, 5 Years of Service
 - d. Katie Streveler, Human Resources, 10 Years of Service

ADMINISTRATOR UPDATES

Public Forum:

Johnson Plat:

- Jason Wagner Rich Olson
- Robert Stalberger Valerie Dondlinger
- Steve Gentry

APPROVE CONSENT AGENDA

KEY-POWERS

Motion to approve the consent agenda including the following:

Minutes: August 15, 2023

Claims

Meal Vouchers

Per Diems

Donation: Approve and Accept Donation on Behalf of the Treatment Court program from Wabasha Kellogg Area Community Foundation in the amount of \$958.00

Resolution No.: 2023-134

Whereas, Wabasha County Highway Right of Way Plat No. 55 was recorded on May 23, 2023 as Document 352548; and

Whereas, subsequently errors requiring correction were discovered on the above Plat.

Now Therefore Be It Resolved by the Wabasha County Board of Commissioners hereby approves the attached Certificate of Correction to Wabasha County Highway Right of Way Plat No. 55.

RES 2023-134:
APPROVED
CERTIFICATE OF
CORRECTION
TO WABASHA
COUNTY
RIGHT-OF-WAY
PLAT NO. 55

Resolution No.: 2023-135

Whereas, the County uses a data network to connect computers, servers and other devices, and the IT department has identified the need to expand that network;

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, the IT Director is to purchase network switches and related parts, not to exceed \$15,000.

RES 2023-135:
APPROVED
PURCHASE OF
NETWORK
SWITCHES

Resolution No.: 2023-136

RES 2023-136:
APPROVED

Whereas, the county uses a variety of computer servers, and the IT department has identified the need to build new servers;

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, the IT Director is to purchase hardware, software, licensing and/or services needed to build and install new servers, not to exceed \$35,000.

Resolution No.: 2023-137

Whereas, Wabasha County Public Health enters into an award agreement with the Minnesota Department of Public Safety, for traffic safety projects (Toward Zero Death Grant) during the period from October 1, 2023 through September 30, 2024. The dollar amount is \$14,762.44;

Whereas, The Public Health Director is hereby authorized to execute such agreements and amendments as are necessary to implement the project on behalf of Wabasha County Public Health and to be the fiscal agent and administer the award;

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, the Wabasha County Board of Commissioners approves acceptance of the Toward Zero Death Grant in the amount of \$ 14,762.44.

Resolution No.: 2023-138

Whereas, Wabasha County has participated in the Radiological Emergency Preparedness Program; and

Whereas, Wabasha County has an important role to play in the unlikely event of an incident at one of the two nuclear generating plants in Minnesota. As part of the Department of Public Safety's Radiological Emergency Preparedness (REP) program, five reception centers are designated for evacuees from the Monticello or Red Wing areas in the event of an incident at the nuclear generating plants in those communities. The five reception centers – at high schools in Cottage Grove, Princeton, Rogers, St. Cloud, and Wabasha – could receive and process evacuees from the area that surrounds each nuclear generating plant in the event of an incident. Thousands of evacuees would be registered, tested for radiation contamination and directed to temporary shelters. Those found to have radiological contamination would be evaluated and, when appropriate, be decontaminated through a change of clothes and shower. Nearby sites also would handle testing and decontamination of evacuees' household pets and vehicles. State, county, tribal, city, and school officials work closely together to ensure that the health and safety of the public is protected in the event of a radiological incident. All of these emergency planners participate in full-scale exercises every other year to demonstrate readiness for an incident. Wabasha-Kellogg area residents may notice emergency vehicles, personnel and activity at the Wabasha-Kellogg School when these exercises are taking place. The exercises also involve local hospital and ambulance personnel and volunteer organizations, such as the American Red Cross, Veterinarians (MVRC) for pet decon, and other groups. The exercises are overseen by the MN Department of Public Safety's Homeland Security and Emergency Management (HSEM) division and are evaluated by the Federal Emergency Management Agency (FEMA), part of the U.S. Department of Homeland Security; and

Whereas, the grant period is July 1, 2023 to June 30th, 2025 in the amount of \$159,000.00; and

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, The Wabasha County Board of Commissioners approves this grant agreement

Adopted Unanimously

KEY-POWERS

Resolution No.: 2023-139

Whereas, Dan & Doreen Johnson submitted an application for a preliminary plat to create four new lots located on existing parcels in Section 21, Township 109 North, Range 12 West, Town of Oakwood (R12.00229.00) and Section 28 Township 109 North, Range 12 West (R12.00281.03, R12.00281.00) Town of Oakwood.

Whereas, The Planning Commission conducted public hearings on July 24th, 2023 and August 28th, 2023 to hear any testimony related to the request; and

PURCHASE OF PARTS TO BUILD AND DEPLOY APPROXIMATELY 4 SERVERS

RES 2023-137: APPROVED TOWARD ZERO DEATH GRANT

RES 2023-138: APPROVED RADIOLOGICAL EMERGENCY PREPAREDNESS GRANT

RES 2023-139: APPROVED OF JOHNSON ACRES PRELIMINARY PLAT

Whereas; The Planning Commission has considered the matter and recommends (vote 4-1) that the Wabasha County Board of Commissioners approve the preliminary plat for Johnson Acres.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, the Board of Commissioners agrees with the findings from the Planning Commission and approves the preliminary plat for Johnson Acres as presented with one condition:

- 1. Lots 1, 2, and 3 shall be deed restricted in their entirety to allow no dwellings.

Adopted 3-1 Nay: Walkes

Commissioners reported on meetings they attended

Board Concerns

KEY-WOBBE

Recess to Closed Session: Labor Negotiation Strategy – Deputies LELS

Recess to AMC Fall Policy Conference September 13-15, Arrowwood Conference Center – Alexandria, MN

Adopted Unanimously

BOARD OF COUNTY COMMISSIONERS
WABASHA COUNTY, MINNESOTA

BY: _____
Its Board Chair

ATTEST:

BY: _____
Its Board Clerk

COMMISSIONER
REPORTS

BOARD
CONCERNS

RECESS TO
AMC FALL
POLICY
CONFERENCE
SEPTEMBER 13-
15,
ARROWWOOD
CONFERENCE
CENTER –
ALEXANDRIA,
MN

**WABASHA COUNTY
BOARD MEETING
19-Sep-23**

AUDITOR'S WARRANTS

<u>DATE</u>	<u>ACH NUMBERS</u>	<u>WARRANT NUMBERS</u>	<u>AMOUNT</u>
8/18/23-8/24/23		58287-58307	\$ 513,963.74
8/25/2023	15459-15469	58308-58330	\$ 255,426.17
8/25/23-8/31/23		58331-58343	\$ 110,764.03
9/1/2023	15470-15502	58344-58367	\$ 27,179.65
9/1/23-9/7/23		58368-58389	\$ 760,321.90
9/8/2023	15503-15507	58390-58401	\$ 436,816.54

TOTAL AUDITOR'S WARRANTS

\$ 2,104,472.03

MEAL VOUCHERS

<u>EMPLOYEE</u>	<u>DATES</u>	<u>AMOUNT</u>
Bartsh, Rodney	8/28/2023	\$ 10.00
Hall, Kayla	9/6/2023	\$ 9.72
Schuth, Kirsten	8/9/2023	\$ 10.00
Vosen, Julie	8/30/2023	\$ 9.00

TOTAL MEAL VOUCHERS

\$ 38.72

TAXABLE UNIFORM ALLOWANCE

<u>EMPLOYEE</u>	<u>DATES</u>	<u>AMOUNT</u>
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TOTAL UNIFORM ALLOWANCE VOUCHERS

\$ -

**WABASHA COUNTY
BOARD MEETING
19-Sep-23**

PER DIEM PAYMENT REQUEST

<u>COMMISSIONER</u>	<u>DATE</u>	<u>COMMITTEE</u>	<u>AMOUNT</u>
Key, Cheryl			\$ -
Powers, Rick			\$ -
Springer, Don			\$ -
Walkes, Robert			\$ -
Wobbe, Mike			\$ -
TOTAL PER DIEMS REQUESTED			\$ -

(1) Any claim for a per diem payment must be based on documented activities by a commissioner that constitutes:

- The duties of office, including work on committees (under the direction of the board); or
- Individual service required by law

Committee work may include information gathering activities as well as liaison activities. Board or committee minutes should confirm three aspects of the activity as committee work

- That a matter is before the board or committee that necessitates the activity
- The activity has been authorized by the board or committee; and
- The commissioner has reported to the board of the committee the results of the information gathering or liaison activities

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 E

Date:

September 19, 2023

Agenda Item:

Adoption of revised Employee Lactation Policy

Requested Action:

Adoption of revised Policy Number: 317

Fiscal Impact:

None.

Background/Recommendation:

New law changes effective July 1, 2023 require updates of policies in regards to nursing mothers and lactating employees.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-140

Whereas, effective on July 1, 2023, workplace protections for expectant and new parents were expanded by the Minnesota Department of Labor and Industry;

Whereas, all nursing and lactating employees receive break times to express milk regardless of their child’s age without losing compensation;

Whereas, enforcing the requirement that employers notify all employees of the rights of pregnant and lactating employees when hired, when an employee makes an inquiry about or requests leave and in an employee handbook if one is provided.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, Policy 317, Employee Lactation Policy has been edited, reviewed, and approved.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Wabasha County values a family-friendly environment for its employees. Wabasha County recognizes the benefits of breastfeeding and supports the practice of breastfeeding, accommodates breastfeeding needs of employees, and provides adequate facilities for the expression of milk in accordance with Minnesota law. Lactation space and time will be available for as long as an employee wishes to provide breast milk for her child, regardless of the child's age. Employees will be given this policy when they are requesting FMLA for maternity leave, or reference them to the appropriate location of the policy in the policy manuals.

I. Lactation Breaks

All nursing and lactating employees are allowed to feed or express milk during work hours. Wabasha County will not reduce an employee's compensation for time taken to express milk. All nursing and lactating employees have the right to break times to express milk based upon their needs, whether that means expressing milk during an existing paid break, during an existing unpaid break, such as a meal break, or during some other time. Employees whose work regularly takes them away from their desk may take lactation breaks at the nearest appropriate private area. Supervisors are expected to accommodate all lactation needs.

II. Lactation Facilities

An appropriate private space shall be provided in close proximity to the nursing mothers work areas. Currently, designated lactation rooms are available in the Health and Human Services Building, the Criminal Justice Center, and the Courthouse Building. A room is available at each of these locations. These rooms have a comfortable chair, table, sink, refrigerator to store milk, and outlets available to plug in the employee's pump.

Employees utilizing the private area are responsible for keeping the room clean and sanitary for the next user. If employee prefers, they may also express milk in their own private office, or in other comfortable locations agreed upon in consultation with the employee's supervisor.

Employees should label all milk expressed with their name and shall remove it at the end of their work day. Any employee storing milk in the refrigerator assumes all responsibility for the safety of the milk.

There is a privacy kit available for checkout from the public health office. This kit provides a nursing cover, 2 car privacy screens and baby wipes. This kit can be taken when an employee is traveling with the county car to offer more privacy to pump while away from the office.

III. Resources

There are brochures located in each room with resources for breastfeeding support in the community.

<https://www.womenshealth.gov/breastfeeding/>

<https://www.dli.mn.gov/newparents>

Nursing Mothers, Lactating Employees, and Pregnancy Accommodations employee notice

Minnesota's Nursing Mothers, Lactating Employees, and Pregnancy Accommodations law (Minnesota Statutes § 181.939) gives pregnant and lactating employees certain legal rights.

Pregnant employees have the right to request and receive reasonable accommodations, which may include, but are not limited to, more frequent or longer breaks, seating, limits to heavy lifting, temporary transfer to another position, temporary leave of absence or modification in work schedule or tasks. An employer cannot require an employee to take a leave or accept an accommodation.

Lactating employees have the right to reasonable paid break times to express milk at work unless they are expressing milk during a break that is not usually paid, such as a meal break. Employers should provide a clean, private and secure room that is not a bathroom near the work area that includes access to an electrical outlet for employees to express milk.

It is against the law for an employer to retaliate, or to take negative action, against a pregnant or lactating employee for exercising their rights under this law.

Employees who believe their rights have been violated under this law can contact the Minnesota Department of Labor and Industry's Labor Standards Division at dli.laborstandards@state.mn.us or 651-284-5075 for help. Employees also have the right to file a civil lawsuit for relief. For more information about this law, visit dli.mn.gov/newparents.

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 F

Date: 09/11/2023

Agenda Item: Settlement Agreement and Mutual Release.

Requested Action: Board approval of the proposed settlement offer.

Fiscal Impact: None.

Background/Recommendation:

The proposed settlement agreement will resolve court file 85-CV-18-545, County of Wabasha v. Brian McKnight. The settlement provides a path for the defendant to come into compliance with the Wabasha County Zoning Code. It is the County Attorney's recommendation that the Board approve the settlement.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-141

Settlement Agreement and Mutual Release – Wabasha v Brian McKnight

WHEREAS, the proposed settlement agreement will resolve court file 85-CV-18-545, County of Wabasha v. Brian McKnight. The settlement provides a path for the defendant to come into compliance with the Wabasha County Zoning Code. It is the County Attorney’s recommendation that the Board approve the settlement.

NOW, THEREFORE, BE IT RESOLVED by the County Board of Wabasha County, Minnesota that the referenced settlement agreement is approved.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Board Chair

Attest:

By: _____
Board Clerk

SETTLEMENT AGREEMENT AND
MUTUAL RELEASE

The undersigned parties hereby enter into the following Settlement Agreement and Mutual Release, this 19th day of September, 2023:

I. THE PARTIES

This instrument is executed to reflect the Settlement Agreement and Mutual Release (“Agreement”) made and entered into as of July 15, 2023, by and between the following parties (who may be referred to in this Agreement as a “Party” or the “Parties”):

- A. The County of Wabasha, a body public and corporate (“Wabasha County”); and
- B. Brian McKnight (“McKnight”).

II. RECITALS

- A. Wabasha County commenced an action against Mark Kuehn related to property located at 56011 403rd Avenue, Zumbro Falls, MN, having a parcel identification number of R17.00459.00 as noted by the office of the County Recorder in and for Wabasha County, Minnesota, (Hereinafter “the Property”), As more fully set forth in the Complaint dated June 22, 2018 and on file with the Court.
- B. Within the lawsuit, Wabasha County alleged Kuehn constructed a water-oriented accessory structure as defined by Ch. 2(157) of the Wabasha County Ordinances on the Property.
- C. Wabasha County further alleged Kuehn violated the following:
 - (i) That Kuehn built an accessory structure without first obtaining a permit from the Minnesota Department of Natural Resources, as

required by Minn.Stat. §103G.141, Subd. 1 and Minnesota Administrative Rule 6115.0211, Subp. 5;

- (ii) That Kuehn installed a deck, tram and stairway on the property in violation of Art. 14 §4 of the Ordinance;
- (iii) That Kuehn failed to comply with a Restoration and Replacement Order issued by the Wabasha County Planning and Zoning department in violation of Minn. Stat. §103G.2372, Subd. 2; and
- (iv) That the structure built by Kuehn was constructed in a manner likely to obstruct the flow of flood waters, in violation of Minn. Stat. Chapter 103G, Art. 14 §4, Subd. 4.E.(2) and Minnesota Administrative Rules 6115.0150 – 6115.0280.

- D. Predicated on the alleged violations, Wabasha County included a claim for abatement against Kuehn, seeking an order compelling Kuehn to remove the deck, stairway and tram and secure a permit from the Minnesota Department of Natural Resources for the structure. Wabasha County also included a claim for costs, expenses, and attorney fees.
- E. Mark Kuehn answered the Complaint and denied wrongdoing or liability.
- F. On or about October 29, 2021, Mark Kuehn sold the Property to Brian McKnight.
- G. Through a Stipulated Order, Brian McKnight, as the new owner of the property, agreed to replace Mark Kuehn as the named Defendant and proper party in this matter.
- H. In order to avoid further litigation and uncertainty, the parties hereto now desire to fully and completely resolve, settle, and compromise all claims which they have

or may have against the other as of the date of this Agreement in order to avoid further litigation.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the adequacy of which is hereby expressly acknowledged, the parties hereto agree as follows:

III. TERMS AND PROVISIONS

- A. Tram: The Parties agree the tram shall be allowed to remain in place without any further action by either party;
- B. Structure: The Parties agree the Structure, but not the deck located on the structure, shall be allowed to stay in place. The parties further agree the Minnesota Department of Natural Resources shall be allowed to issue an after the fact permit for the structure.
- C. Deck: The Parties agree that the deck can remain in its current condition and location through July 2024. During this time, McKnight shall be allowed to pursue a letter of map amendment from FEMA. If FEMA approves a letter of map amendment which allows the deck to remain in place pursuant to the then existing laws, rules, and regulations, McKnight shall be allowed to keep the deck in place. If FEMA does not approve a letter of map amendment for the property sufficient to allow the deck to remain in place, McKnight shall remove or relocate the deck in compliance with then existing laws, rules, and regulations.
- D. Mutual Releases. In exchange for the above-referenced consideration and agreement, the receipt and sufficiency of which is hereby acknowledged, Wabasha County individually and on behalf of any heirs, administrators,

successors, assigns, transferees, representatives, trustees, agents, attorneys, or others, hereby releases and fully discharges Brian McKnight and his agents, insurers, attorneys, transferees, heirs, successors, assigns, representatives, trustees or others, from any and all claims relating to the subject matter of the above-described Lawsuit. Including but not limited to all claims which were or could have been asserted in the aforementioned lawsuit, or which otherwise existed as of the date of this agreement – whether known or unknown. Likewise, McKnight releases and fully discharges Wabasha County individually and on behalf of any heirs, administrators, successors, assigns, transferees, representatives, trustees, agents, attorneys, or others from any and all claims that relate to the subject matter of the above-described Lawsuit, or any other claims which were or could have been asserted in the aforementioned lawsuit, or which otherwise existed as of the date of this agreement – whether known or unknown.

- E. Preservation of Claims and Defenses: Nothing within this Settlement Agreement and Release shall be construed to limit or release any parties' right to pursue or defend claims related to the enforcement or interpretation of this Agreement, all such claims and defenses being reserved by the Parties.
- F. Dismissal with Prejudice. Upon the full execution of this Agreement, the Parties' legal counsel shall execute a Stipulation of Dismissal with Prejudice of all claims against any of the parties to this Agreement in the aforementioned lawsuit.
- G. Denial of Liability. This Agreement represents a compromise of disputed claims, and settlement is not intended to be an admission of liability by any of the parties, each of which expressly denies any liability.

