

TODD COUNTY BOARD OF COMMISSIONERS

Regular Board Meeting Agenda

Date: September 7, 2010

Time: 9:00 AM

Meeting to be held in the County Board Room, Main Street Government Center, 347 Central Avenue,
Long Prairie, Minnesota.

Item #		Approx. Time
1	Call to Order and Roll Call	9:00
2	Pledge of Allegiance	9:01
3	Amendments to the Agenda	9:02
4	Potential Consent Items	9:03
4.1	Commissioner Warrants	
4.2	Auditor Warrants	
4.3	Approval Of The Sale of Tax Forfeited Land	
4.4	Approval of August 31, 2010 Minutes	
5	Management and Operations Presentation	9:04
6	Discussion - Todd County Agriculture Society Budget	9:15
7	Todd County Public Health	9:25
7.1	SHIP Communications Contract	
8	Todd County ELRM	9:30
	Approve and Support Application to BWSR for Septic System inventory	
8.1	and enforcement grant	
9	Todd County Public Works	9:32
9.1	State Transportation Fund for SAP 77-621-16	
9.2	State Transportation Fund for SAP 77-650-03	
	Transfer excess State Aid Municipal Construction funds to State Aid	
9.3	Regular Construction Funds	
9.4	Closed Session (Iverson-Reuvers)	
10	Todd County Sheriffs Department	10:15
10.1	800 Mhz	
11	Management and Operations Presentation	10:30
12	Todd County Administrator	10:45
12.1	Setting the Levy	
13	Standing Reports	
13.1	Administrator's Report	
13.2	Commissioners' Report	
	Adjourn	

The County Board Meeting will begin promptly at the prescribed time. The County Board reserves the right to alter the order of the agenda items and the amount of time allowed for an item based on business needs.

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Commissioner Warrants	
Date of Meeting: Sept. 7, 2010	Total time requested: 1 minute
Department Requesting Action: Auditor-Treasurer	
Presenting Board Action/Discussion at Meeting:	
Background <input type="checkbox"/> Supporting Documentation enclosed	
Audit listing has been forwarded to Commissioners for review	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
To approve Commissioner warrants #25543 thru 25704 in the amount of \$132,408.46	
Financial Implications: \$	Comments
Funding Source:	
Budgeted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures STATE OF MINNESOTA } COUNTY OF TODD } I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:	Seal
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------

VENDOR NAME	AMOUNT
ALEX POWER EQUIPMENT	2,315.53
AMERICAN COMMUNICATIONS INC	5,000.00
BRAATEN SAND & GRAVEL	3,672.83
FLEET SERVICES DIVISION	7,236.03
GEO-COM CORP	30,560.92
JOHNSTON FARGO CULVERT	14,833.82
LIBERTY TIRE RECYCLING SERVICE	17,370.20
LONG PRAIRIE OIL COMPANY	4,100.84
TODD CO MIS DEPT	6,049.00
153 PAYMENTS LESS THAN \$2000	41,269.29
FINAL TOTAL.....	\$132,408.46

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): August Auditor Warrants	
Date of Meeting: Sept. 7, 2010	Total time requested: 1 Minute
Department Requesting Action: Auditor-Treasurer	
Presenting Board Action/Discussion at Meeting:	
Background <input type="checkbox"/> Supporting Documentation enclosed	
Audit listing has been forwarded to Commissioners for review	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
To approve August, 2010 Auditor Warrant # 214650 thru 214810 in the amount of \$3,407,435.70	
Financial Implications: \$	Comments
Funding Source:	
Budgeted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures STATE OF MINNESOTA } COUNTY OF TODD } I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:	Seal
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------

