

**STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION  
And  
CITY OF NORTHFIELD  
ROUTINE MAINTENANCE  
AGREEMENT**

<b>Routine Maintenance Performed by the City on:</b>	<b>Total Agreement Amount</b>
	<u>\$26,026.98</u>
Trunk Highway Number (T.H.): <u>3</u>	<b>Amount Encumbered (Fiscal Year 2018)</b>
Trunk Highway Number (T.H.): <u>19</u>	<u>\$12,884.65</u>
Trunk Highway Number (T.H.): <u>246</u>	<b>Amount Encumbered (Fiscal Year 2019)</b>
	<del>\$13,222.71</del> <b>13,142.33</b> <i>Per Page 3</i>

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

**Recitals**

1. Under Minnesota Statutes § 161.38, subdivision 3, the State and the City wish to enter into an agreement that will provide routine maintenance performed by the City on certain trunk highway(s) located within the City limits; and
2. The State will reimburse the City for the maintenance performed; and
3. Minnesota Statutes § 161.20, subdivision 2, authorizes the Commissioner of Transportation to make agreements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

**Agreement**

**1. Term of Agreement; Survival of Terms**

- 1.1. *Effective date.* This Agreement will be effective on July 1, 2017, or the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2, whichever is later. The City cannot invoice the State for any work completed prior to full execution of this Agreement and encumbrance of State funds
- 1.2. *Expiration date.* This Agreement will expire on June 30, 2019 or when all obligations have been satisfactorily fulfilled, whichever occurs first.
- 1.3. *Survival of terms.* All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 7. Liability; Worker Compensation Claims; Insurance; 9. State Audits; 10. Government Data Practices; 11. Governing Law; Jurisdiction; Venue; and 13. Force Majeure.

**2. Agreement Between the Parties**

**2.1. Maintenance by the City**

- A. *Location.* The City will perform routine maintenance of the following portions of the trunk highway system within the Corporate City limits:
  - i. On Trunk Highway 3 from the south junction with Trunk Highway 19, northeasterly to St. Olaf Avenue, a total distance of 0.42 miles consisting of 1.68 lane miles under Control Section 6612.

- ii. On Trunk Highway 19 from Armstrong Road, easterly and northeasterly to the east entrance of Carleton College Farm, a total distance of 1.70 miles consisting of 3.46 lane miles under Control Sections 6603 and 6604.
- iii. On Trunk Highway 246 from the junction with Trunk Highway 3 easterly and southerly to Marvin Lane, a total distance of 0.71 miles consisting of 1.42 lane miles under Control Section 6614.

**B. Total Mileage.** The total trunk highway mileage for the routine maintenance performed under this Agreement is 2.83 miles consisting of 6.54 lane miles.

**2.2. Maintenance Responsibilities (Reimbursable)** The City will perform the following routine maintenance duties to the satisfaction of the State's District Maintenance Engineer at Owatonna, MN. All materials used in the performance of said routine maintenance must comply with the State's current "Standard Specifications for Construction".

- i. Maintain the trunk highway(s) to keep them smooth and in good repair for the passage of traffic and free from all obstructions and impediments to traffic. This includes all necessary preventative maintenance to preserve the roadbed in its present condition, such as proper and timely crack sealing of the surface, restoration of utility openings, and all necessary patching of the roadbed.
- ii. Keep the traveled roadway free and clear of ice, snow, litter, debris, and any other foreign matter of any nature.
- iii. Sand, salt or chemically treat the traveled roadway as necessary to provide for safe public travel.
- iv. Maintain the roadside vegetation and landscaping in a neat and orderly fashion by mowing, trimming, and providing for noxious weed control according to Minnesota Statutes § 160.23.
- v. Dispose of all snow, litter, debris and any other foreign matter collected upon, along or adjacent to the trunk highway proper and within the trunk highway right-of-way limits and State roadside development facilities (i.e. rest areas) according to all applicable laws, ordinances, and regulations.
- vi. Maintain roadway markings, traffic control devices and safety devices in operating and usable condition. The State will place, install and maintain at all times suitable guide signs, warning signs, route markers, and center lines for the guidance of traffic on the trunk highway(s).
- vii. Furnish all labor, materials, tools, equipment and any other necessary items to perform the routine maintenance duties covered under this agreement.

**2.3. Other Maintenance Responsibilities; Agreements (Non-reimbursable)** The City is responsible for performing the following routine maintenance duties, without cost or expense to the State:

- i. Keep the pedestrian user areas of the walkways, medians, pedestrian ramps and curb and gutter free and clear of ice, snow, litter, debris, and any other foreign matter of any nature.
- ii. Sand, salt or chemically treat, and repair joints and panels in the pedestrian user areas of the walkways, medians, pedestrian ramps, and curb and gutter.
- iii. Maintain any other facilities located within the trunk highway right of way that are covered under other agreements or Limited Use Permits. This Agreement does not supersede any other agreements between the parties.

#### **2.4. Traffic Control**

**A.** The City may partially block the trunk highway to perform the routine maintenance under this Agreement. In cases of emergency, the City may block the trunk highway and prevent passage of traffic thereon. At no time, however, may the City continue to obstruct the free passage of traffic on the trunk highway for a longer period of time than is reasonably required for making the necessary repairs.

- B. The City may close the trunk highway to travel as necessary for the repair or installation of water or gas mains, electric or telephone cables, or sewers. The City must give the State ten days written notice and obtain a permit before such repairs or installation, except for extraordinary emergencies.
- C. The City will not close any portion of the trunk highway to traffic for reasons other than those set forth above and in no event for a time longer than necessary to complete the required maintenance work. In the event of the total blocking or closing of the trunk highway, the City must provide a suitable detour during such time.
- D. The City must conduct all trunk highway partial and total closures in conformance with the current Minnesota Manual on Uniform Traffic Control Devices (MNMUTCD) and Temporary Traffic Control Zone Layouts - Field Manual.