H. Construction of Agreement. This Agreement sets forth the entire agreement of the Parties and its interpretation and construction shall be governed by the laws of the State of Minnesota.

D. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

E. Miscellaneous.

(i) This Agreement may not be amended or modified except in writing executed by all parties hereto.

(ii) This Agreement shall be binding upon the Parties and their respective heirs, next-of-kin, executors, administrators, successors and assigns, and shall inure to the benefit of the parties released, their agents, representatives, employees, insurers, and all other persons, firms, associations, corporations, successors and assigns.

(iii) The parties hereto have all been represented by counsel. The Parties represent that they have read and understood all the terms of this Agreement and that they have consulted with counsel as to the Agreement. Each Party agrees that it has in no way relied upon any representation (or failure to represent) by any other party or by any agent or attorney of any other party with respect to any matter covered by this Agreement.

SIGNATURES:

Date

BY: _____
Brian McKnight

BOARD OF COUNTY COMMISSIONERS
WABASHA COUNTY, MINNESOTA

09/19/2023
Date

BY: _____
Its Board Chair

ATTEST

09/19/2023
Date

BY: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 G

Date:

September 19, 2023

Agenda Item:

Advertise for County Highway Projects

Requested Action:

Consider adoption of Resolution No. 2023-142 authorizing the Wabasha County Highway Engineer to advertise for bids for County Highway Projects.

Fiscal Impact:

Exact costs are not known until bids are received. The following projects have been submitted for inclusion within the 2024 budget. Projects are listed below with planned funding source:

079-241-000 aggregate surfacing: County Levy

079-242-000 traffic paint: County Levy

079-243-000 chloride: County Levy

079-244-000 sealcoat: transportation sales tax, wheelage tax and/or county levy

079-086-011 County Hwy 86 asphalt paving: fund transfer from ARPA

SP 079-607-026 and 079-070-022 County Hwy 7 asphalt paving north of Hwy 60: federal aid grants and State Aid Construction account

SAP 079-607-027 County Hwy 7 asphalt paving west of Hwy 63: State Aid Construction account

SP 079-030-008 culvert lining: federal aid grant and State Aid Construction account

Background/Recommendation:

The above projects are planned for 2024. After bids are opened, bid results will be presented to the County Board with a recommendation for award, if any, of contract.

The Wabasha County Engineer recommends adoption of Resolution 2023-142.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-142

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that the Wabasha County Highway Engineer be authorized to advertise for bids for the following projects:

079-241-000

079-242-000

079-243-000

079-244-000

079-086-011

SP 079-607-026 and 079-070-022

SAP 079-607-027

SP 079-030-008

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 H

Date:

September 19, 2023

Agenda Item:

Final Payment to Scott Construction Inc. for completion of Project CP 079-234-000

Requested Action:

Adoption of Resolution 2023-143 authorizing the Wabasha County Auditor/Treasurer to issue a warrant for final payment to Scott Construction Inc. for completion of Project CP 079-234-000 in the amount of \$8498.39.

*** Fiscal Impact:**

The total cost of the project was \$849,839.49 which was funded by the Wheelage Tax and/or Transportation Sales Tax proceeds.

Background/Recommendation:

Contract 23234 has been completed. Work was completed in 2023 for this sealcoat project on various County Highways.

The County Engineer recommends adoption of Resolution No. 2023-143.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-143

Whereas, Project CP 079-234-000 with any and/or all Supplemental Agreements, Change Orders or Work Orders, has been completed.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, the Wabasha County Auditor/Treasurer be authorized to issue a warrant for final payment to Scott Construction Inc for completion of CP 079-234-000 in the amount of \$8498.39.

Adopted this 19th day of September 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 I

Date:

September 19, 2023

Agenda Item:

County Hwy 2 project culvert purchasing

Requested Action:

Adoption of Resolution 2023-144 authorizing the Wabasha County Engineer to purchase and supply culvert materials for projects SAP 079-602-043.

*** Fiscal Impact:**

Estimated savings of project contracted costs from contractor supplied materials. For the same materials and based on previous bidding, estimated savings is estimated at \$45,000 for the County Hwy 2 project. Culvert costs are considered eligible for reimbursement from the County's State Aid construction account.

Polypropylene culvert costs are \$144,553.28 (ADS Inc)

Metal apron (culvert flared ends used with polypropylene culverts) costs are \$38,178 (Contech)

Background/Recommendation:

The County can purchase culvert materials, especially polypropylene (plastic) culvert materials, for much less than available to contractors through the State Cooperative Purchasing. The State Cooperative Purchasing contract expires for metal culverts at the end of September and for polypropylene culverts at the end of October, with future pricing uncertain. County Hwy 2 is planned to be advertised and bid shortly, in which the proposed purchased culvert materials would be installed.

The County Engineer recommends adoption of Resolution No. 2023-144.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-144

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, the Wabasha County Engineer is authorized to purchase culvert materials as shown on the plans for, and to be incorporated into project SAP 079-602-043 from ADS Inc. for polypropylene pipe and from Contech ES LLC for metal aprons.

Adopted this 19th day of September 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 J

Date:

September 19, 2023

Agenda Item:

Authorize the purchase of a pressure washer replacement

Requested Action:

Consider the adoption of Resolution No. 2023-145 authorizing the Wabasha County Highway Department to purchase one Karcher HD5 pressure washer from MK Service & Repair.

Fiscal Impact:

\$8450. Within amount of remaining capital equipment funds in 2023.

Background/Recommendation:

The proposed purchase is a replacement for pressure washer used at Lake City Highway Department shop. The pressure washer being replaced was purchased in 2000, and any usable parts would be salvaged for use repairing other pressure washers. The proposed replacement is considered to be the superior equipment of the two quotes received. Two quotes were received:

MK Service & Repair: Karcher HDS 4.0 \$8450

Express Pressure Washers: Alkota 420X4 \$6895

The Wabasha County Engineer recommends adoption of Resolution 2023-145.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-145

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, the Wabasha County Highway Department be authorized to purchase one Karcher HDS 4.0 pressure washer from MK Service & Repair.

Adopted this 19th day of September 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 K

Date:

September 19, 2023

Agenda Item:

Accept Quote for furnishing Aggregate Base for Bridge Projects

Requested Action:

Consider adoption of Resolution No. 2023-146 accepting the quote of Bruening Rock Products and authorizing County Engineer to proceed in work for aggregate base on County Hwy 6 and 86 bridge projects

Fiscal Impact:

Estimated total of \$29,273 (County Hwy 86) + \$18,834.11 (County Hwy 6) = \$48,107.15 which is an estimated savings of \$27,396.85 from otherwise using contracted bridge project costs. State bridge funds do not participate in costs of aggregate base on these projects. The estimated quantities and costs are considered maximums, and may be reduced depending on actual quantity used. County forces will be used to spread and compact the aggregate base.

Background/Recommendation:

Project is for the replacement of furnishing and hauling of aggregate base to two bridge project locations. Quotes were received from Roberson Lime & Rock and Bruening Rock Products. The low quote was from Bruening Rock Products at \$7.3999/ton and \$8.8999/ton for the two classes of aggregate base planned to be used.

Separating this work from awarded contract for the bridge projects will save County funds. The Wabasha County Engineer recommends adoption of Resolution 2023-146.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-146

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that Wabasha County hereby accepts the quote price of Bruening Rock Products Inc. for aggregate base on County Hwy 6 and 86 and authorizes the County Engineer to arrange and pay for the quoted aggregate base.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 L

Date:

September 19, 2023

Agenda Item:

County Hwy 6 Grant Agreement

Requested Action:

Consider adoption of Resolution No. 2023-147 agreeing to the terms and conditions of the grant agreement from the Minnesota State Transportation Fund, for participation in costs of construction of concrete box culverts on County Highway 6

Fiscal Impact:

Without this agreement, the County cannot receive the State Transportation Grant in the amount of \$312,139. The funds under this agreement have been approved and are available for only this project.

Background/Recommendation:

The funding provided by this Grant are necessary for construction of a concrete box culvert where a deteriorating metal arch with masonry headwalls currently exists and is planned to be replaced. The amount of funding from the Grant will cover 100% of costs associated with the bridge/culvert work.

The Wabasha County Engineer recommends adoption of Resolution 2023-147.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-147

Whereas, Wabasha County has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for replacement of Bridge L1005 on County Highway 6 under S.A.P. 079-598-031, and

Whereas, the Commissioner of Transportation has given notice that funding for this Project is available, and

Whereas, the amount of the grant has been determined to be \$312,139 by reason of the lowest responsible bid.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, Wabasha County does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes; 174.50, and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for this bridge but not required.

Be it Further Resolved by the Wabasha County Board of Commissioners that that the Wabasha County Engineer is hereby authorized to execute the attached Local Bridge Replacement Program Grant Agreement MnDOT No. 1054453 including Exhibit C Property Certification, and any amendments of such on behalf of Wabasha County.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

**LOCAL BRIDGE REPLACEMENT PROGRAM (LBRP)
GRANT AGREEMENT**

This Agreement between the Minnesota Department of Transportation (“MnDOT”) and the Grantee named below is made pursuant to Minnesota Statutes Section 174.50 and pursuant to Minn. Laws 2023, Chapter 72- H.F. 669. The provisions in that section and the Exhibits attached hereto and incorporated by reference constitute this Agreement and the persons signing below agree to fully comply with all of the requirements of this Agreement. This Agreement will be effective on the date State obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2.

1. Public Entity (Grantee) name, address and contact person:

County of Wabasha
821 Hiawatha Drive West
Wabasha, MN 55981

Contact: Dietrich Flesch, Wabasha County Engineer

2. Project(s):

Name of Project & Project Number (See Exhibit C for location)	Amount of LBRP Funds	Amount of Required Matching Funds	Completion Date
SAP 079-598-031	\$312,139.00	\$58,998.00	12/31/2027

3. Total Amount of LBRP Grant for all projects under this Agreement: \$312,139.00

4. The following Exhibits for each project are attached and incorporated by reference as part of this Agreement:

- Exhibit A Completed Sources and Uses of Funds Schedule
- Exhibit B Project Schedule, Workforce Certificate, and Equal Pay Certificate
- Exhibit C Bond Financed Property Certification
- Exhibit D Grant Application
- Exhibit E Grantee Resolution Approving Grant Agreement
- Exhibit F General Terms and Conditions

5. Additional requirements, if any:

6. Any modification of this Agreement must be in writing and signed by both parties.

(The remaining portion of this page was intentionally left blank.)

PUBLIC ENTITY (GRANTEE)

DEPARTMENT OF TRANSPORTATION
Approval and Certifying Encumbrance

By: _____

Title: Wabasha County Engineer

Date: _____

By: _____
State Aid Programs Manager

Date: _____

Office of Contract Management

By: _____

Title: _____

Date: _____

By: _____
Contract Administrator

Date: _____

EXHIBIT A

SOURCES AND USES OF FUNDS SCHEDULE

SOURCES OF FUNDS		USES OF FUNDS	
Entity Supplying Funds	Amount	Expenses	Amount
State Funds:		Items Paid for with LBRP	
LBRP Grant (Acct 377)	\$312,139.00	Grant Funds:	
Other:		Bridge Construction	\$312,139.00
	\$		\$
	\$		\$
	\$		\$
Subtotal	\$312,139.00	Subtotal	\$312,139.00
Public Entity Funds:		Items paid for with Non-	
Matching Funds		LBRP Grant Funds:	
Local Match	\$58,998.00	Approach grading, aggregate base, and Turf Establishment	\$58,998.00
Other:			\$
	\$		\$
	\$		\$
	\$		\$
Subtotal	\$58,998.00	Subtotal	\$58,998.00
TOTAL FUNDS	\$371,137.00	TOTAL PROJECT COSTS	\$371,137.00

EXHIBIT B

PROJECT SCHEDULE, WORKFORCE CERTIFICATE, AND EQUAL PAY CERTIFICATE

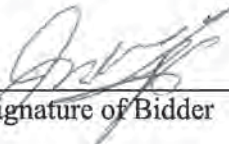
Award Date 9/19/2023
Construction Start Date 10/15/2023
Construction Substantial Complete Date 8/31/2024
Contract Final Completion Date 12/31/2027

**CERTIFICATE OF COMPLIANCE
FOR PUBLIC CONTRACTS**

The Bidder hereby certifies that the Bidder is in compliance with Minnesota Statute 363A.36 and (indicate below, as applicable):

- Have a current and valid Certificate of Compliance issued by the Minnesota Department of Human Rights.
- Have applied for a Certificate of Compliance to the Commissioner of the Minnesota Department of Human Rights and it is pending.
- Employ fewer than 40 full-time employees in the last 12 months, and do not anticipate employing more than 40 full-time employees during the performance of the contract listed above.
- That the contract for the project listed above does not have a total dollar value exceeding \$100,000.

If applicable, the Bidder shall include its current Workforce Certificate with the submission of the Bidder's proposal.



Signature of Bidder

President

Title

Higdon Excavating & Trucking Inc

Name of Business

9-6-23

Date



DEPARTMENT OF
HUMAN RIGHTS

WORKFORCE CERTIFICATE OF COMPLIANCE

The Commissioner of the Minnesota Department of Human Rights by the signature below attests that **FITZGERALD EXCAVATING & TRUCKING INC** is hereby certified as a contractor under the Minnesota Human Rights Act, §363A.

Certificate start date: **4/6/2021**

Certificate expiration date: **4/5/2025**

Minnesota Department of Human Rights

FOR THE DEPARTMENT BY:

Rebecca Lucero, Commissioner

AN EQUAL OPPORTUNITY EMPLOYER

Freeman Building • 625 Robert Street North • Saint Paul, MN 55155 • Tel 651.539.1100
MN Relay 711 or 1.800.627.3529 • Toll Free 1.800.657.3704 • Fax 651.296.9042 • mn.gov/mdhr

EQUAL PAY CERTIFICATE not required due to total bid amount less than \$1,000,000

EXHIBIT C

BOND FINANCED PROPERTY CERTIFICATION

State of Minnesota
General Obligation Bond Financed Property

The undersigned states that it has a fee simple, leasehold and/or easement interest in the real property located in the County of Wabasha, State of Minnesota that is generally described or illustrated graphically in **Attachment 1** attached hereto and all improvements thereon (the “Restricted Property”) and acknowledges that the Restricted Property is or may become State bond-financed property. To the extent that the Restricted Property is or becomes State bond-financed property, the undersigned acknowledges that:

- A. The Restricted Property is State bond-financed property under Minn. Stat. Sec. 16A.695, is subject to the requirements imposed by that statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget; and
- B. The Restricted Property is subject to the provisions of the Local Bridge Replacement Program Grant Agreement between the Minnesota Department of Transportation and the undersigned dated _____, 20____; and
- C. The Restricted Property shall continue to be deemed State bond-financed property for 37.5 years or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget.

Date: _____, 20_____

County of Wabasha, a political subdivision of the
State of Minnesota

By: _____
Name: Dietrich Flesch
Title: Wabasha County Engineer

By: _____
Name: _____
Title: _____

Attachment 1 to Exhibit C

GENERAL DESCRIPTION OF RESTRICTED PROPERTY

That part of the South Half of the Southwest Quarter (S1/2 of SW1/4) of Section Thirty-Five (35), Township One Hundred (109) North, Range Thirteen (13) West, Wabasha County, Minnesota, described as follows

Commencing at the southwest corner of said Southwest Quarter of said Section 35; thence North 0 degrees 26 minutes 11 seconds West, oriented with the Wabasha County Coordinate System, NAD83, 1996 adjustment (HARN), along the west line of said Southwest Quarter of said Section 35, a distance of 109.81 feet to the point of beginning of the easement to be described; thence continue along the west line of said Southwest Quarter North 0 degrees 26 minutes 11 seconds West, a distance of 150.00 feet; thence North 89 degrees 33 minutes 49 seconds East, a distance of 175.00 feet; thence South 0 degrees 26 minutes 11 seconds East a distance of 150.00 feet; thence South 89 degrees 33 minutes 49 seconds West, a distance of 175.00 feet to the point of beginning and there terminating.

Containing 0.60 acres, more or less.

EXHIBIT D

GRANT APPLICATION

Attach the grant application for the project



APPLICATION FOR BRIDGE FUNDS

State of Minnesota - Department of Transportation
State Aid for Local Transportation



Identification	Project Number	<u>SAP 079-606-014</u>	Old Bridge Number	<u>L1005</u>
	New Bridge No.	<u>79J31</u>	Over	<u>Silver Spring Creek</u>
	County of	<u>Wabasha</u>	Road or Street No.	<u>CSAH 6</u>
	Township of	<u>Elgin</u>	Road or Street Name	<u>CSACH 6</u>
	Municipality of	<u>NA</u>	Proposed Const Year	<u>2023</u>
	Does the municipality have a population of 5,000 or less? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Eligibility	Local Bridge Planning Index (LPI) <u>48</u>			
	NBI Appraisal Ratings: Deck Geometry <u>5</u> Approach Roadway <u>5</u> Waterway Adequacy <u>7</u>			
	Date of Council/Board action prioritizing this bridge <u>10/6/2009, 7/6/1999</u>			
	Is this a road-in-lieu of bridge project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Prioritization	How many people are affected by this deficiency? <u>100+</u>		What is the ADT on this bridge? <u>70</u>	
	Describe the economic importance of replacing this bridge.			
	farm to market route			
	Is the road designated or planned to be designated as a Minimum Maintenance road? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	(Attach additional sheets for explanation if necessary)			
	Is the township net tax capacity less than \$300,000? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Is the bridge listed on the National Register of Historic Places or been determined to be eligible? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
National Register of Historic Places link here: http://www.nps.gov/history/nr/research/				
Cost Estimate		Eligible Amount		Ineligible Amount
	Structure Costs	\$ 400000		\$
	Approach Costs	\$		\$ 80000
	Engineering Costs	\$		\$ 20000
	Total Costs	\$ 400000		\$ 100000
	Total Project Cost	\$ 500000		
		<u>7/15/2022</u>		
County/City Engineer		Date		
DSAE	DISTRICT STATE AID ENGINEER RECOMMENDATION			
	Replace <u>X</u>	Defer _____	 Fausto Cabral 2022.07.19 13:53:54 -05'00' District State Aid Engineer Signature Date	
Approval	STATE AID USE ONLY		Federal-Aid	\$
			State-Aid	\$
			Local/Other	\$
			Town Bridge	\$
			Unallocated Town Bridge	\$
			State Bridge Funds	\$
			Total	\$

EXHIBIT E

GRANTEE RESOLUTION APPROVING GRANT AGREEMENT

Wabasha County Board of Commissioners

Resolution No.: 2023-

Whereas, Wabasha County has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for replacement of Bridge L1005 on County Highway 6 under S.A.P. 079-598-031, and

Whereas, the Commissioner of Transportation has given notice that funding for this Project is available, and

Whereas, the amount of the grant has been determined to be \$312,139 by reason of the lowest responsible bid.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, Wabasha County does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes; 174.50, and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for this bridge but not required.