VENDOR NAME	AMOUNT
AMERICAN LEGION POST 12	8,213.00
COMPUTER PROFESSIONALS	3,761.30
KNIFE RIVER CORP	1,863,986.08
CURTIS STOECKEL	5,332.50
ANOKA CO GOVERNMENT CENTER	17,638.50
CARD SERVICES COBORNS	2,746.42
CARDMEMBER SERVICE	2,732.96
MINNESOTA POWER	11,069.81
RAINBOW RIDER	4,000.00
TOWN OF FAWN LAKE	82,128.37
WIDSETH SMITH NOLTING INC	62,063.12
AMERICAN HERITAGE	3,193.32
CONTEGRITY GROUP INC	3,000.00
CORBIN PICKAR EXC INC	10,675.00
MULCHING MANIA	3,333.00
ZAYO ENTERPRISE NETWORKS	3,234.20
DEPT OF EMPLOYMENT AND ECON DE	4,486.96
JOHNSON CONTROLS	4,560.00
KNIFE RIVER CORP	352,162.03
MN DEPT OF FINANCE	5,879.50
PEERY CONSTRUCTION	2,828.50
TODD SOIL & WATER CONS DIST	47,328.00
AMERICAN HERITAGE BANK	47,488.11
CITY OF PERHAM	37,509.12
GENE-O'S FAMILY RESTAURANT	6,376.50
MORRISON COUNTY	24,922.16
RESOURCE TRAINING AND SOLUTION	150,477.50
TODD COUNTY DAC	3,410.00
TOM'S BACKHOE SERVICE, INC	553,158.15
33 PAYMENTS LESS THAN \$2000	79,741.59
FINAL TOTAL.....	\$3,407,435.70

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Approval of Tax Forfeited Lands	
Date of Meeting: Sept 7, 2010	Total time requested: 2 minutes
Department Requesting Action: Auditor-Treasurer	
Presenting Board Action/Discussion at Meeting: Karen Busch	
Background <input checked="" type="checkbox"/> Supporting Documentation enclosed	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input checked="" type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion: Approve the Resolution requesting approval from the Minn. Dept. of Natural Resource for the Sale of Tax forfeited Lands.	
Financial Implications: \$0	Comments
Funding Source:	
Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures

STATE OF MINNESOTA }
 COUNTY OF TODD }

I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:

Seal

TODD COUNTY BOARD OF COMMISSIONERS

Resolution Requesting Approval from the Minnesota Department of Natural Resources for the Sale of Tax Forfeited Lands

WHEREAS, the County Board of Commissioners of the County of Todd, State of Minnesota, desires to offer for sale certain parcels of land that have forfeited to the State of Minnesota for nonpayment of taxes, and

WHEREAS, said parcels of land have been viewed by the County Board of Commissioners and have been classified as nonconservation lands as provided for in Minnesota Statutes 282.01.

NOW, THEREFORE, BE IT RESOLVED, that the Todd County Board of Commissioners hereby certifies that all parcels of land on the attached list have been viewed and comply with the provisions of Minnesota Statutes 85.012, 92.461, 282.01, Subd. 8, and 282.018, and other statutes that require the withholding of tax-forfeited lands from sale. [Unless otherwise stated.] The Todd County Board of Commissioners hereby certifies that the Soil and Water Conservation Board (of the district in which the land is located) has reviewed the attached land sale list and identified any and all nonforested marginal land and wetland.

BE IT FURTHER RESOLVED that the Todd County Board of Commissioners hereby requests approval from the Minnesota Department of Natural Resources for the sale of said lands.

Adopted this 7th day of September 2010.

David Kircher, Todd County Board Chairperson

Nate Burkett, Todd County Administrator

(Seal)

Todd County Board of Commissioners	Yes	No	Other
Mark Blessing	_____	_____	_____
Randy Neumann	_____	_____	_____
Gerald Ruda	_____	_____	_____
Gary Kneisl	_____	_____	_____
David Kircher	_____	_____	_____

Motion _____ Adopted _____

Seconded _____

**Parcels that Forfeited
to State of Minnesota
May 10, 2010**

Parcel Number	Previous Owner(s) Name	Legal Description	Comments
03-0023600	Carole M Austing	Part of Govt Lots 1 & 2 lying E'ly of high water line as indicated on Plat of Bitz Subd of Sec 26, Twp 127, Rng 33	Pull - lakeshore of Little Birch Lake
08-0108900	Basil & Karen Riley	Lots 25 & 26 of Block 12 in Fawn Lake Meadows	
08-0111400	Hyacinth & Evelyn Stevens	Lot 50 of Block 12 in Fawn Lake Meadows	
08-0111500	Hyacinth & Evelyn Stevens	Lot 51 of Block 12 in Fawn Lake Meadows	
08-0116800	Arnold H & Marie Rollog	Lot 12 of Block 13 in Fawn Lake Meadows	
08-0119400	John & Ikuko Wylie	Lot 38 of Block 13 in Fawn Lake Meadows	
08-0141300	Mikhail A & Vera A Pavlov	Lot 32 of Block 6 in Pine Island Heights	
19-0050000	W Verne & Edith H Ulrich	Lot 8 of Block 6 in Sylvan Shores Villa	
20-0009900	Judith Ellis	SW4 SE4, N of Co Rd 38 of Sec 10, Twp 129, Rng 34	Pull - Long Prairie River
36-0006601	Sophie Barber & Frederick Wirth	Part NE4 NW4, desc as: Beg at pt 506.50' N & 900' E of SW cor of NE4, NW4, E 50', N 353.37' to S line of Hwy 27, SW'ly along Hwy to pt N of pt of beg, S to beg.	