**2.5. Maintenance of Route Change of Trunk Highway.** If there is a change in the routing of the trunk highway, a substitution of a new route for the trunk highway, or a variation from the present location of the trunk highway, the City will maintain the new trunk highway in accordance with this Agreement after such changes, substitution, or variation and will be paid the amount to which it is entitled under this Agreement. If the State relocates any portion of the trunk highway and the roadway reverts to the City, the City will maintain the reverted portion at its sole expense.

**2.6. City's Failure to Adequately Maintain.** If the City fails to perform any of the routine maintenance according to the terms of this Agreement, the State may reduce the amount payable to the City by either an amount judged to be fair and equitable for such routine maintenance, or, if the State performs such routine maintenance, by the actual cost of the maintenance performed by the State in accordance with this Agreement.

**2.7. Extraordinary Maintenance.** The City is not required to perform any extraordinary maintenance, construction or reconstruction under this Agreement. If the City is willing to perform extraordinary maintenance, and the State's District Maintenance Engineer at Owatonna, MN approves such performance, the parties to this Agreement must enter into a separate agreement therefore. No expenses may be incurred on the extraordinary maintenance prior to the full execution of such an agreement as governed by Minnesota Statutes § 16A.15, subdivision 3.

**2.8. Inspection of City Performed Maintenance.** Authorized representatives of the City and the State will jointly inspect the involved trunk highways on a regular basis during the life of this Agreement to determine if the routine maintenance is being performed according to the terms of this agreement.

### 3. Basis of State Cost

The State's payment to the City for routine maintenance will be based on the number of lane miles times the dollar value to be paid per lane mile per State fiscal year. Fractional miles (to the hundredth of a mile) will be used in computing the amounts payable under this Agreement.

### 4. State Cost and Payment by the State

**4.1. State Cost.** \$26,026.98 is the State's estimated total cost for the routine maintenance covered under this Agreement based on the data below:

**A. Fiscal Year 2018 :** \$12,884.65 = 6.54 lane miles times \$1,970.13 per lane mile

**B. Fiscal Year 2019 :** \$13,142.33 = 6.54 lane miles times \$2,009.53 per lane mile

**4.2. Conditions of Payment.** The State will make a lump sum payment to the City for routine maintenance performed, on a quarterly basis, on or after September 30, December 31, March 31, and June 30 of each State fiscal year after the following conditions have been met:

**A.** Encumbrance by the State of the necessary funds for the routine maintenance payment amount.

**B.** Execution of this Agreement and transmittal to the City.

- C. The State's receipt of an invoice from the City for the applicable quarter, signed by the State's authorized representative attesting that all routine maintenance has been performed in full conformity with this Agreement.
- i. The invoice must indicate the amount, if any, deducted from the estimated quarterly payment under Article 2.5 and Article 2.6 of this Agreement.
  - ii. The City will keep records and accounts that enable it to provide the State, when requested, with documentation itemizing the labor, materials and equipment used to perform the routine maintenance.

## 5. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

### 5.1. The State's Authorized Representative will be:

Name/Title: Don Nosbisch, Maintenance Supervisor (or successor)  
 Address: 1010 21<sup>st</sup> Avenue Northwest, Owatonna, MN 55060  
 Telephone: 507-446-5504  
 E-Mail: Donald.nosbisch@state.mn.us

### 5.2. The City's Authorized Representative will be:

Name/Title: Deb Little, City Clerk (or successor)  
 Address: 801 Washington Street, Northfield, MN 55057-2598  
 Telephone: 507-645-3001  
 E-Mail: Deb.little@ci.northfield.mn.us

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

- 6.1. *Assignment.*** Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 6.2. *Amendments.*** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 6.3. *Waiver.*** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 6.4. *Contract Complete.*** This Agreement contains all prior negotiations and agreements, with respect to routine maintenance, between the State and the City. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

## 7. Liability; Worker Compensation Claims; Insurance

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

7.2. Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

7.3. The City may require its contractor to carry insurance to cover claims for damages asserted against the City's contractor.

**8. Nondiscrimination**

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

**9. State Audits**

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

**10. Government Data Practices**

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

**11. Governing Law; Jurisdiction; Venue**

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

**12. Termination**

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

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

**13. Force Majeure**

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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**STATE ENCUMBRANCE VERIFICATION**

Individual certifies that funds have been encumbered as required by Minnesota Statutes § 16A.15 and 16C.05.

Signed: \_\_\_\_\_

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

SWIFT Purchase Order: \_\_\_\_\_

**CITY OF NORTHFIELD**

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

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

Title: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

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

**DEPARTMENT OF TRANSPORTATION**

Recommended for Approval:

By: \_\_\_\_\_  
(Area Maintenance Engineer)

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

Approved:

By: \_\_\_\_\_  
(District Engineer)

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

**COMMISSIONER OF ADMINISTRATION**

By: \_\_\_\_\_  
(With delegated authority)

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

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

**CITY OF NORTHFIELD**

**RESOLUTION**

IT IS RESOLVED that the City of Northfield enter into MnDOT Agreement No. 1028212 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for routine maintenance by the City upon, along and adjacent to Trunk Highway No. 3, No. 19 and No. 246, the limits of which are defined in said Agreement.

IT IS FURTHER RESOLVED that the \_\_\_\_\_ and the \_\_\_\_\_  
(Title) are authorized to execute the Agreement and any amendments to the Agreement.

**CERTIFICATION**

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Council of the City of Northfield at an authorized meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

NOTARY  
STAMP

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

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

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