Be it Further Resolved by the Wabasha County Board of Commissioners that that the Wabasha County Engineer is hereby authorized to execute the attached Local Bridge Replacement Program Grant Agreement MnDOT No. 1054453 including Exhibit C Property Certification, and any amendments of such on behalf of Wabasha County.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

EXHIBIT F

GENERAL TERMS AND CONDITIONS FOR LOCAL BRIDGE REPLACEMENT PROGRAM (LBRP) GRANTS

Article I DEFINITIONS

Section 1.01 **Defined Terms.** The following terms shall have the meanings set out respectively after each such term (the meanings to be equally applicable to both the singular and plural forms of the terms defined) unless the context specifically indicates otherwise:

“Advance(s)” - means an advance made or to be made by MnDOT to the Public Entity and disbursed in accordance with the provisions contained in Article VI hereof.

“Agreement” - means the Local Bridge Replacement Program Grant Agreement between the Public Entity and the Minnesota Department of Transportation to which this Exhibit is attached.

“Certification” - means the certification, in the form attached as **Exhibit C**, in which the Public Entity acknowledges that its interest in the Real Property is bond financed property within the meaning of Minn. Stat. Sec. 16A.695 and is subject to certain restrictions imposed thereby.

“Code” - means the Internal Revenue Code of 1986, as amended, and all treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

“Commissioner” - means the Commissioner of Minnesota Management & Budget.

“Commissioner’s Order” - means the “Fourth Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” dated July 30, 2012, as it may be amended or supplemented.

“Completion Date” - means the projected date for completion of the Project as indicated in the Agreement.

“Construction Contract Documents” - means the document or documents, in form and substance acceptable to MnDOT, including but not limited to any construction plans and specifications and any exhibits, amendments, change orders, modifications thereof or supplements thereto, which collectively form the contract between the Public Entity and the Contractor(s) for the completion of the Construction Items on or before the Completion Date for either a fixed price or a guaranteed maximum price.

“Construction Items” - means the work to be performed under the Construction Contract Documents.

“Contractor” - means any person engaged to work on or to furnish materials and supplies for the Construction Items including, if applicable, a general contractor.

“Draw Requisition” - means a draw requisition that the Public Entity, or its designee, submits to MnDOT when an Advance is requested, as referred to in Section 4.02.

“G.O. Bonds” - means the state general obligation bonds issued under the authority granted in Article XI, Sec. 5(a) of the Minnesota Constitution, the proceeds of which are used to fund the LBRP Grant, and any bonds issued to refund or replace such bonds.

“Grant Application” - means the grant application that the Public Entity submitted to MnDOT which is attached as **Exhibit D**.

“LBRP Grant” - means a grant from MnDOT to the Public Entity under the LBRP in the amount specified in the Agreement, as such amount may be modified under the provisions hereof.

“LBRP” - means the Local Bridge Replacement Program pursuant to Minn. Stat. Sec. 174.50 and rules relating thereto.

“MnDOT” - means the Minnesota Department of Transportation.

“Outstanding Balance of the LBRP Grant” - means the portion of the LBRP Grant that has been disbursed to the Public Entity minus any amounts returned to the Commissioner.

“Project” - means the Project identified in the Agreement to be totally or partially funded with a LBRP grant.

“Public Entity” - means the grantee of the LBRP Grant and identified as the Public Entity in the Agreement.

“Real Property” - means the real property identified in the Agreement on which the Project is located.

Article II GRANT

Section 2.01 Grant of Monies. MnDOT shall make the LBRP Grant to the Public Entity, and disburse the proceeds in accordance with the terms and conditions herein.

Section 2.02 Public Ownership, The Public Entity acknowledges and agrees that the LBRP Grant is being funded with the proceeds of G.O. Bonds, and as a result all of the Real Property must be owned by one or more public entities. The Public Entity represents and warrants to MnDOT that it has one or more of the following ownership interests in the Real Property: (i) fee simple ownership, (ii) an easement that is for a term that extends beyond the date that is 37.5 years from the Agreement effective date, or such shorter term as authorized by statute, and which cannot be modified or terminated early without the prior written consent of MnDOT and the Commissioner; and/or (iii) a prescriptive easement for a term that extends beyond the date that is 37.5 years from the Agreement effective date.

Section 2.03 Use of Grant Proceeds. The Public Entity shall use the LBRP Grant solely to reimburse itself for expenditures it has already made, or will make, to pay the costs of one or more of the following activities: (i) constructing or reconstructing a bridge, (ii) abandoning an existing bridge that is deficient and in need of replacement, but where no replacement will be made, or (iii) constructing a road to facilitate the abandonment or removal of an existing bridge determined to be deficient. The Public Entity shall not use the LBRP Grant for any other purpose, including but not limited to, any work to be done on a state trunk highway or within a trunk highway easement. .

Section 2.04 Operation of the Real Property. The Real Property must be used by the Public Entity in conjunction with or for the operation of a county highway, county state-aid highway, town road, or city

street and for other uses customarily associated therewith, such as trails and utility corridors, and for no other purposes or uses. The Public Entity shall have no intention on the effective date of the Agreement to use the Real Property as a trunk highway or any part of a trunk highway. The Public Entity must annually determine that the Real Property is being used for the purposes specified in this Section and, upon written request by either MnDOT or the Commissioner, shall supply a notarized statement to that effect.

Section 2.05 Sale or Lease of Real Property. The Public Entity shall not (i) sell or transfer any part of its ownership interest in the Real Property, or (ii) lease out or enter into any contract that would allow another entity to use or operate the Real Property without the written consent of both MnDOT and the Commissioner. The sale or transfer of any part of the Public Entity's ownership interest in the Real Property, or any lease or contract that would allow another entity to use or operate the Real Property, must comply with the requirements imposed by Minn. Stat. Sec. 16A.695 and the Commissioner's Order regarding such sale or lease.

Section 2.06 Public Entity's Representations and Warranties. The Public Entity represents and warrants to MnDOT that:

- A. It has legal authority to execute, deliver and perform the Agreement and all documents referred to therein, and it has taken all actions necessary to its execution and delivery of such documents.
- B. It has the ability and a plan to fund the operation of the Real Property for the purposes specified in Section 2.04, and will include in its annual budget all funds necessary for the operation of the Real Property for such purposes.
- C. The Agreement and all other documents referred to therein are the legal, valid and binding obligations of the Public Entity enforceable against the Public Entity in accordance with their respective terms.
- D. It will comply with all of the provisions of Minn. Stat. Sec. 16A.695, the Commissioner's Order and the LBRP. It has legal authority to use the G.O. Grant for the purpose or purposes described in this Agreement.
- E. All of the information it has submitted or will submit to MnDOT or the Commissioner relating to the LBRP Grant or the disbursement of the LBRP Grant is and will be true and correct.
- F. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no actions or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority against or affecting it relating to the Real Property, or its ownership interest therein, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into the Agreement or any document referred to herein, or to perform any of the acts required of it in such documents.
- G. Neither the execution and delivery of the Agreement or any document referred to herein nor compliance with any of the provisions or requirements of any of such documents is prevented by, is a breach of, or will result in a breach of, any provision of any agreement or document to which it is now a party or by which it is bound.
- H. The contemplated use of the Real Property will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.

- I. The Project will be completed and the Real Property will be operated in full compliance with all applicable laws, rules, ordinances, and regulations of any federal, state, or local political subdivision having jurisdiction over the Project and the Real Property.
- J. All applicable licenses, permits and bonds required for the performance and completion of the Project and for the operation of the Real Property as specified in Section 2.04 have been, or will be, obtained.
- K. It reasonably expects to possess its ownership interest in the Real Property described in Section 2.02 for at least 37.5 years, and it does not expect to sell such ownership interest.
- L. It does not expect to lease out or enter into any contract that would allow another entity to use or operate the Real Property.
- M. It will supply whatever funds are needed in addition to the LBRP Grant to complete and fully pay for the Project.
- N. The Construction Items will be completed substantially in accordance with the Construction Contract Documents by the Completion Date and all such items will be situated entirely on the Real Property.
- O. It will require the Contractor or Contractors to comply with all rules, regulations, ordinances, and laws bearing on its performance under the Construction Contract Documents.
- P. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested by either MnDOT or the Commissioner.
- Q. It has made no material false statement or misstatement of fact in connection with its receipt of the G.O. Grant, and all the information it has submitted or will submit to the State Entity or Commissioner of MMB relating to the G.O. Grant or the disbursement of any of the G.O. Grant is and will be true and correct.

Section 2.07 **Event(s) of Default.** The following events shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement upon either MnDOT or the Commissioner giving the Public Entity 30 days' written notice of such event and the Public Entity's failure to cure such event during such 30-day time period for those Events of Default that can be cured within 30 days or within whatever time period is needed to cure those Events of Default that cannot be cured within 30 days as long as the Public Entity is using its best efforts to cure and is making reasonable progress in curing such Events of Default; however, in no event shall the time period to cure any Event of Default exceed six (6) months unless otherwise consented to, in writing, by MnDOT and the Commissioner.

- A. If any representation, covenant, or warranty made by the Public Entity herein or in any other document furnished pursuant to the Agreement, or to induce MnDOT to disburse the LBRP Grant, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.
- B. If the Public Entity fails to fully comply with any provision, covenant, or warranty contained herein.

- C. If the Public Entity fails to fully comply with any provision, covenant or warranty contained in Minn. Stat. Sec. 16A.695, the Commissioner's Order, or Minn. Stat. Sec. 174.52 and all rules related thereto.
- D. If the Public Entity fails to use the proceeds of the LBRP Grant for the purposes set forth in Section 2.03, the Grant Application, and in accordance with the LBRP.
- E. If the Public Entity fails to operate the Real Property for the purposes specified in Section 2.04.
- F. If the Public Entity fails to complete the Project by the Completion Date.
- G. If the Public Entity sells or transfers any portion of its ownership interest in the Real Property without first obtaining the written consent of both MnDOT and the Commissioner.
- H. If the Public Entity fails to provide any additional funds needed to fully pay for the Project.
- I. If the Public Entity fails to supply the funds needed to operate the Real Property in the manner specified in Section 2.04.

Notwithstanding the foregoing, any of the above events that cannot be cured shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement immediately upon either MnDOT or the Commissioner giving the Public Entity written notice of such event.

Section 2.08 **Remedies.** Upon the occurrence of an Event of Default and at any time thereafter until such Event of Default is cured to the satisfaction of MnDOT, MnDOT or the Commissioner may enforce any or all of the following remedies.

- A. MnDOT may refrain from disbursing the LBRP Grant; provided, however, MnDOT may make such disbursements after the occurrence of an Event of Default without waiving its rights and remedies hereunder.
- B. If the Event of Default involves a sale of the Public Entity's interest in the Real Property in violation of Minn. Stat. Sec. 16A.695 or the Commissioner's Order, the Commissioner, as a third party beneficiary of the Agreement, may require that the Public Entity pay the amounts that would have been paid if there had been compliance with such provisions. For other Events of Default, the Commissioner may require that the Outstanding Balance of the LBRP Grant be returned to it.
- C. Either MnDOT or the Commissioner, as a third party beneficiary of the Agreement, may enforce any additional remedies it may have in law or equity.

The rights and remedies specified herein are cumulative and not exclusive of any rights or remedies that MnDOT or the Commissioner would otherwise possess.

If the Public Entity does not repay the amounts required to be paid under this Section or under any other provision contained herein within 30 days of demand by the Commissioner, or any amount ordered by a court of competent jurisdiction within 30 days of entry of judgment against the Public Entity and in favor of MnDOT and/or the Commissioner, then such amount may, unless precluded by law, be offset against any aids or other monies that the Public Entity is entitled to receive from the State of Minnesota.

Section 2.09 Notification of Event of Default. The Public Entity shall furnish to MnDOT and the Commissioner, as soon as possible and in any event within seven (7) days after it has obtained knowledge of the occurrence of each Event of Default, a statement setting forth details of each Event of Default and the action which the Public Entity proposes to take with respect thereto.

Section 2.10 Effect of Event of Default. The Agreement shall survive Events of Default and remain in full force and effect, even upon full disbursement of the LBRP Grant, and shall only be terminated under the circumstances set forth in Section 2.11.

Section 2.11 Termination of Agreement and Modification of LBRP Grant.

A. If the Project is not started within five (5) years after the effective date of the Agreement or the LBRP Grant has not been disbursed within four (4) years after the date the Project was started, MnDOT's obligation to fund the LBRP Grant shall terminate. In such event, (i) if none of the LBRP Grant has been disbursed by such date, MnDOT shall have no obligation to fund the LBRP Grant and the Agreement will terminate, and (ii) if some but not all of the LBRP Grant has been disbursed by such date, MnDOT shall have no further obligation to provide any additional funding for the LBRP Grant and the Agreement shall remain in force but shall be modified to reflect the amount of the LBRP Grant that was actually disbursed and the Public Entity is still obligated to complete the Project by the Completion Date.

B. The Agreement shall terminate upon the Public Entity's sale of its interest in the Real Property and transmittal of the required portion of the proceeds of the sale to the Commissioner in compliance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order, or upon the termination of the Public Entity's ownership interest in the Real Property if such ownership interest is an easement.

Section 2.12 Excess Funds. If the full amount of the G.O. Grant and any matching funds referred to in Section 5.13 are not needed to complete the Project, then, unless language in the G.O. Bonding Legislation indicates otherwise, the G.O. Grant shall be reduced by the amount not needed.

**Article III
COMPLIANCE WITH MINNESOTA STATUTE, SEC. 16A.695
AND THE COMMISSIONER'S ORDER**

Section 3.01 State Bond Financed Property. The Public Entity acknowledges that its interest in the Real Property is, or when acquired by it will be, "state bond financed property", as such term is used in Minn. Stat. Sec. 16A.695 and the Commissioner's Order and, therefore, the provisions contained in such statute and order apply, or will apply, to its interest in the Real Property, even if the LBRP Grant will only pay for a portion of the Project.

Section 3.02 Preservation of Tax Exempt Status. In order to preserve the tax-exempt status of the G.O. Bonds, the Public Entity agrees as follows:

- A. It will not use the Real Property or use or invest the LBRP Grant or any other sums treated as "bond proceeds" under Section 148 of the Code (including "investment proceeds," "invested sinking funds" and "replacement proceeds") in such a manner as to cause the G.O. Bonds to be classified as "arbitrage bonds" under Code Section 148.
- B. It will deposit and hold the LBRP Grant in a segregated non-interest-bearing account until such funds are used for payments for the Project.

- C. It will, upon written request, provide the Commissioner all information required to satisfy the informational requirements set forth in the Code, including Sections 103 and 148, with respect to the G.O. Bonds.
- D. It will, upon the occurrence of any act or omission by the Public Entity that could cause the interest on the G.O. Bonds to no longer be tax exempt and upon direction from the Commissioner, take such actions and furnish such documents as the Commissioner determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal taxation, which such action may include: (i) compliance with proceedings intended to classify the G.O. Bonds as a “qualified bond” within the meaning of Code Section 141(e), or (ii) changing the nature of the use of the Real Property so that none of the net proceeds of the G.O. Bonds will be deemed to be used, directly or indirectly, in an “unrelated trade or business” or for any “private business use” within the meaning of Code Sections 141(b) and 145(a).
- E. It will not otherwise use any of the LBRP Grant or take, permit or cause to be taken, or omit to take, any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, and if it should take, permit or cause to be taken, or omit to take, as appropriate, any such action, it shall take all lawful actions necessary to correct such actions or omissions promptly upon obtaining knowledge thereof.

Section 3.03 **Changes to G.O. Compliance Legislation or the Commissioner’s Order.** If Minn. Stat. Sec. 16A.695 or the Commissioner’s Order is amended in a manner that reduces any requirement imposed against the Public Entity, or if the Public Entity’s interest in the Real Property becomes exempted from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order, then upon written request by the Public Entity, MnDOT shall execute an amendment to the Agreement to implement such amendment or exempt the Public Entity’s interest in the Real Property from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order.

Article IV DISBURSEMENT OF GRANT PROCEEDS

Section 4.01 **The Advances.** MnDOT agrees, on the terms and subject to the conditions set forth herein, to make Advances of the LBRP Grant to the Public Entity from time to time in an aggregate total amount not to exceed the amount of the LBRP Grant. If the amount of LBRP Grant that MnDOT cumulatively disburses hereunder to the Public Entity is less than the amount of the LBRP Grant delineated in Section 1.01, then MnDOT and the Public Entity shall enter into and execute whatever documents MnDOT may request in order to amend or modify this Agreement to reduce the amount of the LBRP Grant to the amount actually disbursed. Provided, however, in accordance with the provisions contained in Section 2.11, MnDOT’s obligation to make Advances shall terminate as of the dates specified in Section 2.11 even if the entire LBRP Grant has not been disbursed by such dates.

Advances shall only be for expenses that (i) are for those items of a capital nature delineated in Source and Use of Funds that is attached as **Exhibit A**, (ii) accrued no earlier than the effective date of the legislation that appropriated the funds that are used to fund the LBRP Grant, or (iii) have otherwise been consented to, in writing, by the Commissioner.

It is the intent of the parties hereto that the rate of disbursement of the Advances shall not exceed the rate of completion of the Project or the rate of disbursement of the matching funds required, if any, under Section 5.13. Therefore, the cumulative amount of all Advances disbursed by the State Entity at any point in time shall not exceed the portion of the Project that has been completed and the percentage of the matching funds required, if any, under Section 5.13 that have been disbursed as of such point in time. This requirement is

expressed by way of the following two formulas:

Formula #1:

Cumulative Advances \leq (Program Grant) \times (percentage of matching funds, if any, required under Section 5.13 that have been disbursed)

Formula #2:

Cumulative Advances \leq (Program Grant) \times (percentage of Project completed)

Section 4.02 **Draw Requisitions.** Whenever the Public Entity desires a disbursement of a portion of the LBRP Grant the Public Entity shall submit to MnDOT a Draw Requisition duly executed on behalf of the Public Entity or its designee. Each Draw Requisition with respect to construction items shall be limited to amounts equal to: (i) the total value of the classes of the work by percentage of completion as approved by the Public Entity and MnDOT, plus (ii) the value of materials and equipment not incorporated in the Project but delivered and suitably stored on or off the Real Property in a manner acceptable to MnDOT, less (iii) any applicable retainage, and less (iv) all prior Advances.