08-0145700	Mary A Brandt	Lot 76 of Block 6 in Pine Island Heights	Stephanie Brandt
17-0024100	Ronald K & Viola Muenzhuber	E2 of S 10 ac of E2 SE4 of Sec 22, Twp 128, Rng 34	Arlan Muenzhuber
38-0042500	Thomas Lambert	Lot 5 of Block 9 in Drake & Bartraw Addition	Confession

**Parcels that Forfeited
to State of Minnesota
May 10, 2010**

Parcel Number	Previous Owner(s) Name	Legal Description
03-0023600	Carole M Austing	Part of Govt Lots 1 & 2 lying E'ly of high water line as indicated on Plat of Bitz Subd of Sec 26, Twp 127, Rng 33
08-0108900	Basil & Karen Riley	Lots 25 & 26 of Block 12 in Fawn Lake Meadows
08-0111400	Hyacinth & Evelyn Stevens	Lot 50 of Block 12 in Fawn Lake Meadows
08-0111500	Hyacinth & Evelyn Stevens	Lot 51 of Block 12 in Fawn Lake Meadows
08-0116800	Arnold H & Marie Rollog	Lot 12 of Block 13 in Fawn Lake Meadows
08-0119400	John & Ikuko Wylie	Lot 38 of Block 13 in Fawn Lake Meadows
08-0141300	Mikhail A & Vera A Pavlov	Lot 32 of Block 6 in Pine Island Heights
19-0050000	W Verne & Edith H Ulrich	Lot 8 of Block 6 in Sylvan Shores Villa
20-0009900	Judith Ellis	SW4 SE4, N of Co Rd 38 of Sec 10, Twp 129, Rng 34
36-0006601	Sophie Barber & Frederick Wirth	Part NE4 NW4, desc as: Beg at pt 506.50' N & 900' E of SW cor of NE4, NW4, E 50', N 353.37' to S line of Hwy 27, SW'ly along Hwy to pt N of pt of beg, S to beg.

**Parcels that Forfeited
to State of Minnesota
May 10, 2010**

Parcel Number	Legal Description	Comments
03-0023600	Part of Govt Lots 1 & 2 lying E'ly of high water line as indicated on Plat of Bitz Subd of Sec 26, Twp 127, Rng 33	Pull - lakeshore of Little Birch Lake
08-0108900	Lots 25 & 26 of Block 12 in Fawn Lake Meadows	
08-0111400	Lot 50 of Block 12 in Fawn Lake Meadows	
08-0111500	Lot 51 of Block 12 in Fawn Lake Meadows	
08-0116800	Lot 12 of Block 13 in Fawn Lake Meadows	
08-0119400	Lot 38 of Block 13 in Fawn Lake Meadows	
08-0141300	Lot 32 of Block 6 in Pine Island Heights	
19-0050000	Lot 8 of Block 6 in Sylvan Shores Villa	
20-0009900	SW4 SE4, N of Co Rd 38 of Sec 10, Twp 129, Rng 34	Pull - Long Prairie River
36-0006601	Part NE4 NW4, desc as: Beg at pt 506.50' N & 900' E of SW cor of NE4, NW4, E 50', N 353.37' to S line of Hwy 27, SW'ly along Hwy to pt N of pt of beg, S to beg.	

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Approve August 31, 2010 Minutes	
Date of Meeting: September 7, 2010	Total time requested: 1 Min
Department Requesting Action: Administration	
Presenting Board Action/Discussion at Meeting: County Administrator	
Background <input checked="" type="checkbox"/> Supporting Documentation enclosed	
Minute	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input checked="" type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
Approval of the August 31, 2010 Minutes without changes	
Financial Implications: \$0	Comments
Funding Source:	
Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
STATE OF MINNESOTA } COUNTY OF TODD }	
I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:	
Seal	

TODD COUNTY BOARD OF COMMISSIONERS

*Minutes of the Meeting of the Todd County Board of Commissioners held on
August 31, 2010*

Call to Order

The Todd County Board of Commissioners met in the Commissioner's Board Room in the City of Long Prairie, MN on the 31st day of August at 9:00 A. M. The meeting was called to order by Chairperson Kircher with all members present. The meeting was opened with the Pledge of Allegiance.