Notwithstanding anything herein to the contrary, no Advances for materials stored on or off the Real Property will be made by MnDOT unless the Public Entity shall advise MnDOT, in writing, of its intention to so store materials prior to their delivery and MnDOT has not objected thereto.

At the time of submission of each Draw Requisition, other than the final Draw Requisition, the Public Entity shall submit to MnDOT such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the relevant Draw Requisition or to substantiate all payments then made with respect to the Project.

The final Draw Requisition shall not be submitted before completion of the Project, including any correction of material defects in workmanship or materials (other than the completion of punch list items). At the time of submission of the final Draw Requisition the Public Entity shall submit to MnDOT: (I) such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the final Draw Requisition or to substantiate all payments then made with respect to the Project, and (ii) satisfactory evidence that all work requiring inspection by municipal or other governmental authorities having jurisdiction has been duly inspected and approved by such authorities and that all requisite certificates and other approvals have been issued.

If on the date an Advance is desired the Public Entity has complied with all requirements of this Agreement and MnDOT approves the relevant Draw Requisition, then MnDOT shall disburse the amount of the requested Advance to the Public Entity.

Section 4.03 **Additional Funds.** If MnDOT shall at any time in good faith determine that the sum of the undisbursed amount of the LBRP Grant plus the amount of all other funds committed to the Project is less than the amount required to pay all costs and expenses of any kind which reasonably may be anticipated in connection with the Project, then MnDOT may send written notice thereof to the Public Entity specifying the amount which must be supplied in order to provide sufficient funds to complete the Project. The Public Entity agrees that it will, within 10 calendar days of receipt of any such notice, supply or have some other entity supply the amount of funds specified in MnDOT's notice.

Section 4.04 **Condition Precedent to Any Advance.** The obligation of MnDOT to make any Advance hereunder (including the initial Advance) shall be subject to the following conditions precedent:

- A. MnDOT shall have received a Draw Requisition for such Advance specifying the amount of funds being requested, which such amount when added to all prior requests for an Advance shall not exceed the amount of the LBRP Grant set forth in Section 1.01.
- B. No Event of Default under this Agreement or event which would constitute an Event of Default but for the requirement that notice be given or that a period of grace or time elapse shall have occurred and be continuing.
- C. No determination shall have been made by MnDOT that the amount of funds committed to the Project is less than the amount required to pay all costs and expenses of any kind that may reasonably be anticipated in connection with the Project, or if such a determination has been made and notice thereof sent to the Public Entity under Section 4.03, then the Public Entity has supplied, or has caused some other entity to supply, the necessary funds in accordance with such section or has provided evidence acceptable to MnDOT that sufficient funds are available.
- D. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Public Entity has sufficient funds to fully and completely pay for the Project and all other expenses that may occur in conjunction therewith.
- E. The Public Entity has supplied to the State Entity all other items that the State Entity may reasonably require

Section 4.05 **Processing and Disbursement of Advances.** The Public Entity acknowledges and agrees as follows:

- A. Advances are not made prior to completion of work performed on the Project.
- B. All Advances are processed on a reimbursement basis.
- C. The Public Entity must first document expenditures to obtain an Advance.
- D. Reimbursement requests are made on a partial payment basis or when the Project is completed.
- E. All payments are made following the “Delegated Contract Process or State Aid Payment Request” as requested and approved by the appropriate district state aid engineer.

Section 4.06 **Construction Inspections.** The Public Entity shall be responsible for making its own inspections and observations regarding the completion of the Project, and shall determine to its own satisfaction that all work done or materials supplied have been properly done or supplied in accordance with all contracts that the Public Entity has entered into regarding the completion of the Project.

Article V MISCELLANEOUS

Section 5.01 **Insurance.** If the Public Entity elects to maintain general comprehensive liability insurance regarding the Real Property, then the Public Entity shall have MnDOT named as an additional named insured therein.

Section 5.02 **Condemnation.** If, after the Public Entity has acquired the ownership interest set forth in Section 2.02, all or any portion of the Real Property is condemned to an extent that the Public Entity can no longer comply with Section 2.04, then the Public Entity shall, at its sole option, either: (i) use the

condemnation proceeds to acquire an interest in additional real property needed for the Public Entity to continue to comply with Section 2.04 and to provide whatever additional funds that may be needed for such purposes, or (ii) submit a request to MnDOT and the Commissioner to allow it to sell the remaining portion of its interest in the Real Property. Any condemnation proceeds which are not used to acquire an interest in additional real property shall be applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order as if the Public Entity's interest in the Real Property had been sold. If the Public Entity elects to sell its interest in the portion of the Real Property that remains after the condemnation, such sale must occur within a reasonable time period after the date the condemnation occurred and the cumulative sum of the condemnation and sale proceeds applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order.

If MnDOT receives any condemnation proceeds referred to herein, MnDOT agrees to or pay over to the Public Entity all of such condemnation proceeds so that the Public Entity can comply with the requirements of this Section.

Section 5.03 Use, Maintenance, Repair and Alterations. The Public Entity shall not, without the written consent of MnDOT and the Commissioner, (i) permit or allow the use of any of the Real Property for any purpose other than the purposes specified in Section 2.04, (ii) substantially alter any of the Real Property except such alterations as may be required by laws, ordinances or regulations, or such other alterations as may improve the Real Property by increasing its value or which improve its ability to be used for the purposes set forth in Section 2.04, (iii) take any action which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, or (v) commit or permit any act to be done in or on the Real Property in violation of any law, ordinance or regulation.

If the Public Entity fails to maintain the Real Property in accordance with this Section, MnDOT may perform whatever acts and expend whatever funds necessary to so maintain the Real Property, and the Public Entity irrevocably authorizes MnDOT to enter upon the Real Property to perform such acts as may be necessary to so maintain the Real Property. Any actions taken or funds expended by MnDOT shall be at its sole discretion, and nothing contained herein shall require MnDOT to take any action or incur any expense and MnDOT shall not be responsible, or liable to the Public Entity or any other entity, for any such acts that are performed in good faith and not in a negligent manner. Any funds expended by MnDOT pursuant to this Section shall be due and payable on demand by MnDOT and will bear interest from the date of payment by MnDOT at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per year based upon a 365-day year.

Section 5.04 Recordkeeping and Reporting. The Public Entity shall maintain books and records pertaining to Project costs and expenses needed to comply with the requirements contained herein, Minn. Stat. Sec. 16A.695, the Commissioner's Order, and Minn. Stat. Sec. 174.52 and all rules related thereto, and upon request shall allow MnDOT, its auditors, the Legislative Auditor for the State of Minnesota, or the State Auditor for the State of Minnesota, to inspect, audit, copy, or abstract all of such items. The Public Entity shall use generally accepted accounting principles in the maintenance of such items, and shall retain all of such books and records for a period of six years after the date that the Project is fully completed and placed into operation.

Section 5.05 Inspections by MnDOT. The Public Entity shall allow MnDOT to inspect the Real Property upon reasonable request by MnDOT and without interfering with the normal use of the Real Property.

Section 5.06 Liability. The Public Entity and MnDOT agree that each will be responsible for its own acts and the results thereof to the extent authorized by law, and neither shall be responsible for the acts of the other party and the results thereof. The liability of MnDOT and the Commissioner is governed by the

provisions of Minn. Stat. Sec. 3.736. If the Public Entity is a “municipality” as that term is used in Minn. Stat. Chapter 466, then the liability of the Public Entity is governed by the provisions of Chapter 466. The Public Entity’s liability hereunder shall not be limited to the extent of insurance carried by or provided by the Public Entity, or subject to any exclusion from coverage in any insurance policy.

Section 5.07 **Relationship of the Parties.** Nothing contained in the Agreement is to be construed as establishing a relationship of co-partners or joint venture among the Public Entity, MnDOT, or the Commissioner, nor shall the Public Entity be considered to be an agent, representative, or employee of MnDOT, the Commissioner, or the State of Minnesota in the performance of the Agreement or the Project.

No employee of the Public Entity or other person engaging in the performance of the Agreement or the Project shall be deemed have any contractual relationship with MnDOT, the Commissioner, or the State of Minnesota and shall not be considered an employee of any of those entities. Any claims that may arise on behalf of said employees or other persons out of employment or alleged employment, including claims under the Workers’ Compensation Act of the State of Minnesota, claims of discrimination against the Public Entity or its officers, agents, contractors, or employees shall in no way be the responsibility of MnDOT, the Commissioner, or the State of Minnesota. Such employees or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from MnDOT, the Commissioner, or the State of Minnesota, including tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

Section 5.08 **Notices.** In addition to any notice required under applicable law to be given in another manner, any notices required hereunder must be in writing and personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the address of the party specified below or to such different address as may in the future be specified by a party by written notice to the others:

To the Public Entity: At the address indicated on the first page of the Agreement.

To MnDOT at: Minnesota Department of Transportation
Office of State Aid
395 John Ireland Blvd., MS 500
Saint Paul, MN 55155
Attention: Marc Briese, State Aid Programs Engineer

To the Commissioner at: Minnesota Management & Budget
400 Centennial Office Bldg.
658 Cedar St.
St. Paul, MN 55155
Attention: Commissioner

Section 5.09 **Assignment or Modification.** Neither the Public Entity nor MnDOT may assign any of its rights or obligations under the Agreement without the prior written consent of the other party.

Section 5.10 **Waiver.** Neither the failure by the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of the Agreement, in one or more instances to insist upon the complete observance or performance of any provision hereof, nor the failure of the Public Entity, MnDOT, or the Commissioner to exercise any right or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such provision or the right to exercise such right or remedy thereafter. In addition, no delay by any of the Public Entity, MnDOT, or the Commissioner in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

Section 5.11 Choice of Law and Venue. All matters relating to the validity, interpretation, performance, or enforcement of the Agreement shall be determined in accordance with the laws of the State of Minnesota. All legal actions arising from any provision of the Agreement shall be initiated and venued in the State of Minnesota District Court located in St. Paul, Minnesota.

Section 5.12 Severability. If any provision of the Agreement is finally judged by any court to be invalid, then the remaining provisions shall remain in full force and effect and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

Section 5.13 Matching Funds. Any matching funds as shown on Page 1 of the Grant Agreement that are required to be obtained and supplied by the Public Entity must either be in the form of (i) cash monies, (ii) legally binding commitments for money, or (iii) equivalent funds or contributions, including equity, which have been or will be used to pay for the Project. The Public Entity shall supply to MnDOT whatever documentation MnDOT may request to substantiate the availability and source of any matching funds.

Section 5.14 Sources and Uses of Funds. The Public Entity represents to MnDOT and the Commissioner that the Sources and Uses of Funds Schedule attached as **Exhibit A** accurately shows the total cost of the Project and all of the funds that are available for the completion of the Project. The Public Entity will supply any other information and documentation that MnDOT or the Commissioner may request to support or explain any of the information contained in the Sources and Uses of Funds Schedule. If any of the funds shown in the Sources and Uses of Funds Schedule have conditions precedent to the release of such funds, the Public Entity must provide to MnDOT a detailed description of such conditions and what is being done to satisfy such conditions.

Section 5.15 Project Completion Schedule. The Public Entity represents to MnDOT and the Commissioner that the Project Completion Schedule attached as **Exhibit B** correctly and accurately sets forth the projected schedule for the completion of the Project.

Section 5.16 Third-Party Beneficiary. The Governmental Program will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both the State Entity and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner of MMB, is and shall be a third-party beneficiary of this Agreement.

Section 5.17 Public Entity Tasks. Any tasks that the Agreement imposes upon the Public Entity may be performed by such other entity as the Public Entity may select or designate, provided that the failure of such other entity to perform said tasks shall be deemed to be a failure to perform by the Public Entity.

Section 5.18 Data Practices. The Public Entity agrees with respect to any data that it possesses regarding the G.O. Grant or the Project to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Minnesota Statutes Chapter 13, as such may subsequently be amended or replaced from time to time.

Section 5.19 Non-Discrimination. The Public Entity agrees to not engage in discriminatory employment practices regarding the Project and it shall fully comply with all of the provisions contained in Minnesota Statutes Chapters 363A and 181, as such may subsequently be amended or replaced from time to time.

Section 5.20 **Worker's Compensation.** The Public Entity agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. Secs. 176.181 subd. 2 and 176.182, as they may be amended or replaced from time to time with respect to the Project.

Section 5.21 **Antitrust Claims.** The Public Entity hereby assigns to MnDOT and the Commissioner of MMB all claims it may have for over charges as to goods or services provided with respect to the Project that arise under the antitrust laws of the State of Minnesota or of the United States of America.

Section 5.22 **Prevailing Wages.** The Public Entity agrees to comply with all of the applicable provisions contained in Minnesota Statutes Chapter 177, and specifically those provisions contained in Minn. Stat. §. 177.41 through 177.435 as they may be amended or replaced from time to time with respect to the Project. By agreeing to this provision, the Public Entity is not acknowledging or agreeing that the cited provisions apply to the Project.

Section 5.23 **Entire Agreement.** The Agreement and all of the exhibits attached thereto embody the entire agreement between the Public Entity and MnDOT, and there are no other agreements, either oral or written, between the Public Entity and MnDOT on the subject matter hereof.

Section 5.24 **E-Verification.** The Public Entity agrees and acknowledges that it is aware of Minn.Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such order.

Section 5.25 **Telecommunications Certification.** If federal funds are included in Exhibit A, by signing this agreement, Contractor 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, Contractor 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. Contractor will include this certification as a flow down clause in any contract related to this agreement.

Section 5.26 **Title VI/Non-discrimination Assurances.** Public Entity 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. If federal funds are included in Exhibit A, Public Entity will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. MnDOT may conduct a review of the Public Entity's compliance with this provision. The Public Entity must cooperate with MnDOT throughout the review process by supplying all requested information and documentation to MnDOT, making Public Entity staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by MnDOT.

Section 5.27 **Electronic Records and Signatures.** The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

Section 5.28 **Certification.** By signing this Agreement, the Grantee certifies that it is not suspended or debarred from receiving federal or state awards.

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 M

Date:

September 19, 2023

Agenda Item:

County Hwy 86 Grant Agreement

Requested Action:

Consider adoption of Resolution No. 2023-148 agreeing to the terms and conditions of the grant agreement from the Minnesota State Transportation Fund, for participation in costs of construction of concrete box culverts on County Highway 86

Fiscal Impact:

Without this agreement, the County cannot receive the State Transportation Grant in the amount of \$191,459.50. The funds under this agreement have been approved and are available for only this project.

Background/Recommendation:

The funding provided by this Grant are necessary for construction of a concrete box culvert where a deteriorating timber bridge currently exists and is planned to be replaced. The amount of funding from the Grant will cover 100% of costs associated with the bridge/culvert work. The Wabasha County Engineer recommends adoption of Resolution 2023-148.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-148

Whereas, Wabasha County has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for replacement of Bridge L1097 on County Highway 86 under S.A.P. 079-598-029, and

Whereas, the Commissioner of Transportation has given notice that funding for this Project is available, and

Whereas, the amount of the grant has been determined to be \$191,459.50 by reason of the lowest responsible bid.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, Wabasha County does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes; 174.50, and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for this bridge but not required.

Be it Further Resolved by the Wabasha County Board of Commissioners that that the Wabasha County Engineer is hereby authorized to execute the attached Local Bridge Replacement Program Grant Agreement MnDOT No. 1054421 including Exhibit C Property Certification, and any amendments of such on behalf of Wabasha County.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

**LOCAL BRIDGE REPLACEMENT PROGRAM (LBRP)
GRANT AGREEMENT**

This Agreement between the Minnesota Department of Transportation (“MnDOT”) and the Grantee named below is made pursuant to Minnesota Statutes Section 174.50 and pursuant to Minn. Laws 2023, Chapter 72- H.F. 669. The provisions in that section and the Exhibits attached hereto and incorporated by reference constitute this Agreement and the persons signing below agree to fully comply with all of the requirements of this Agreement. This Agreement will be effective on the date State obtains all required signatures under Minnesota Statutes §16C.05, subdivision 2.

1. Public Entity (Grantee) name, address and contact person:

County of Wabasha
821 Hiawatha Drive West
Wabasha, MN 55981

Contact: Dietrich Flesch, Wabasha County Engineer

2. Project(s):

Name of Project & Project Number (See Exhibit C for location)	Amount of LBRP Funds	Amount of Required Matching Funds	Completion Date
SAP 079-598-029	\$191,459.50	\$92,593.00	December 31, 2027

3. Total Amount of LBRP Grant for all projects under this Agreement: \$191,459.50

4. The following Exhibits for each project are attached and incorporated by reference as part of this Agreement:

- Exhibit A Completed Sources and Uses of Funds Schedule
- Exhibit B Project Schedule, Workforce Certificate, and Equal Pay Certificate
- Exhibit C Bond Financed Property Certification
- Exhibit D Grant Application
- Exhibit E Grantee Resolution Approving Grant Agreement
- Exhibit F General Terms and Conditions

5. Additional requirements, if any:

6. Any modification of this Agreement must be in writing and signed by both parties.

(The remaining portion of this page was intentionally left blank.)

PUBLIC ENTITY (GRANTEE)

DEPARTMENT OF TRANSPORTATION
Approval and Certifying Encumbrance

By: _____

Title: Wabasha County Engineer

Date: _____

By: _____
State Aid Programs Manager

Date: _____

Office of Contract Management

By: _____

Title: _____

Date: _____

By: _____
Contract Administrator

Date: _____

EXHIBIT A

SOURCES AND USES OF FUNDS SCHEDULE

SOURCES OF FUNDS		USES OF FUNDS	
Entity Supplying Funds	Amount	Expenses	Amount
State Funds:		Items Paid for with LBRP	
LBRP Grant (Acct 377)	\$191,459.50	Grant Funds:	
Other:		Bridge Construction	\$191,459.50
	\$		\$
	\$		\$
	\$		\$
Subtotal	\$191,459.50	Subtotal	\$191,459.50
Public Entity Funds:		Items paid for with Non-	
Matching Funds		LBRP Grant Funds:	
Local Match	\$92,593.00	Approach grading, aggregate base, and Turf Establishment	\$92,593.00
Other:			\$
	\$		\$
	\$		\$
	\$		\$
Subtotal	\$92,593.00	Subtotal	\$92,593.00
TOTAL FUNDS	\$284,052.50	TOTAL PROJECT COSTS	\$284,052.50

EXHIBIT B

PROJECT SCHEDULE, WORKFORCE CERTIFICATE, AND EQUAL PAY CERTIFICATE


Award Date 9/19/2023
Construction Start Date 10/15/2023
Construction Substantial Complete Date 8/31/2024
Contract Final Completion Date 12/31/2027

**CERTIFICATE OF COMPLIANCE
FOR PUBLIC CONTRACTS**

The Bidder hereby certifies that the Bidder is in compliance with Minnesota Statute 363A.36 and (indicate below, as applicable):

- Have a current and valid Certificate of Compliance issued by the Minnesota Department of Human Rights.
- Have applied for a Certificate of Compliance to the Commissioner of the Minnesota Department of Human Rights and it is pending.
- Employ fewer than 40 full-time employees in the last 12 months, and do not anticipate employing more than 40 full-time employees during the performance of the contract listed above.
- That the contract for the project listed above does not have a total dollar value exceeding \$100,000.

If applicable, the Bidder shall include its current Workforce Certificate with the submission of the Bidder's proposal.



Signature of Bidder

President

Title

Fitzgerald Excavating & Trucking Inc.

Name of Business

9-6-23

Date



DEPARTMENT OF
HUMAN RIGHTS

WORKFORCE
CERTIFICATE OF COMPLIANCE

The Commissioner of the Minnesota Department of Human Rights by the signature below attests that **FITZGERALD EXCAVATING & TRUCKING INC** is hereby certified as a contractor under the Minnesota Human Rights Act, §363A.

Certificate start date: **4/6/2021**

Certificate expiration date: **4/5/2025**

Minnesota Department of Human Rights

FOR THE DEPARTMENT BY:

Rebecca Lucero, Commissioner

AN EQUAL OPPORTUNITY EMPLOYER

Freeman Building • 625 Robert Street North • Saint Paul, MN 55155 • Tel 651.539.1100
MN Relay 711 or 1.800.627.3529 • Toll Free 1.800.657.3704 • Fax 651.296.9042 • mn.gov/mdhr

EQUAL PAY CERTIFICATE not required due to total bid amount less than \$1,000,000

EXHIBIT C

BOND FINANCED PROPERTY CERTIFICATION

State of Minnesota
General Obligation Bond Financed Property

The undersigned states that it has a fee simple, leasehold and/or easement interest in the real property located in the County of Wabasha, State of Minnesota that is generally described or illustrated graphically in **Attachment 1** attached hereto and all improvements thereon (the “Restricted Property”) and acknowledges that the Restricted Property is or may become State bond-financed property. To the extent that the Restricted Property is or becomes State bond-financed property, the undersigned acknowledges that:

- A. The Restricted Property is State bond-financed property under Minn. Stat. Sec. 16A.695, is subject to the requirements imposed by that statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget; and
- B. The Restricted Property is subject to the provisions of the Local Bridge Replacement Program Grant Agreement between the Minnesota Department of Transportation and the undersigned dated _____, 20____; and
- C. The Restricted Property shall continue to be deemed State bond-financed property for 37.5 years or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget.

Date: _____, 20_____

County of Wabasha, a political subdivision of the
State of Minnesota

By: _____
Name: Dietrich Flesch
Title: Wabasha County Engineer

By: _____
Name: _____
Title: _____

Attachment 1 to Exhibit C

GENERAL DESCRIPTION OF RESTRICTED PROPERTY

That part of the Northwest Quarter, Section 20, Township 110 North, Range 11 West, Wabasha County, Minnesota, between approximately 600 feet north and 700 feet north of the intersection of County Road 86 and 644th St, a width 100 feet to the east of center of County Road 86 and a width 75 feet to the west of center of County Road 86.

EXHIBIT D

GRANT APPLICATION

Attach the grant application for the project



APPLICATION FOR BRIDGE FUNDS

State of Minnesota - Department of Transportation
State Aid for Local Transportation

Identification	Project Number	<u>SAP 079-598-029</u>	Old Bridge Number	<u>L1097</u>	
	New Bridge No.	<u>79J72</u>	Over	<u>stream</u>	
	County of	<u>Wabasha</u>	Road or Street No.	<u>CR 86</u>	
	Township of	<u>Glasgow</u>	Road or Street Name	<u>CR 86</u>	
	Municipality of	<u>NA</u>	Proposed Const Year	<u>2023</u>	
	Does the municipality have a population of 5,000 or less? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Eligibility	Local Bridge Planning Index (LPI) <u>45</u>				
	NBI Appraisal Ratings: Deck Geometry <u>6</u> Approach Roadway <u>8</u> Waterway Adequacy <u>8</u>				
	Date of Council/Board action prioritizing this bridge <u>1/4/2022</u>				
	Is this a road-in-lieu of bridge project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Prioritization	How many people are affected by this deficiency? <u>100+</u> What is the ADT on this bridge? <u>60</u>				
	Describe the economic importance of replacing this bridge.				
	Access to DNR recreational area and campground, farm to market route				
	Is the road designated or planned to be designated as a Minimum Maintenance road? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	(Attach additional sheets for explanation if necessary)				
Cost Estimate	Is the township net tax capacity less than \$300,000? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	Is the bridge listed on the National Register of Historic Places or been determined to be eligible? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
	National Register of Historic Places link here: http://www.nps.gov/history/nr/research/				
		Eligible Amount		Ineligible Amount	
	Structure Costs	\$ 250,000		\$	
Approach Costs	\$		\$ 50,000		
Engineering Costs	\$		\$ 10,000		
Total Costs	\$ 250,000		\$ 60,000		
Total Project Cost	\$ 310,000				
DSAE	Digitally signed by Dietrich Flesch DN: cn=Dietrich Flesch, o=Wabasha County, ou, email=dflesch@co.wabasha.mn.us, c=US Date: 2022.06.14 11:09:17 -05'00'		6/14/2022		
	County/City Engineer		Date		
DSAE	DISTRICT STATE AID ENGINEER RECOMMENDATION				
	Replace <u>X</u>	Defer _____	 District State Aid Engineer Signature	Fausto Cabral 2022.06.16 16:37:11 -05'00' Date	
Approval	STATE AID USE ONLY				
		Federal-Aid	\$		
		State-Aid	\$		
		Local/Other	\$		
		Town Bridge	\$		
		Unallocated Town Bridge	\$		
		State Bridge Funds	\$		
	Total	\$			

EXHIBIT E

GRANTEE RESOLUTION APPROVING GRANT AGREEMENT

Wabasha County Board of Commissioners

Resolution No.: 2023-

Whereas, Wabasha County has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for replacement of Bridge L1097 on County Highway 86 under S.A.P. 079-598-029, and

Whereas, the Commissioner of Transportation has given notice that funding for this Project is available, and

Whereas, the amount of the grant has been determined to be \$191,459.50 by reason of the lowest responsible bid.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that, Wabasha County does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes; 174.50, and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for this bridge but not required.

Be it Further Resolved by the Wabasha County Board of Commissioners that that the Wabasha County Engineer is hereby authorized to execute the attached Local Bridge Replacement Program Grant Agreement MnDOT No. 1054421 including Exhibit C Property Certification, and any amendments of such on behalf of Wabasha County.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

EXHIBIT F

GENERAL TERMS AND CONDITIONS FOR LOCAL BRIDGE REPLACEMENT PROGRAM (LBRP) GRANTS

Article I DEFINITIONS

Section 1.01 **Defined Terms.** The following terms shall have the meanings set out respectively after each such term (the meanings to be equally applicable to both the singular and plural forms of the terms defined) unless the context specifically indicates otherwise:

“Advance(s)” - means an advance made or to be made by MnDOT to the Public Entity and disbursed in accordance with the provisions contained in Article VI hereof.

“Agreement” - means the Local Bridge Replacement Program Grant Agreement between the Public Entity and the Minnesota Department of Transportation to which this Exhibit is attached.

“Certification” - means the certification, in the form attached as **Exhibit C**, in which the Public Entity acknowledges that its interest in the Real Property is bond financed property within the meaning of Minn. Stat. Sec. 16A.695 and is subject to certain restrictions imposed thereby.

“Code” - means the Internal Revenue Code of 1986, as amended, and all treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

“Commissioner” - means the Commissioner of Minnesota Management & Budget.

“Commissioner’s Order” - means the “Fourth Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” dated July 30, 2012, as it may be amended or supplemented.

“Completion Date” - means the projected date for completion of the Project as indicated in the Agreement.

“Construction Contract Documents” - means the document or documents, in form and substance acceptable to MnDOT, including but not limited to any construction plans and specifications and any exhibits, amendments, change orders, modifications thereof or supplements thereto, which collectively form the contract between the Public Entity and the Contractor(s) for the completion of the Construction Items on or before the Completion Date for either a fixed price or a guaranteed maximum price.

“Construction Items” - means the work to be performed under the Construction Contract Documents.

“Contractor” - means any person engaged to work on or to furnish materials and supplies for the Construction Items including, if applicable, a general contractor.

“Draw Requisition” - means a draw requisition that the Public Entity, or its designee, submits to MnDOT when an Advance is requested, as referred to in Section 4.02.

“G.O. Bonds” - means the state general obligation bonds issued under the authority granted in Article XI, Sec. 5(a) of the Minnesota Constitution, the proceeds of which are used to fund the LBRP Grant, and any bonds issued to refund or replace such bonds.

“Grant Application” - means the grant application that the Public Entity submitted to MnDOT which is attached as **Exhibit D**.

“LBRP Grant” - means a grant from MnDOT to the Public Entity under the LBRP in the amount specified in the Agreement, as such amount may be modified under the provisions hereof.

“LBRP” - means the Local Bridge Replacement Program pursuant to Minn. Stat. Sec. 174.50 and rules relating thereto.

“MnDOT” - means the Minnesota Department of Transportation.

“Outstanding Balance of the LBRP Grant” - means the portion of the LBRP Grant that has been disbursed to the Public Entity minus any amounts returned to the Commissioner.

“Project” - means the Project identified in the Agreement to be totally or partially funded with a LBRP grant.

“Public Entity” - means the grantee of the LBRP Grant and identified as the Public Entity in the Agreement.

“Real Property” - means the real property identified in the Agreement on which the Project is located.

Article II GRANT

Section 2.01 **Grant of Monies.** MnDOT shall make the LBRP Grant to the Public Entity, and disburse the proceeds in accordance with the terms and conditions herein.

Section 2.02 **Public Ownership,** The Public Entity acknowledges and agrees that the LBRP Grant is being funded with the proceeds of G.O. Bonds, and as a result all of the Real Property must be owned by one or more public entities. The Public Entity represents and warrants to MnDOT that it has one or more of the following ownership interests in the Real Property: (i) fee simple ownership, (ii) an easement that is for a term that extends beyond the date that is 37.5 years from the Agreement effective date, or such shorter term as authorized by statute, and which cannot be modified or terminated early without the prior written consent of MnDOT and the Commissioner; and/or (iii) a prescriptive easement for a term that extends beyond the date that is 37.5 years from the Agreement effective date.

Section 2.03 **Use of Grant Proceeds.** The Public Entity shall use the LBRP Grant solely to reimburse itself for expenditures it has already made, or will make, to pay the costs of one or more of the following activities: (i) constructing or reconstructing a bridge, (ii) abandoning an existing bridge that is deficient and in need of replacement, but where no replacement will be made, or (iii) constructing a road to facilitate the abandonment or removal of an existing bridge determined to be deficient. The Public Entity shall not use the LBRP Grant for any other purpose, including but not limited to, any work to be done on a state trunk highway or within a trunk highway easement. .

Section 2.04 **Operation of the Real Property.** The Real Property must be used by the Public Entity in conjunction with or for the operation of a county highway, county state-aid highway, town road, or city

street and for other uses customarily associated therewith, such as trails and utility corridors, and for no other purposes or uses. The Public Entity shall have no intention on the effective date of the Agreement to use the Real Property as a trunk highway or any part of a trunk highway. The Public Entity must annually determine that the Real Property is being used for the purposes specified in this Section and, upon written request by either MnDOT or the Commissioner, shall supply a notarized statement to that effect.

Section 2.05 Sale or Lease of Real Property. The Public Entity shall not (i) sell or transfer any part of its ownership interest in the Real Property, or (ii) lease out or enter into any contract that would allow another entity to use or operate the Real Property without the written consent of both MnDOT and the Commissioner. The sale or transfer of any part of the Public Entity's ownership interest in the Real Property, or any lease or contract that would allow another entity to use or operate the Real Property, must comply with the requirements imposed by Minn. Stat. Sec. 16A.695 and the Commissioner's Order regarding such sale or lease.

Section 2.06 Public Entity's Representations and Warranties. The Public Entity represents and warrants to MnDOT that:

- A. It has legal authority to execute, deliver and perform the Agreement and all documents referred to therein, and it has taken all actions necessary to its execution and delivery of such documents.
- B. It has the ability and a plan to fund the operation of the Real Property for the purposes specified in Section 2.04, and will include in its annual budget all funds necessary for the operation of the Real Property for such purposes.
- C. The Agreement and all other documents referred to therein are the legal, valid and binding obligations of the Public Entity enforceable against the Public Entity in accordance with their respective terms.
- D. It will comply with all of the provisions of Minn. Stat. Sec. 16A.695, the Commissioner's Order and the LBRP. It has legal authority to use the G.O. Grant for the purpose or purposes described in this Agreement.
- E. All of the information it has submitted or will submit to MnDOT or the Commissioner relating to the LBRP Grant or the disbursement of the LBRP Grant is and will be true and correct.
- F. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no actions or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority against or affecting it relating to the Real Property, or its ownership interest therein, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into the Agreement or any document referred to herein, or to perform any of the acts required of it in such documents.
- G. Neither the execution and delivery of the Agreement or any document referred to herein nor compliance with any of the provisions or requirements of any of such documents is prevented by, is a breach of, or will result in a breach of, any provision of any agreement or document to which it is now a party or by which it is bound.
- H. The contemplated use of the Real Property will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.

- I. The Project will be completed and the Real Property will be operated in full compliance with all applicable laws, rules, ordinances, and regulations of any federal, state, or local political subdivision having jurisdiction over the Project and the Real Property.
- J. All applicable licenses, permits and bonds required for the performance and completion of the Project and for the operation of the Real Property as specified in Section 2.04 have been, or will be, obtained.
- K. It reasonably expects to possess its ownership interest in the Real Property described in Section 2.02 for at least 37.5 years, and it does not expect to sell such ownership interest.
- L. It does not expect to lease out or enter into any contract that would allow another entity to use or operate the Real Property.
- M. It will supply whatever funds are needed in addition to the LBRP Grant to complete and fully pay for the Project.
- N. The Construction Items will be completed substantially in accordance with the Construction Contract Documents by the Completion Date and all such items will be situated entirely on the Real Property.
- O. It will require the Contractor or Contractors to comply with all rules, regulations, ordinances, and laws bearing on its performance under the Construction Contract Documents.
- P. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested by either MnDOT or the Commissioner.
- Q. It has made no material false statement or misstatement of fact in connection with its receipt of the G.O. Grant, and all the information it has submitted or will submit to the State Entity or Commissioner of MMB relating to the G.O. Grant or the disbursement of any of the G.O. Grant is and will be true and correct.

Section 2.07 **Event(s) of Default.** The following events shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement upon either MnDOT or the Commissioner giving the Public Entity 30 days' written notice of such event and the Public Entity's failure to cure such event during such 30-day time period for those Events of Default that can be cured within 30 days or within whatever time period is needed to cure those Events of Default that cannot be cured within 30 days as long as the Public Entity is using its best efforts to cure and is making reasonable progress in curing such Events of Default; however, in no event shall the time period to cure any Event of Default exceed six (6) months unless otherwise consented to, in writing, by MnDOT and the Commissioner.

- A. If any representation, covenant, or warranty made by the Public Entity herein or in any other document furnished pursuant to the Agreement, or to induce MnDOT to disburse the LBRP Grant, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.
- B. If the Public Entity fails to fully comply with any provision, covenant, or warranty contained herein.

- C. If the Public Entity fails to fully comply with any provision, covenant or warranty contained in Minn. Stat. Sec. 16A.695, the Commissioner's Order, or Minn. Stat. Sec. 174.52 and all rules related thereto.
- D. If the Public Entity fails to use the proceeds of the LBRP Grant for the purposes set forth in Section 2.03, the Grant Application, and in accordance with the LBRP.
- E. If the Public Entity fails to operate the Real Property for the purposes specified in Section 2.04.
- F. If the Public Entity fails to complete the Project by the Completion Date.
- G. If the Public Entity sells or transfers any portion of its ownership interest in the Real Property without first obtaining the written consent of both MnDOT and the Commissioner.
- H. If the Public Entity fails to provide any additional funds needed to fully pay for the Project.
- I. If the Public Entity fails to supply the funds needed to operate the Real Property in the manner specified in Section 2.04.

Notwithstanding the foregoing, any of the above events that cannot be cured shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under the Agreement immediately upon either MnDOT or the Commissioner giving the Public Entity written notice of such event.

Section 2.08 **Remedies.** Upon the occurrence of an Event of Default and at any time thereafter until such Event of Default is cured to the satisfaction of MnDOT, MnDOT or the Commissioner may enforce any or all of the following remedies.

- A. MnDOT may refrain from disbursing the LBRP Grant; provided, however, MnDOT may make such disbursements after the occurrence of an Event of Default without waiving its rights and remedies hereunder.
- B. If the Event of Default involves a sale of the Public Entity's interest in the Real Property in violation of Minn. Stat. Sec. 16A.695 or the Commissioner's Order, the Commissioner, as a third party beneficiary of the Agreement, may require that the Public Entity pay the amounts that would have been paid if there had been compliance with such provisions. For other Events of Default, the Commissioner may require that the Outstanding Balance of the LBRP Grant be returned to it.
- C. Either MnDOT or the Commissioner, as a third party beneficiary of the Agreement, may enforce any additional remedies it may have in law or equity.

The rights and remedies specified herein are cumulative and not exclusive of any rights or remedies that MnDOT or the Commissioner would otherwise possess.

If the Public Entity does not repay the amounts required to be paid under this Section or under any other provision contained herein within 30 days of demand by the Commissioner, or any amount ordered by a court of competent jurisdiction within 30 days of entry of judgment against the Public Entity and in favor of MnDOT and/or the Commissioner, then such amount may, unless precluded by law, be offset against any aids or other monies that the Public Entity is entitled to receive from the State of Minnesota.

Section 2.09 Notification of Event of Default. The Public Entity shall furnish to MnDOT and the Commissioner, as soon as possible and in any event within seven (7) days after it has obtained knowledge of the occurrence of each Event of Default, a statement setting forth details of each Event of Default and the action which the Public Entity proposes to take with respect thereto.