Approval of Agenda

On motion by Neumann and second by Blessing, the following motion was introduced and adopted by unanimous vote to approve the agenda as amended with the following changes:

1. Removal of Agenda Item 6.3 Weed/Bush Control Project Ditch 19
2. Introduction of new staff in the Todd County Soil & Water District
3. Motion to send letter of support to Minnesota Regional Bio-energy CAP proposal PI
4. Resolution establishing a policy to waive fees if a permit is necessary due to an "Act of God"

Routine Business

On motion by Ruda and second by Kneisl, the following motion was introduced and adopted by unanimous vote: To approve the July 20, 2010 minutes without corrections.

On motion by Ruda and second by Neumann, the following motion was introduced and adopted by unanimous vote: To approve the August 17, 2010 minutes without corrections.

Todd County Public Works

On motion by Blessing and second by Kneisl, the following resolution was introduced and adopted by unanimous vote:

APPROVAL OF AGENCY AGREEMENT NO. 90932 AMENDMENT #1 FOR THE PRELIMINARY ENGINEERING PHASE OF THE NORTH/SOUTH CORRIDOR WITH RAILROAD OVERPASS PROJECT IN THE CITY OF STAPLES (SP 77-030-02)

WHEREAS, the Minnesota Department of Transportation has an Agreement with Todd County identified as MnDOT Agreement #90932 for the funding of the Preliminary Engineering Phase of the North/South Corridor with Railroad Overpass Project in the City of Staples (SP 77-030-02) and;

WHEREAS, Agreement #90932 is being amended to reduce the amount of funding available for preliminary engineering and redirecting it for the use of purchasing right of way for the project under SP 77-596-01/SP 77-596-03/SP 77-596-04.

NOW, THEREFORE BE IT RESOLVED, that pursuant to Minnesota Statute Section 161.36, the Commissioner of Transportation be appointed as Agent of the County of Todd to accept as its agent, federal aid funds which may be made available for eligible transportation related project, and;

BE IT FURTHER RESOLVED, the County Board Chairman and the County Administrator are hereby authorized and directed for and on behalf of the County to execute and enter into an agreement with the Commissioner of Transportation prescribing the terms and conditions of said federal aid participation as

TODD COUNTY BOARD OF COMMISSIONERS

set forth and contained in “Minnesota Department of Transportation Agency Agreement No. 90932”, a copy of which said agreement was before the County Board and which is made a part hereof by reference.

On motion by Neumann and second by Ruda, the following resolution was introduced and adopted by unanimous vote:

AWARD OF BRIDGE CONTRACT – SAP 77-621-16 & SAP 77-650-03 (BOX CULVERT INSTALLATION PROJECTS)

WHEREAS, Sealed Bids were received on August 18th, 2010 by the Todd County Public Works Director/Engineer and Auditor/Treasurer for SAP 77-621-16 & SAP 77-650-03, said construction projects for box culvert installations on County State Aid Highway 21 and County State Aid Highway 50 in Todd County, and;

WHEREAS, Sealed bids were received from Central Specialties, Inc. of Alexandria, Minnesota (\$480,683.77), Landwehr Construction, Inc. of Saint Cloud, Minnesota (\$492,417.87), Marvin Tretter, Inc. of Pierz, Minnesota (\$520,869.40), Gladen Construction, Inc. of LaPorte, Minnesota (\$558,564.00), J.R. Ferche, Inc. of Rice, Minnesota (\$562,861.70), and Midwest Contracting of Marshall, Minnesota (\$594,733.25).

NOW, THEREFORE BE IT RESOLVED, That the Board of Commissioners of Todd County does hereby accept and award the contract for the above said construction projects to Central Specialties, Inc. of Alexandria, Minnesota based on their low bid of \$480,683.77.

Todd County Ditch & Ag Inspector

On a motion by Blessing and second by Ruda, the following motion was introduced and adopted by unanimous vote: To acknowledge receipt of the Hold Harmless Agreement Petition to replace ditch lateral with tile – County Ditch 33 Reynolds Township Sections 32/33.