Section 2.10 Effect of Event of Default. The Agreement shall survive Events of Default and remain in full force and effect, even upon full disbursement of the LBRP Grant, and shall only be terminated under the circumstances set forth in Section 2.11.

Section 2.11 Termination of Agreement and Modification of LBRP Grant.

A. If the Project is not started within five (5) years after the effective date of the Agreement or the LBRP Grant has not been disbursed within four (4) years after the date the Project was started, MnDOT's obligation to fund the LBRP Grant shall terminate. In such event, (i) if none of the LBRP Grant has been disbursed by such date, MnDOT shall have no obligation to fund the LBRP Grant and the Agreement will terminate, and (ii) if some but not all of the LBRP Grant has been disbursed by such date, MnDOT shall have no further obligation to provide any additional funding for the LBRP Grant and the Agreement shall remain in force but shall be modified to reflect the amount of the LBRP Grant that was actually disbursed and the Public Entity is still obligated to complete the Project by the Completion Date.

B. The Agreement shall terminate upon the Public Entity's sale of its interest in the Real Property and transmittal of the required portion of the proceeds of the sale to the Commissioner in compliance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order, or upon the termination of the Public Entity's ownership interest in the Real Property if such ownership interest is an easement.

Section 2.12 Excess Funds. If the full amount of the G.O. Grant and any matching funds referred to in Section 5.13 are not needed to complete the Project, then, unless language in the G.O. Bonding Legislation indicates otherwise, the G.O. Grant shall be reduced by the amount not needed.

**Article III
COMPLIANCE WITH MINNESOTA STATUTE, SEC. 16A.695
AND THE COMMISSIONER'S ORDER**

Section 3.01 State Bond Financed Property. The Public Entity acknowledges that its interest in the Real Property is, or when acquired by it will be, "state bond financed property", as such term is used in Minn. Stat. Sec. 16A.695 and the Commissioner's Order and, therefore, the provisions contained in such statute and order apply, or will apply, to its interest in the Real Property, even if the LBRP Grant will only pay for a portion of the Project.

Section 3.02 Preservation of Tax Exempt Status. In order to preserve the tax-exempt status of the G.O. Bonds, the Public Entity agrees as follows:

- A. It will not use the Real Property or use or invest the LBRP Grant or any other sums treated as "bond proceeds" under Section 148 of the Code (including "investment proceeds," "invested sinking funds" and "replacement proceeds") in such a manner as to cause the G.O. Bonds to be classified as "arbitrage bonds" under Code Section 148.
- B. It will deposit and hold the LBRP Grant in a segregated non-interest-bearing account until such funds are used for payments for the Project.

- C. It will, upon written request, provide the Commissioner all information required to satisfy the informational requirements set forth in the Code, including Sections 103 and 148, with respect to the G.O. Bonds.
- D. It will, upon the occurrence of any act or omission by the Public Entity that could cause the interest on the G.O. Bonds to no longer be tax exempt and upon direction from the Commissioner, take such actions and furnish such documents as the Commissioner determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal taxation, which such action may include: (i) compliance with proceedings intended to classify the G.O. Bonds as a “qualified bond” within the meaning of Code Section 141(e), or (ii) changing the nature of the use of the Real Property so that none of the net proceeds of the G.O. Bonds will be deemed to be used, directly or indirectly, in an “unrelated trade or business” or for any “private business use” within the meaning of Code Sections 141(b) and 145(a).
- E. It will not otherwise use any of the LBRP Grant or take, permit or cause to be taken, or omit to take, any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, and if it should take, permit or cause to be taken, or omit to take, as appropriate, any such action, it shall take all lawful actions necessary to correct such actions or omissions promptly upon obtaining knowledge thereof.

Section 3.03 **Changes to G.O. Compliance Legislation or the Commissioner’s Order.** If Minn. Stat. Sec. 16A.695 or the Commissioner’s Order is amended in a manner that reduces any requirement imposed against the Public Entity, or if the Public Entity’s interest in the Real Property becomes exempted from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order, then upon written request by the Public Entity, MnDOT shall execute an amendment to the Agreement to implement such amendment or exempt the Public Entity’s interest in the Real Property from Minn. Stat. Sec. 16A.695 and the Commissioner’s Order.

Article IV DISBURSEMENT OF GRANT PROCEEDS

Section 4.01 **The Advances.** MnDOT agrees, on the terms and subject to the conditions set forth herein, to make Advances of the LBRP Grant to the Public Entity from time to time in an aggregate total amount not to exceed the amount of the LBRP Grant. If the amount of LBRP Grant that MnDOT cumulatively disburses hereunder to the Public Entity is less than the amount of the LBRP Grant delineated in Section 1.01, then MnDOT and the Public Entity shall enter into and execute whatever documents MnDOT may request in order to amend or modify this Agreement to reduce the amount of the LBRP Grant to the amount actually disbursed. Provided, however, in accordance with the provisions contained in Section 2.11, MnDOT’s obligation to make Advances shall terminate as of the dates specified in Section 2.11 even if the entire LBRP Grant has not been disbursed by such dates.

Advances shall only be for expenses that (i) are for those items of a capital nature delineated in Source and Use of Funds that is attached as **Exhibit A**, (ii) accrued no earlier than the effective date of the legislation that appropriated the funds that are used to fund the LBRP Grant, or (iii) have otherwise been consented to, in writing, by the Commissioner.

It is the intent of the parties hereto that the rate of disbursement of the Advances shall not exceed the rate of completion of the Project or the rate of disbursement of the matching funds required, if any, under Section 5.13. Therefore, the cumulative amount of all Advances disbursed by the State Entity at any point in time shall not exceed the portion of the Project that has been completed and the percentage of the matching funds required, if any, under Section 5.13 that have been disbursed as of such point in time. This requirement is

expressed by way of the following two formulas:

Formula #1:

Cumulative Advances \leq (Program Grant) \times (percentage of matching funds, if any, required under Section 5.13 that have been disbursed)

Formula #2:

Cumulative Advances \leq (Program Grant) \times (percentage of Project completed)

Section 4.02 **Draw Requisitions.** Whenever the Public Entity desires a disbursement of a portion of the LBRP Grant the Public Entity shall submit to MnDOT a Draw Requisition duly executed on behalf of the Public Entity or its designee. Each Draw Requisition with respect to construction items shall be limited to amounts equal to: (i) the total value of the classes of the work by percentage of completion as approved by the Public Entity and MnDOT, plus (ii) the value of materials and equipment not incorporated in the Project but delivered and suitably stored on or off the Real Property in a manner acceptable to MnDOT, less (iii) any applicable retainage, and less (iv) all prior Advances.

Notwithstanding anything herein to the contrary, no Advances for materials stored on or off the Real Property will be made by MnDOT unless the Public Entity shall advise MnDOT, in writing, of its intention to so store materials prior to their delivery and MnDOT has not objected thereto.

At the time of submission of each Draw Requisition, other than the final Draw Requisition, the Public Entity shall submit to MnDOT such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the relevant Draw Requisition or to substantiate all payments then made with respect to the Project.

The final Draw Requisition shall not be submitted before completion of the Project, including any correction of material defects in workmanship or materials (other than the completion of punch list items). At the time of submission of the final Draw Requisition the Public Entity shall submit to MnDOT: (I) such supporting evidence as may be requested by MnDOT to substantiate all payments which are to be made out of the final Draw Requisition or to substantiate all payments then made with respect to the Project, and (ii) satisfactory evidence that all work requiring inspection by municipal or other governmental authorities having jurisdiction has been duly inspected and approved by such authorities and that all requisite certificates and other approvals have been issued.

If on the date an Advance is desired the Public Entity has complied with all requirements of this Agreement and MnDOT approves the relevant Draw Requisition, then MnDOT shall disburse the amount of the requested Advance to the Public Entity.

Section 4.03 **Additional Funds.** If MnDOT shall at any time in good faith determine that the sum of the undisbursed amount of the LBRP Grant plus the amount of all other funds committed to the Project is less than the amount required to pay all costs and expenses of any kind which reasonably may be anticipated in connection with the Project, then MnDOT may send written notice thereof to the Public Entity specifying the amount which must be supplied in order to provide sufficient funds to complete the Project. The Public Entity agrees that it will, within 10 calendar days of receipt of any such notice, supply or have some other entity supply the amount of funds specified in MnDOT's notice.

Section 4.04 **Condition Precedent to Any Advance.** The obligation of MnDOT to make any Advance hereunder (including the initial Advance) shall be subject to the following conditions precedent:

- A. MnDOT shall have received a Draw Requisition for such Advance specifying the amount of funds being requested, which such amount when added to all prior requests for an Advance shall not exceed the amount of the LBRP Grant set forth in Section 1.01.
- B. No Event of Default under this Agreement or event which would constitute an Event of Default but for the requirement that notice be given or that a period of grace or time elapse shall have occurred and be continuing.
- C. No determination shall have been made by MnDOT that the amount of funds committed to the Project is less than the amount required to pay all costs and expenses of any kind that may reasonably be anticipated in connection with the Project, or if such a determination has been made and notice thereof sent to the Public Entity under Section 4.03, then the Public Entity has supplied, or has caused some other entity to supply, the necessary funds in accordance with such section or has provided evidence acceptable to MnDOT that sufficient funds are available.
- D. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Public Entity has sufficient funds to fully and completely pay for the Project and all other expenses that may occur in conjunction therewith.
- E. The Public Entity has supplied to the State Entity all other items that the State Entity may reasonably require

Section 4.05 **Processing and Disbursement of Advances.** The Public Entity acknowledges and agrees as follows:

- A. Advances are not made prior to completion of work performed on the Project.
- B. All Advances are processed on a reimbursement basis.
- C. The Public Entity must first document expenditures to obtain an Advance.
- D. Reimbursement requests are made on a partial payment basis or when the Project is completed.
- E. All payments are made following the “Delegated Contract Process or State Aid Payment Request” as requested and approved by the appropriate district state aid engineer.

Section 4.06 **Construction Inspections.** The Public Entity shall be responsible for making its own inspections and observations regarding the completion of the Project, and shall determine to its own satisfaction that all work done or materials supplied have been properly done or supplied in accordance with all contracts that the Public Entity has entered into regarding the completion of the Project.

Article V MISCELLANEOUS

Section 5.01 **Insurance.** If the Public Entity elects to maintain general comprehensive liability insurance regarding the Real Property, then the Public Entity shall have MnDOT named as an additional named insured therein.

Section 5.02 **Condemnation.** If, after the Public Entity has acquired the ownership interest set forth in Section 2.02, all or any portion of the Real Property is condemned to an extent that the Public Entity can no longer comply with Section 2.04, then the Public Entity shall, at its sole option, either: (i) use the

condemnation proceeds to acquire an interest in additional real property needed for the Public Entity to continue to comply with Section 2.04 and to provide whatever additional funds that may be needed for such purposes, or (ii) submit a request to MnDOT and the Commissioner to allow it to sell the remaining portion of its interest in the Real Property. Any condemnation proceeds which are not used to acquire an interest in additional real property shall be applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order as if the Public Entity's interest in the Real Property had been sold. If the Public Entity elects to sell its interest in the portion of the Real Property that remains after the condemnation, such sale must occur within a reasonable time period after the date the condemnation occurred and the cumulative sum of the condemnation and sale proceeds applied in accordance with Minn. Stat. Sec. 16A.695 and the Commissioner's Order.

If MnDOT receives any condemnation proceeds referred to herein, MnDOT agrees to or pay over to the Public Entity all of such condemnation proceeds so that the Public Entity can comply with the requirements of this Section.

Section 5.03 Use, Maintenance, Repair and Alterations. The Public Entity shall not, without the written consent of MnDOT and the Commissioner, (i) permit or allow the use of any of the Real Property for any purpose other than the purposes specified in Section 2.04, (ii) substantially alter any of the Real Property except such alterations as may be required by laws, ordinances or regulations, or such other alterations as may improve the Real Property by increasing its value or which improve its ability to be used for the purposes set forth in Section 2.04, (iii) take any action which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, or (v) commit or permit any act to be done in or on the Real Property in violation of any law, ordinance or regulation.

If the Public Entity fails to maintain the Real Property in accordance with this Section, MnDOT may perform whatever acts and expend whatever funds necessary to so maintain the Real Property, and the Public Entity irrevocably authorizes MnDOT to enter upon the Real Property to perform such acts as may be necessary to so maintain the Real Property. Any actions taken or funds expended by MnDOT shall be at its sole discretion, and nothing contained herein shall require MnDOT to take any action or incur any expense and MnDOT shall not be responsible, or liable to the Public Entity or any other entity, for any such acts that are performed in good faith and not in a negligent manner. Any funds expended by MnDOT pursuant to this Section shall be due and payable on demand by MnDOT and will bear interest from the date of payment by MnDOT at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per year based upon a 365-day year.

Section 5.04 Recordkeeping and Reporting. The Public Entity shall maintain books and records pertaining to Project costs and expenses needed to comply with the requirements contained herein, Minn. Stat. Sec. 16A.695, the Commissioner's Order, and Minn. Stat. Sec. 174.52 and all rules related thereto, and upon request shall allow MnDOT, its auditors, the Legislative Auditor for the State of Minnesota, or the State Auditor for the State of Minnesota, to inspect, audit, copy, or abstract all of such items. The Public Entity shall use generally accepted accounting principles in the maintenance of such items, and shall retain all of such books and records for a period of six years after the date that the Project is fully completed and placed into operation.

Section 5.05 Inspections by MnDOT. The Public Entity shall allow MnDOT to inspect the Real Property upon reasonable request by MnDOT and without interfering with the normal use of the Real Property.

Section 5.06 Liability. The Public Entity and MnDOT agree that each will be responsible for its own acts and the results thereof to the extent authorized by law, and neither shall be responsible for the acts of the other party and the results thereof. The liability of MnDOT and the Commissioner is governed by the

provisions of Minn. Stat. Sec. 3.736. If the Public Entity is a “municipality” as that term is used in Minn. Stat. Chapter 466, then the liability of the Public Entity is governed by the provisions of Chapter 466. The Public Entity’s liability hereunder shall not be limited to the extent of insurance carried by or provided by the Public Entity, or subject to any exclusion from coverage in any insurance policy.

Section 5.07 **Relationship of the Parties.** Nothing contained in the Agreement is to be construed as establishing a relationship of co-partners or joint venture among the Public Entity, MnDOT, or the Commissioner, nor shall the Public Entity be considered to be an agent, representative, or employee of MnDOT, the Commissioner, or the State of Minnesota in the performance of the Agreement or the Project.

No employee of the Public Entity or other person engaging in the performance of the Agreement or the Project shall be deemed have any contractual relationship with MnDOT, the Commissioner, or the State of Minnesota and shall not be considered an employee of any of those entities. Any claims that may arise on behalf of said employees or other persons out of employment or alleged employment, including claims under the Workers’ Compensation Act of the State of Minnesota, claims of discrimination against the Public Entity or its officers, agents, contractors, or employees shall in no way be the responsibility of MnDOT, the Commissioner, or the State of Minnesota. Such employees or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from MnDOT, the Commissioner, or the State of Minnesota, including tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

Section 5.08 **Notices.** In addition to any notice required under applicable law to be given in another manner, any notices required hereunder must be in writing and personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the address of the party specified below or to such different address as may in the future be specified by a party by written notice to the others:

To the Public Entity: At the address indicated on the first page of the Agreement.

To MnDOT at: Minnesota Department of Transportation
Office of State Aid
395 John Ireland Blvd., MS 500
Saint Paul, MN 55155
Attention: Marc Briese, State Aid Programs Engineer

To the Commissioner at: Minnesota Management & Budget
400 Centennial Office Bldg.
658 Cedar St.
St. Paul, MN 55155
Attention: Commissioner

Section 5.09 **Assignment or Modification.** Neither the Public Entity nor MnDOT may assign any of its rights or obligations under the Agreement without the prior written consent of the other party.

Section 5.10 **Waiver.** Neither the failure by the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of the Agreement, in one or more instances to insist upon the complete observance or performance of any provision hereof, nor the failure of the Public Entity, MnDOT, or the Commissioner to exercise any right or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such provision or the right to exercise such right or remedy thereafter. In addition, no delay by any of the Public Entity, MnDOT, or the Commissioner in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

Section 5.11 Choice of Law and Venue. All matters relating to the validity, interpretation, performance, or enforcement of the Agreement shall be determined in accordance with the laws of the State of Minnesota. All legal actions arising from any provision of the Agreement shall be initiated and venued in the State of Minnesota District Court located in St. Paul, Minnesota.

Section 5.12 Severability. If any provision of the Agreement is finally judged by any court to be invalid, then the remaining provisions shall remain in full force and effect and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

Section 5.13 Matching Funds. Any matching funds as shown on Page 1 of the Grant Agreement that are required to be obtained and supplied by the Public Entity must either be in the form of (i) cash monies, (ii) legally binding commitments for money, or (iii) equivalent funds or contributions, including equity, which have been or will be used to pay for the Project. The Public Entity shall supply to MnDOT whatever documentation MnDOT may request to substantiate the availability and source of any matching funds.

Section 5.14 Sources and Uses of Funds. The Public Entity represents to MnDOT and the Commissioner that the Sources and Uses of Funds Schedule attached as **Exhibit A** accurately shows the total cost of the Project and all of the funds that are available for the completion of the Project. The Public Entity will supply any other information and documentation that MnDOT or the Commissioner may request to support or explain any of the information contained in the Sources and Uses of Funds Schedule. If any of the funds shown in the Sources and Uses of Funds Schedule have conditions precedent to the release of such funds, the Public Entity must provide to MnDOT a detailed description of such conditions and what is being done to satisfy such conditions.

Section 5.15 Project Completion Schedule. The Public Entity represents to MnDOT and the Commissioner that the Project Completion Schedule attached as **Exhibit B** correctly and accurately sets forth the projected schedule for the completion of the Project.

Section 5.16 Third-Party Beneficiary. The Governmental Program will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both the State Entity and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner of MMB, is and shall be a third-party beneficiary of this Agreement.

Section 5.17 Public Entity Tasks. Any tasks that the Agreement imposes upon the Public Entity may be performed by such other entity as the Public Entity may select or designate, provided that the failure of such other entity to perform said tasks shall be deemed to be a failure to perform by the Public Entity.

Section 5.18 Data Practices. The Public Entity agrees with respect to any data that it possesses regarding the G.O. Grant or the Project to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Minnesota Statutes Chapter 13, as such may subsequently be amended or replaced from time to time.

Section 5.19 Non-Discrimination. The Public Entity agrees to not engage in discriminatory employment practices regarding the Project and it shall fully comply with all of the provisions contained in Minnesota Statutes Chapters 363A and 181, as such may subsequently be amended or replaced from time to time.

Section 5.20 **Worker's Compensation.** The Public Entity agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. Secs. 176.181 subd. 2 and 176.182, as they may be amended or replaced from time to time with respect to the Project.

Section 5.21 **Antitrust Claims.** The Public Entity hereby assigns to MnDOT and the Commissioner of MMB all claims it may have for over charges as to goods or services provided with respect to the Project that arise under the antitrust laws of the State of Minnesota or of the United States of America.

Section 5.22 **Prevailing Wages.** The Public Entity agrees to comply with all of the applicable provisions contained in Minnesota Statutes Chapter 177, and specifically those provisions contained in Minn. Stat. §. 177.41 through 177.435 as they may be amended or replaced from time to time with respect to the Project. By agreeing to this provision, the Public Entity is not acknowledging or agreeing that the cited provisions apply to the Project.

Section 5.23 **Entire Agreement.** The Agreement and all of the exhibits attached thereto embody the entire agreement between the Public Entity and MnDOT, and there are no other agreements, either oral or written, between the Public Entity and MnDOT on the subject matter hereof.

Section 5.24 **E-Verification.** The Public Entity agrees and acknowledges that it is aware of Minn.Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such order.

Section 5.25 **Telecommunications Certification.** If federal funds are included in Exhibit A, by signing this agreement, Contractor 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, Contractor 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. Contractor will include this certification as a flow down clause in any contract related to this agreement.

Section 5.26 **Title VI/Non-discrimination Assurances.** Public Entity 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. If federal funds are included in Exhibit A, Public Entity will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. MnDOT may conduct a review of the Public Entity's compliance with this provision. The Public Entity must cooperate with MnDOT throughout the review process by supplying all requested information and documentation to MnDOT, making Public Entity staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by MnDOT.

Section 5.27 **Electronic Records and Signatures.** The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

Section 5.28 **Certification.** By signing this Agreement, the Grantee certifies that it is not suspended or debarred from receiving federal or state awards.

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 N

Date:

September 19, 2023

Agenda Item:

Accept Bid and Award Contract – SAP 079-598-031

Requested Action:

Consider adoption of Resolution No. 2023-149 accepting the bid of and awarding a contract to SAP 079-598-031 – concrete box culverts, grading, and aggregate base on County Hwy 6

Fiscal Impact:

Total of \$371,137 of which is planned to be funded with:

\$58,998 County funds

\$312,139 State Bridge grant

Background/Recommendation:

Project is for the replacement of bridge L1005 with concrete box culverts and approach grading, and aggregate base on County Hwy 6 south of Hammond. The abstract of bids is attached.

The Wabasha County Engineer recommends adoption of Resolution 2023-149.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-149

Whereas, Fitzgerald Excavating & Trucking Inc. is the lowest responsible bidder for SAP 079-598-031.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that Wabasha County hereby accepts the bid of and hereby awards a contract to Fitzgerald Excavating & Trucking Inc. in the amount of \$371,137 and that the County Engineer is hereby authorized to execute a Contract with Fitzgerald Excavating & Trucking Inc. for this work.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

SAP 079-598-031 Engineer's Estimate															
Bid Opening: 9/6/2023 at 10:00am															
				Estimate		Fitzgerald Excavating Inc.		Minnowa Construction Inc		Schumacher Excavating Inc.		A-1 Excavating LLC		Danckwart Landscaping LLC	
			Estimated Quantities	Amount		Amount		Amount		Amount		Amount		Amount	
ITEM NO.	ITEM DESCRIPTION	UNIT	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
2021.501/00010	MOBILIZATION	LUMP SUM	1	\$25,000.00	\$25,000.00	\$12,000.00	\$12,000.00	\$20,000.00	\$20,000.00	\$14,000.00	\$14,000.00	\$25,000.00	\$25,000.00	\$10,000.00	\$10,000.00
2105.607/00015	COMMON EXCAVATION (P)	CU YD	1240	\$10.00	\$12,400.00	\$10.00	\$12,400.00	\$4.00	\$4,960.00	\$8.00	\$9,920.00	\$22.00	\$27,280.00	\$12.00	\$14,880.00
2105.607/00380	COMMON BORROW (CV) (P)	CU YD	641	\$12.00	\$7,692.00	\$10.00	\$6,410.00	\$4.95	\$3,172.95	\$23.00	\$14,743.00	\$32.00	\$20,512.00	\$20.00	\$12,820.00
2123.510/00080	3.0 CU YD SHOVEL	HOUR	8	\$150.00	\$1,200.00	\$125.00	\$1,000.00	\$20.00	\$160.00	\$250.00	\$2,000.00	\$200.00	\$1,600.00	\$250.00	\$2,000.00
2123.510/00130	DOZER	HOUR	8	\$150.00	\$1,200.00	\$125.00	\$1,000.00	\$20.00	\$160.00	\$250.00	\$2,000.00	\$200.00	\$1,600.00	\$150.00	\$1,200.00
2211.507/00170	AGGREGATE BASE (CV) (P) CLASS 5	CU YD	402	\$30.00	\$12,060.00	\$24.00	\$9,648.00	\$29.95	\$12,039.90	\$29.20	\$11,738.40	\$34.00	\$13,668.00	\$31.00	\$12,462.00
2211.507/00180	AGGREGATE BASE (CV) (P) CLASS 5 MODIFIED	CU YD	804	\$28.00	\$22,512.00	\$24.00	\$19,296.00	\$29.95	\$24,079.80	\$29.20	\$23,476.80	\$34.00	\$27,336.00	\$31.00	\$24,924.00
2211.509/00070	AGGREGATE BASE CLASS 5	TON	81	\$15.00	\$1,215.00	\$14.00	\$1,134.00	\$31.00	\$2,511.00	\$17.00	\$1,377.00	\$17.00	\$1,377.00	\$35.00	\$2,835.00
2412.502/12070	12X7 PRECAST CONCRETE BOX CULVERT END SECTION	EACH	2	\$28,000.00	\$56,000.00	\$20,750.00	\$41,500.00	\$21,500.00	\$43,000.00	\$23,340.00	\$46,680.00	\$28,300.00	\$56,600.00	\$29,000.00	\$58,000.00
2412.502/14090	14X9 PRECAST CONCRETE BOX CULVERT END SECTION	EACH	2	\$32,000.00	\$64,000.00	\$24,800.00	\$49,600.00	\$26,000.00	\$52,000.00	\$27,750.00	\$55,500.00	\$33,200.00	\$66,400.00	\$40,000.00	\$80,000.00
2412.503/12070	12X7 PRECAST CONCRETE BOX CULVERT	LIN FT	61	\$2,500.00	\$152,500.00	\$1,470.00	\$89,670.00	\$1,450.00	\$88,450.00	\$1,740.00	\$106,140.00	\$1,880.00	\$114,680.00	\$2,300.00	\$140,300.00
2412.503/14090	14x9 PRECAST CONCRETE BOX CULVERT	LIN FT	59	\$3,000.00	\$177,000.00	\$1,635.00	\$96,465.00	\$1,588.00	\$93,692.00	\$1,968.00	\$116,112.00	\$1,970.00	\$116,230.00	\$2,700.00	\$159,300.00
2442.501/00010	REMOVE EXISTING BRIDGE	LUMP SUM	1	\$4,000.00	\$4,000.00	\$2,500.00	\$2,500.00	\$25,000.00	\$25,000.00	\$8,000.00	\$8,000.00	\$22,000.00	\$22,000.00	\$6,000.00	\$6,000.00
2451.507/00120	AGGREGATE BACKFILL (CV) (P)	CU YD	58	\$25.00	\$1,450.00	\$28.00	\$1,624.00	\$22.50	\$1,305.00	\$26.50	\$1,537.00	\$41.00	\$2,378.00	\$30.00	\$1,740.00
2451.507/00270	COARSE AGGREGATE BEDDING (CV) (P)	CU YD	235	\$25.00	\$5,875.00	\$28.00	\$6,580.00	\$31.00	\$7,285.00	\$28.75	\$6,756.25	\$41.00	\$9,635.00	\$30.00	\$7,050.00
2511.509/00013	RANDOM RIPRAP CLASS III	TON	30	\$50.00	\$1,500.00	\$35.00	\$1,050.00	\$32.95	\$988.50	\$33.00	\$990.00	\$73.00	\$2,190.00	\$45.00	\$1,350.00
2511.509/00015	RANDOM RIPRAP CLASS V	TON	275	\$50.00	\$13,750.00	\$35.00	\$9,625.00	\$33.95	\$9,336.25	\$33.00	\$9,075.00	\$73.00	\$20,075.00	\$45.00	\$12,375.00
2520.607/00020	CEMENT GROUT (P)	CU YD	9	\$150.00	\$1,350.00	\$225.00	\$2,025.00	\$165.00	\$1,485.00	\$305.00	\$2,745.00	\$350.00	\$3,150.00	\$300.00	\$2,700.00
2563.601/00010	TRAFFIC CONTROL	LUMP SUM	1	\$2,500.00	\$2,500.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$1,600.00	\$1,600.00	\$6,900.00	\$6,900.00	\$2,000.00	\$2,000.00
2573.503/00023	SILT FENCE; TYPE MS	LIN FT	1125	\$3.00	\$3,375.00	\$2.00	\$2,250.00	\$1.55	\$1,743.75	\$3.00	\$3,375.00	\$2.40	\$2,700.00	\$3.00	\$3,375.00
2575.501/00020	TURF ESTABLISHMENT	LUMP SUM	1	\$3,000.00	\$3,000.00	\$2,000.00	\$2,000.00	\$3,850.00	\$3,850.00	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00
2575.504/00325	ROLLED EROSION PREVENTION CATEGORY 25	SQ YD	680	\$2.00	\$1,360.00	\$2.00	\$1,360.00	\$3.30	\$2,244.00	\$3.00	\$2,040.00	\$3.00	\$2,040.00	\$3.00	\$2,040.00
			TOTAL =		\$570,939.00		\$371,137.00		\$399,463.15		\$444,805.45		\$544,351.00		\$558,851.00

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 O

Date:

September 19, 2023

Agenda Item:

Accept Bid and Award Contract – SAP 079-598-029

Requested Action:

Consider adoption of Resolution No. 2023-150 accepting the bid of and awarding a contract to SAP 079-598-029 – concrete box culverts, grading, and aggregate base on County Hwy 86

Fiscal Impact:

Total of \$284,052.50 of which is planned to be funded with:

\$92,593 County funds

\$191,459.50 State Bridge grant

Background/Recommendation:

Project is for the replacement of bridge L1097 with concrete box culverts and approach grading, and aggregate base on County Hwy 86 east of Theilman. The abstract of bids is attached.

The Wabasha County Engineer recommends adoption of Resolution 2023-150.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution No.: 2023-150

Whereas, Fitzgerald Excavating & Trucking Inc. is the lowest responsible bidder for SAP 079-598-029.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that Wabasha County hereby accepts the bid of and hereby awards a contract to Fitzgerald Excavating & Trucking Inc. in the amount of \$284,052.50 and that the County Engineer is hereby authorized to execute a Contract with Fitzgerald Excavating & Trucking Inc. for this work.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

			Estimate		Fitzgerald Excavating Inc.		Minnowa Construction Inc.		Schumacher Excavating Inc.		Danckwart Landscaping LLC		A-1 Excavating LLC		
			MATED QUANT	AMOUNT		AMOUNT		AMOUNT		AMOUNT		AMOUNT		AMOUNT	
ITEM NO.	ITEM DESCRIPTION	UNIT	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
2021.501/00010	MOBILIZATION	LUMP SUM	1	\$15,000.00	\$15,000.00	\$8,500.00	\$8,500.00	\$8,000.00	\$8,000.00	\$14,000.00	\$14,000.00	\$6,000.00	\$6,000.00	\$20,000.00	\$20,000.00
2105.607/00015	COMMON EXCAVATION (P)	CU YD	2447	\$6.00	\$14,682.00	\$6.00	\$14,682.00	\$4.00	\$9,788.00	\$8.00	\$19,576.00	\$9.00	\$22,023.00	\$20.00	\$48,940.00
2105.607/00380	COMMON BORROW (CV) (P)	CU YD	1575	\$8.00	\$12,600.00	\$10.00	\$15,750.00	\$6.95	\$10,946.25	\$23.00	\$36,225.00	\$14.00	\$22,050.00	\$30.00	\$47,250.00
2123.510/00080	3.0 CU YD SHOVEL	HOUR	5	\$100.00	\$500.00	\$125.00	\$625.00	\$20.00	\$100.00	\$250.00	\$1,250.00	\$250.00	\$1,250.00	\$200.00	\$1,000.00
2123.510/00130	DOZER	HOUR	5	\$100.00	\$500.00	\$125.00	\$625.00	\$20.00	\$100.00	\$250.00	\$1,250.00	\$150.00	\$750.00	\$200.00	\$1,000.00
2211.507/00170	AGGREGATE BASE (CV) (P) CLASS 5	CU YD	369	\$23.00	\$8,487.00	\$24.00	\$8,856.00	\$29.95	\$11,051.55	\$29.20	\$10,774.80	\$31.00	\$11,439.00	\$34.00	\$12,546.00
2211.507/00180	AGGREGATE BASE (CV) (P) CLASS 5 MODIFIED	CU YD	1508	\$23.00	\$34,684.00	\$24.00	\$36,192.00	\$29.95	\$45,164.60	\$29.20	\$44,033.60	\$31.00	\$46,748.00	\$34.00	\$51,272.00
2211.509/00070	AGGREGATE BASE CLASS 5	TON	27	\$15.00	\$405.00	\$14.00	\$378.00	\$25.00	\$675.00	\$17.00	\$459.00	\$31.00	\$837.00	\$17.00	\$459.00
2412.502/14040	14X4 PRECAST CONCRETE BOX CULVERT END SECTION	EACH	4	\$25,000.00	\$100,000.00	\$11,300.00	\$45,200.00	\$13,500.00	\$54,000.00	\$15,222.00	\$60,888.00	\$19,000.00	\$76,000.00	\$17,850.00	\$71,400.00
2412.503/14040	14X4 PRECAST CONCRETE BOX CULVERT	LIN FT	78	\$2,500.00	\$195,000.00	\$1,580.00	\$123,240.00	\$1,500.00	\$117,000.00	\$1,830.00	\$142,740.00	\$2,200.00	\$171,600.00	\$1,970.00	\$153,660.00
2442.501/00010	REMOVE EXISTING BRIDGE	LUMP SUM	1	\$3,000.00	\$3,000.00	\$1,500.00	\$1,500.00	\$9,800.00	\$9,800.00	\$8,000.00	\$8,000.00	\$5,000.00	\$5,000.00	\$30,000.00	\$30,000.00
2451.507/00120	AGGREGATE BACKFILL (CV) (P)	CU YD	15	\$25.00	\$375.00	\$28.00	\$420.00	\$40.00	\$600.00	\$26.50	\$397.50	\$30.00	\$450.00	\$41.00	\$615.00
2451.507/00270	COARSE AGGREGATE BEDDING (CV) (P)	CU YD	129	\$30.00	\$3,870.00	\$28.00	\$3,612.00	\$30.00	\$3,870.00	\$28.75	\$3,708.75	\$30.00	\$3,870.00	\$41.00	\$5,289.00
2501.502/01018	18" CS PIPE APRON	EACH	2	\$250.00	\$500.00	\$250.00	\$500.00	\$500.00	\$1,000.00	\$460.00	\$920.00	\$400.00	\$800.00	\$375.00	\$750.00
2501.503/12018	18" CS PIPE CULVERT	LIN FT	58	\$45.00	\$2,610.00	\$45.00	\$2,610.00	\$45.50	\$2,639.00	\$40.00	\$2,320.00	\$50.00	\$2,900.00	\$80.00	\$4,640.00
2511.509/00013	RANDOM RIPRAP CLASS III	TON	10	\$50.00	\$500.00	\$35.00	\$350.00	\$40.00	\$400.00	\$33.00	\$330.00	\$45.00	\$450.00	\$60.00	\$600.00
2511.509/00015	RANDOM RIPRAP CLASS V	TON	285	\$50.00	\$14,250.00	\$35.00	\$9,975.00	\$33.00	\$9,405.00	\$33.00	\$9,405.00	\$45.00	\$12,825.00	\$60.00	\$17,100.00
2520.607/00020	CEMENT GROUT (P)	CU YD	3.5	\$200.00	\$700.00	\$225.00	\$787.50	\$160.00	\$560.00	\$305.00	\$1,067.50	\$400.00	\$1,400.00	\$350.00	\$1,225.00
2563.601/00010	TRAFFIC CONTROL	LUMP SUM	1	\$3,000.00	\$3,000.00	\$2,000.00	\$2,000.00	\$2,100.00	\$2,100.00	\$2,000.00	\$2,000.00	\$4,000.00	\$4,000.00	\$6,900.00	\$6,900.00
2573.503/00023	SILT FENCE; TYPE MS	LIN FT	1250	\$2.00	\$2,500.00	\$2.00	\$2,500.00	\$1.55	\$1,937.50	\$3.00	\$3,750.00	\$3.00	\$3,750.00	\$2.40	\$3,000.00
2575.501/00020	TURF ESTABLISHMENT	LUMP SUM	1	\$3,000.00	\$3,000.00	\$2,000.00	\$2,000.00	\$5,300.00	\$5,300.00	\$5,000.00	\$5,000.00	\$2,000.00	\$2,000.00	\$4,000.00	\$4,000.00
2575.504/00325	ROLLED EROSION PREVENTION CATEGORY 25	SQ YD	1875	\$2.50	\$4,687.50	\$2.00	\$3,750.00	\$2.60	\$4,875.00	\$3.00	\$5,625.00	\$2.00	\$3,750.00	\$3.00	\$5,625.00
TOTAL =					\$420,850.50		\$284,052.50		\$299,311.90		\$373,720.15		\$399,892.00		\$487,271.00

Board of Commissioners Wabasha County

Agenda Item Number: 9.0 P

Date:

September 19, 2023

Agenda Item:

Transfer 2014 Dodge Ram 1500 to Highway Department ... *Squad #11904, VIN #1C6RR7XT6ES418426*

Requested Action:

Consider adoption of resolution number 2023-151 authorizing transfer of squad car

Fiscal Impact:

N/A

Background/Recommendation:

This vehicle was originally to be disposed via Resolution #2023-117. It is recommended that this vehicle be transferred to the Highway Department.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

Wabasha County Board of Commissioners

Resolution Number 2023-151

Resolution Authorizing the Transfer of a 2014 Dodge Ram 1500 to the Highway Department

Whereas, a 2014 Dodge Ram 1500 with over 167,000 miles is considered a surplus; and,

Whereas, it was originally to be disposed via Resolution #2023-117; and,

Whereas, the Wabasha County Sheriff's Office is requesting that this vehicle be transferred to the Highway Department.