On a motion by Blessing and second by Ruda, the following motion was introduced and adopted by unanimous vote: To acknowledge receipt of petition requesting maintenance on a portion of County Ditch 28 located in Village Township Section 5.

Todd County Public Health

On a motion by Blessing and second by Kneisl, the following motion was introduced and adopted by unanimous vote: To authorize two Public Health Nurses to attend out of state training for the Nurse Family Partnership program and approves the MDH grant to pay for this.

On a motion by Ruda and second by Neumann, the following motion was introduced and adopted by unanimous vote: To accept the Nurse Family Partnership National office approval of the Great Moms Best Babies Morrison Todd NFB project.

TODD COUNTY BOARD OF COMMISSIONERS

Management and Operations Presentations

The Todd County Public Health, Todd County Social Service Department and Todd County Courts gave their Management & Operation presentations for the 2011 budget.

Todd County Ag Society

The Todd County Ag Society gave their report of Income/Expenditures Financial Report for November 1 – August 30, 2010.

Todd County Soil and Water Conservation District

Sandy Rohr, the Director at the Todd County Soil and Water Conservation District introduced two new employees in their office.

On a motion by Ruda and second by Neumann, the following motion was introduced and adopted by unanimous vote: To approve a budget amendment transferring an additional grant funding to the Todd County Soil and Water Conservation District for the purposes of the feedlot program administration.

Todd County Administration

On a motion by Kneisl and second by Ruda, the following motion was introduced and adopted by unanimous vote: To approve sending a letter of support to the MN Regional Bio-energy CAP Proposal PI in support of the Regional Bioenergy Coordinated Agricultural Project.

On a motion by Ruda and second by Blessing, the following resolution was introduced and adopted by unanimous vote:

A RESOLUTION ESTABLISHING A POLICY TO WAIVE FEES IF A PERMIT IS NECESSARY DUE TO AN “ACT OF GOD”

WHEREAS, the Todd County Board of Commissioners is responsible for setting locally established fees, and;

WHEREAS, in certain circumstances it is possible that a county service which is typically provided on a fee-for-service basis may be required due to an “act of God”, and;

WHEREAS, in circumstances where a service is required due to an “act of God”, the County Board has determined that it is reasonable to provide a policy under which a fee may be waived.

NOW, THEREFORE BE IT RESOLVED, effective August 31, 2010 that the following policy be enacted;

Purpose: To provide for administrative waiving of fees related to County services provided as a result of an “act of god”.

1. Any fee which is locally established by the County Board may be waived by the appropriate Department Head provided the service that the fee supports is necessary as a direct result of an “act of God”.
2. For purposes of this policy “act of God” shall be defined as: A natural event, not preventable by any human agency, such as flood, storms, or lightning. Forces of nature that no one has control over, and therefore cannot be held accountable.
3. Documentation must be provided to the satisfaction of the Department Head that the service is necessary due to an “act of God”.
4. Appeals to the Department Head’s decision shall be made to the County Administrator.
5. This policy does not apply to fees not established locally.

TODD COUNTY BOARD OF COMMISSIONERS

Todd County Administrator's Report

Todd County Administrator reported that the customer surveys are now out in the areas of the Assessor, Recorder and Auditor/Treasurer Offices of the courthouse. Only three have been returned in two weeks, Administration and the departments will work on increasing the return rate. The County was awarded a grant for \$5,000 that will be used for Transforming Todd. The County also received \$11,000 for a grant that will be used for the redesigning case load design. Administration has started meeting with the bargaining units. The average increase for the insurance this is year is 12.7%.

Todd County Commissioners' Report

Kircher announced the AMC Policy Meeting will be held September 16 & 17 in Alexandria.

Adjourn

There being no further business to come before this board, Chairman Kircher Adjourned the meeting to September 7, 2010 at 9:00 a.m. in the Commissioner's Board Room.