Now Therefore be it Resolved by the Wabasha County Board of Commissioners that: the Sheriff's Office is authorized to transfer a 2014 Dodge Ram 1500 (Squad #11904) bearing *VIN #1C6RR7XT6ES418426* to the Highway Department.

Adopted this 19th day of September, 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 10.0 A

Date:

September 19, 2023

Agenda Item:

Action Items – Adoption of proposed 2024 property tax levy for SEMMCHRA

Requested Action:

Instruct the Auditor/Treasurer to certify the proposed 2024 property tax levy for SEMMCHRA to the Minnesota Dept of Revenue

Fiscal Impact:

Sets the proposed 2024 property tax levy for HRA at \$65,750 to be allocated as needed.

The 2023 final levy was set at \$62,500.

Background/Recommendation:

Required by MN Statute 275.065

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

WABASHA COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO.: 2023-152

Resolution to Certify the 2024 Southeastern Minnesota Multi-County Housing Redevelopment
Proposed Property Tax Levy

Whereas, the Southeastern Minnesota Multi-County Housing and Redevelopment Authority was created by action of the Boards of Commissioners of Dodge, Goodhue, Wabasha and Winona Counties pursuant to Minnesota Statutes, Section 469.004; and

Whereas, Minnesota Statute Section 469.033, subs. 6, permits the Authority to levy and collect a special benefits tax not to exceed 0.0185 percent of taxable market value; and

Whereas, the Wabasha County Board of Commissioners has considered the Authority's request to approve a special benefit tax to be levied upon all taxable market value of taxable property within the Authority's area of operation within Wabasha County.

Now, Therefore, be it Resolved by the Wabasha County Board of Commissioners instructs the County Auditor-Treasurer to certify a 2024 proposed special benefit property tax levy in the amount of \$65,750 for Southeastern Minnesota Multi-County Housing Redevelopment to the Minnesota Department of Revenue.

Adopted this 19th day of September 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 10.0 B

Date:

September 19, 2023

Agenda Item:

Action Items – Adoption of the 2024 proposed SEMMCHRA Special Benefit Tax Levy for the purpose of paying, in part, the debt service on the Eagle Basin Project Bonds.

Requested Action:

Instruct the Auditor/Treasurer to certify the proposed 2024 SEMMCHRA Special Benefit Tax Levy to the Minnesota Dept of Revenue

Fiscal Impact:

Sets the final 2024 Special Benefit Property Tax levy for the debt service funding at 50,000.00

Background/Recommendation:

Original Agreement adopted by Board Resolution #2005-100 on June 28, 2005.

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

WABASHA COUNTY BOARD OF COMMISSIONERS

RESOLUTION NO.: 2023-153

Resolution approving the 2024 Southeastern Minnesota Multi-County Housing Redevelopment Special Benefit Tax Levy – City of Wabasha Housing Development

Whereas, The Wabasha County Board of Commissioners approved a Special Benefit Tax agreement dated July 1, 2005 with Southeastern Minnesota Multi-County Housing and Redevelopment Authority for the purpose of paying, in part the debt service on the Authority’s Tax Increment Revenue notes, Series 2005; and

Whereas, pursuant to this agreement, the Wabasha County Board of Commissioners does hereby certify the proposed special benefit property tax levy in the amount of \$50,000.00 for the Southeastern Minnesota Multi-County Housing Redevelopment Authority, a Special Taxing district.

Now, Therefore, be it Resolved by the Wabasha County Board of Commissioners instructs the County Auditor-Treasurer to certify the above 2024 proposed special benefit property tax levy for Southeastern Minnesota Multi-County Housing Redevelopment Authority to the Minnesota Department of Revenue.

Adopted this 19th day of September 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 10.0 C

Date:

September 19, 2023

Agenda Item:

Action Items – Adoption of proposed 2024 property tax levy (Note: the levy has to be adopted prior to adopting the budget)

Requested Action:

Instruct the Auditor/Treasurer to certify the proposed 2024 property tax levy to the MN Dept of Revenue.

TNT meeting will be December 12, 2023 at 6:00 pm in the County Board room.

Fiscal Impact:

Approves the 2024 proposed property tax levy at \$16,924,494. Increase over the 2023 adopted levy in the amount of \$651,260 (4.00%).

(Note: This amount does not include HRA)

Background/Recommendation:

Required by State Statute

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

WABASHA COUNTY BOARD OF COMMISSIONERS

Resolution No.: 2023-154

Resolution to Certify the 2024 Proposed Property Tax Levy

Whereas, the Wabasha County Board of Commissioners per Minnesota Statute 275.065 is required to adopt a proposed property tax levy for taxes payable year 2024 and certify that amount to the county auditor on or before September 30; and

Whereas, based upon the proposed budget the following amounts have been determined to be needed for the 2024 proposed property tax levy.

Fund	Levy
General Revenue Fund	8,968,846
SELCO	175,925
Public Health Fund	521,926
Road & Bridge Fund	3,360,955
Social Services Fund	1,896,668
Soil & Water Conservation District	125,500
Whitewater Watershed	4,982
Building Fund	34,261
Capital Equipment Fund	345,863
Criminal Justice Center-GO Jail Refunding Bonds 2016A	989,415
Criminal Justice Center-GO Capital Improvement Plan Bond 2017A	510,563
2024 Certified Proposed Levy	16,924,494

Now, Therefore, be it resolved by the Wabasha County Board of Commissioners that the County Auditor-Treasurer is to certify the 2024 proposed property tax levy to the Minnesota Department of Revenue as presented.

Adopted this 19th day of September 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

Board of Commissioners Wabasha County

Agenda Item Number: 10.0 D

Date:

September 19, 2023

Agenda Item:

Action Items – Adoption of 2024 proposed budget

Requested Action:

Approve the 2024 proposed budget.

Fiscal Impact:

Sets the 2024 proposed budget as presented.

Included in the budget are fund transfers as follows:

\$1,700 from the General Fund to the Regional Railroad fund

These are not considered advances or loans that are required to be paid back by the fund receiving.

Also included in the budget are projected fund balance changes listed below:

- \$86,637 Debt Service Fund – to cover 105% levy requirement per Bonds
- \$334,002 General Revenue Fund Reserves, \$1,663,891 ARPA Savings– Use of undesignated fund balance to balance the budget

Background/Recommendation:

Required by State Statute

Action:

Motion by: _____

Second by: _____

Vote Aye: _____

Vote Nay: _____

No action required: _____

**WABASHA COUNTY BOARD OF COMMISSIONERS
RESOLUTION No.: 2023-155**

Resolution to Approve the 2024 Proposed Budget

Whereas, the Wabasha County Board of Commissioners is required by Minnesota Statute 275.07 to adopt a proposed budget for 2024 and

Whereas, The Wabasha County Board of Commissioners have reviewed the fiscal year 2024 proposed budget as shown below; and

WABASHA COUNTY 2023-2024 DEPARTMENTAL PROPOSED BUDGET SUMMARY				
GENERAL REVENUE-FUND 1	2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
Total General Government:	\$4,918,382	\$5,360,448	\$592,108	\$614,053
Total Public Safety:	\$7,037,264	\$7,577,984	\$961,354	\$1,142,973
Total Sanitation:	\$214,177	\$214,534	\$108,757	\$94,834
Total Conservation of Natural Resources:	\$258,917	\$307,522	\$222,843	\$233,370
Total Economic Development:	\$3,750	\$3,750		
Total Other:	\$296,960	\$319,858	\$10,854,888	\$11,375,863
Total Culture & Recreation:	\$267,134	\$272,925	\$256,634	\$261,925
TOTAL GENERAL REVENUE-FUND 1	\$12,996,584	\$14,057,021	\$12,996,584	\$13,723,018
TOTAL MISC REVENUE-FUND 2	\$242,982	\$246,232	\$242,982	\$246,232
TOTAL OPIOID SETTLEMENT-FUND 10				\$29,274
TOTAL HUMAN SERVICES-FUND 11	\$5,616,944	\$5,964,815	\$5,616,944	\$5,964,816
TOTAL ROAD AND BRIDGE-FUND 13 & 14	\$12,654,217	\$19,295,103	\$12,654,217	\$17,631,213
TOTAL BUILDING FUND-FUND 15	\$45,770	\$34,500	\$45,770	\$34,500
TOTAL CAPITAL PROJECTS-FUND 17	\$485,263	\$348,280	\$485,263	\$348,280
TOTAL PUBLIC HEALTH-FUND 18	\$1,737,140	\$1,840,572	\$1,737,140	\$1,840,572
TOTAL DEBT SERVICE-FUND 30	\$1,417,550	\$1,423,750	\$1,520,916	\$1,510,387
TOTAL REGIONAL RAILROAD-FUND 50	\$2,993	\$2,995	\$2,993	\$2,995
TOTAL COUNTY	\$35,199,443	\$43,213,268	\$35,302,809	\$41,331,286
****INCLUDE HRA LEVY AMOUNTS				
**COUNTY RESERVES				\$334,002
**ARPA SAVINGS				\$1,663,891
**105% DEBT REQUIREMENT				-\$86,637.00
**DESIGNATED OPIOID SETTLEMENT				-\$29,274.00
				\$43,213,268

Whereas, the Wabasha County Board of Commissioners has considered the duties of each and every office, department and agency and the experience, qualifications and performance of employees, elected officials and appointed employees in the development of this budget; and

Whereas, the proposed 2024 Department Budgets are summarized in Attachment A; and

Whereas, capital expenditures included in the 2024 proposed budget shall be made only after approval of the Board of Commissioners per the County Purchasing Policy.

Now, Therefore, be it Resolved by the Wabasha County Board of Commissioners that the 2024 Wabasha County proposed Budget is adopted as presented.

Adopted this 19th day of September 2023 by the Wabasha County Board of Commissioners.

By: _____
Its Board Chair

Attest:

By: _____
Its Board Clerk

WABASHA COUNTY 2023-2024 DEPARTMENTAL PROPOSED BUDGET SUMMARY

GENERAL REVENUE-FUND 1		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
General Government					
County Commissioners:		\$219,015	\$230,015	\$3,500	\$3,400
Courts:		\$105,000	\$95,000	\$1,723	\$0
Drug Court:		\$63,888	\$58,100	\$58,100	\$58,100
County Administration:		\$471,549	\$483,181		
County Auditor/Treasurer:		\$304,151	\$219,553	\$44,875	\$43,950
Finance:		\$440,949	\$449,546		
Data Processing:		\$557,316	\$561,836		
Elections:		\$14,248	\$208,940	\$2,000	\$27,403
County Attorney:		\$598,810	\$606,811	\$79,600	\$79,400
County Assessor:		\$573,050	\$607,424		
County Recorder:		\$217,001	\$299,044	\$262,000	\$255,000
County Surveyors:		\$10,000	\$30,000		
Planning And Zoning:		\$382,782	\$463,632	\$92,310	\$97,300
GIS:		\$145,175	\$147,510	\$16,000	\$14,500
Buildings - Operations:		\$548,689	\$588,754		\$0
Veterans Services:		\$191,126	\$194,712	\$10,000	\$10,000
License Bureau:		\$75,633	\$116,390	\$22,000	\$25,000
Total General Government:		\$4,918,382	\$5,360,448	\$592,108	\$614,053
Public Safety					
County Sheriff:		\$3,024,640	\$3,091,349	\$425,952	\$439,183
Boat & Water Safety:		\$14,384	\$14,997	\$14,384	\$14,997
Medical Examiner:		\$68,500	\$70,000		
County Jail:		\$2,124,746	\$2,343,608	\$47,600	\$46,500
Court Services:		\$742,372	\$744,759	\$200,742	\$323,319
Emergency Management Services:		\$124,722	\$165,085	\$81,476	\$79,657
E-911:		\$101,000	\$171,217	\$191,200	\$239,317
Dispatch Center:		\$836,900	\$976,969		
Total Public Safety:		\$7,037,264	\$7,577,984	\$961,354	\$1,142,973
Sanitation					
Household Hazardous Waste Grant:		\$16,300	\$11,500	\$1,267	\$1,267
Score Grant:		\$101,400	\$100,800	\$73,490	\$63,692
Community/Env Health:		\$96,477	\$102,234	\$34,000	\$29,875
Total Sanitation:		\$214,177	\$214,534	\$108,757	\$94,834
Conservation of Natural Resources					
Cons & Natural Resources:		\$126,383	\$138,469	\$174,360	\$174,000
County Extension:		\$63,057	\$88,393	\$70	\$70
Dnr Shoreland Grant:		\$3,518	\$4,803	\$3,518	\$4,803
Local Water Management Grant:		\$14,177	\$19,354	\$14,177	\$19,354
Wetland Conservation Grant:		\$12,118	\$16,543	\$12,118	\$16,543
SSTS Grant:		\$18,600	\$18,910	\$18,600	\$18,600
Agricultural Society/County Fair:		\$20,000	\$20,000		
Agricultural Inspector:		\$1,064	\$1,050		
Total Conservation of Natural Resources:		\$258,917	\$307,522	\$222,843	\$233,370

Economic Development					
	Economic Development -Other:	\$3,750	\$3,750		
Total Economic Development:		\$3,750	\$3,750		
Other					
	Non- Departmental:	\$296,960	\$319,858	\$10,854,888	\$11,375,863
Total Other:		\$296,960	\$319,858	\$10,854,888	\$11,375,863
Culture & Recreation					
	Culture And Recreation:	\$95,500	\$97,000	\$85,000	\$86,000
	Southeastern Library Cooperative (SELCO):	\$171,634	\$175,925	\$171,634	\$175,925
Total Culture & Recreation:		\$267,134	\$272,925	\$256,634	\$261,925
TOTAL GENERAL REVENUE FUND		\$12,996,584	\$14,057,021	\$12,996,584	\$13,723,018

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
MISC REVENUE FUND - FUND 2					
General Government					
	Southeastern Mn Hra:	\$112,500	\$115,750		
Total General Government:		\$112,500	\$115,750		
Conservation of Natural Resources					
	Total	\$125,500	\$125,500		
	Whitewater Watershed District:	\$4,982	\$4,982		
	Taxes			\$242,982	\$246,232
TOTAL MISC REVENUE FUND		\$242,982	\$246,232	\$242,982	\$246,232

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
OPIOID SETTLEMENT - FUND 10					
General Government					
	Total Non-Departmental:				\$29,274
TOTAL OPIOID SETTLEMENT					\$29,274

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
HUMAN SERVICES-FUND 11					
Human Services					
	Social Services - Income Maintenance:	\$2,212,932	\$2,187,517	\$2,212,932	\$2,187,517
	Social Services - Ind & Fam Social Svcs:	\$3,404,012	\$3,777,298	\$3,404,012	\$3,777,299
TOTAL HUMAN SERVICES FUND		\$5,616,944	\$5,964,815	\$5,616,944	\$5,964,816

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
ROAD AND BRIDGE-FUND 13					
Road and Bridge					
	Highway - Administration:	\$374,551	\$388,050		
	Highway - Engineering/Construction:	\$7,285,432	\$14,366,653	\$5,835,000	\$8,304,345
	Highway - Maintenance:	\$3,535,790	\$3,126,979	\$2,359,000	\$2,382,000
	Highway - Equipment Maintenance & Shop:	\$1,458,444	\$1,413,421		
	Non- Departmental:			\$2,920,217	\$3,804,868
		\$12,654,217	\$19,295,103	\$11,114,217	\$14,491,213
ROAD AND BRIDGE-FUND 14					

Road and Bridge					
	Total Highway - Engineering/Construction:			\$1,000,000	\$2,400,000
	Total Non- Departmental:			\$540,000	\$740,000
				\$1,540,000	\$3,140,000
TOTAL ROAD AND BRIDGE		\$12,654,217	\$19,295,103	\$12,654,217	\$17,631,213

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
BUILDING FUND - FUND 15					
Building Fund					
	Building And Grounds Improvements:	\$33,770	\$0		
	Building Improvements - Courthouse:		\$0		
	Building Improvements - CJC:		\$20,000		
	Building Improvements - Services Bldg:	\$12,000	\$12,000		
	Building Improvements - Highway:		\$2,500		
	Non- Departmental:			\$45,770	\$34,500
TOTAL BUILDING FUND		\$45,770	\$34,500	\$45,770	\$34,500

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
CAPITAL PROJECTS - FUND 17					
Capital Projects					
	County Administration:		\$11,861		
	Data Processing:	\$350,000	\$301,000		
	Elections:	\$5,000	\$8,000		
	County Sheriff:	\$100,263	\$3,800		
	County Jail:	\$30,000	\$23,619		
	Non- Departmental:			\$485,263	\$348,280
TOTAL CAPITAL PROJECTS		\$485,263	\$348,280	\$485,263	\$348,280

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
PUBLIC HEALTH - FUND 18					
Public Health:					
		\$1,737,140	\$1,840,572	\$1,737,140	\$1,840,572
TOTAL PUBLIC HEALTH		\$1,737,140	\$1,840,572	\$1,737,140	\$1,840,572

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
DEBT SERVICE - FUND 30					
Debt Service					
	G O Jail Refunding Bonds 2016A	\$939,400	\$942,400	\$1,004,284	\$996,281
	Go Capital Improvement Plan Bonds 2017A	\$478,150	\$481,350	\$516,632	\$514,106
TOTAL DEBT SERVICE		\$1,417,550	\$1,423,750	\$1,520,916	\$1,510,387

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
REGIONAL RAILROAD - FUND 50					
	Culture & Recreation:	\$1,293	\$1,295	\$1,293	\$1,295
	Regional Railroad Authority:	\$1,700	\$1,700	\$1,700	\$1,700
TOTAL REGIONAL RAILROAD		\$2,993	\$2,995	\$2,993	\$2,995

		2023 BUDGETED EXPENSES	2024 PROPOSED EXPENSES	2023 BUDGETED REVENUE	2024 PROPOSED REVENUE
TOTAL COUNTY					

TOTAL COUNTY	\$35,199,443	\$43,213,268	\$35,302,809	\$41,331,286
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****INCLUDE HRA LEVY AMOUNTS

**COUNTY RESERVES				\$334,002
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**ARPA SAVINGS				\$1,663,891
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**105% DEBT REQUIREMENT				-\$86,637.00
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**DESIGNATED OPIOID SETTLEMENT				-\$29,274.00
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				\$43,213,268
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