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Motion to Approve the SHIP Communications Contract	
Date of Meeting: September 7, 2010	Total time requested: 5 mins
Department Requesting Action: Public Health	
Presenting Board Action/Discussion at Meeting: Cheryl Schneider & Katherine Mackedanz	
Background <input checked="" type="checkbox"/> Supporting Documentation enclosed	
The Statewide Health Improvement Program (SHIP) grant is requesting the board approve the SHIP Communications Contract. The SHIP grant expectations are to effectively and frequently communicate to the public and stakeholders the activities and projects of the grant. This contract will be responsible for working across Morrison, Todd, and Wadena counties to complete the SHIP Communications Plan activities by gathering and disseminating information regarding SHIP activities, experiences, and successes.	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input checked="" type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
To approve the SHIP Communications Contract	
Financial Implications: \$14,400	Comments
Funding Source: SHIP Grant	
Budgeted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
STATE OF MINNESOTA COUNTY OF TODD}	
I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:	
Seal	

CONTRACT FOR ACCOUNTANT SERVICES
BETWEEN

TODD COUNTY PUBLIC HEALTH
AND
NANCY PACKARD LEASMAN, COMMUNICATIONS CONTRACTOR

Todd County Public Health requires communications services, and Nancy Packard Leasman is qualified to provide the necessary communication services for the Statewide Health Improvement Program (SHIP) grant.

This Contract does not constitute any relationship of employment. The following outlines the understanding between Todd County Public Health and Nancy Packard Leasman, SHIP Communications Contractor.

The SHIP Communications Contractor will be responsible for communicating to the general public and external partners about SHIP grant activities and projects (see attached SHIP Communications Plan). This contract will be on a regular basis, available weekly for work projects as agreed upon between the Public Health Director and the SHIP Communications Contractor.

The contract services will meet all state standards and practices as required by the Minnesota Department of Health.

All communication documents and publications are the property of the Todd County Public Health Office. Todd County Public Health shall provide access to necessary documents needed for SHIP communications work.

The Todd County Public Health Director along with the SHIP Coordinator will review and make all final decisions regarding SHIP Communications.

The SHIP Communications Contractor will adhere to all applicable data practices and privacy standards, including those in HIPPA.

Nancy Packard Leasman agrees she is an independent contractor.

Todd County shall not be responsible for any Social Security, Unemployment, State or Federal tax withholding, or any such costs.

Nancy Packard Leasman agrees she is responsible for all such costs listed above.

The SHIP Communications Contractor shall provide a record of mileage and work hours completed by SHIP activity area, submitted for payment bimonthly.

The Todd County Public Health Department shall pay the SHIP Communications Contractor at \$30.00 per hour, with an average of 10 hours per week or as needed by the SHIP grant not to exceed 430 hours in the contract period. In addition mileage will be paid at .50 cents per mile not to exceed 3,000 miles or \$1,500 dollars in the contract period. See attached SHIP Communications Contract Budget.

This contract is for the time period of September 8, 2010 through June 30, 2011.

Any alteration of the provisions of this agreement shall be valid when placed in writing, duly signed and attached to the original of this agreement.

Cancellation of this agreement may be done by either party with a 60 day notice given in writing.

Cheryl Schneider
Todd County Public Health Director

Nancy Packard Leasman
SHIP Communications Contractor

Date

Date

Chairman
Todd County Board of Commissioners

Date

Chuck Rasmussen
Todd County Attorney

Date

SHIP Communications Plan

Deliverable/Description	Type (Man/Mktg/ Info)	Target Audience(s)	Delivery Method	Delivery Frequency	Who Responsible?
Community Leadership Team minutes & updates Inform Leadership Team of activities and events that will impact them.	Mandatory	Leadership Team	Email updates; meeting minutes	Monthly	SHIP Coordinator
Mini-Grantee Projects & Other Intervention Events Highlight each grantee's project and successes, promote special events	Information	Relevant stakeholders; general public	Newspaper articles, stories for legislators, etc.	Each grantee once; additional as desired	Comm. Contractor
Local Foods- Community Gardens & Farmers' Markets Document features and explore additional marketing opportunities	Information	Pine & Lakes County Local Foods Coalition; general public	Newspaper articles, press releases.	As appropriate	Comm. Contractor
Pine & Lakes Regional Trails Project Develop logo and promotional materials	Marketing & Information	Steering committee; general public; relevant stakeholders	Newspaper articles, press releases.	Beginning in October; ongoing	Comm. Contractor & SHIP Coordinator
Legislative Updates Inform local legislators of events, provide success stories and update on ongoing SHIP activities	Information	Local legislators	Letters	Every other month; additional as needed	Comm. Contractor

SHIP Communications Contract Budget

Grant period: September 8, 2010 – June 30, 2011		
Salary	\$30 hr x 10 hour per week x 43 weeks (Not to exceed 430 hours)	\$12,900
Mileage	.50 per mile (Not to exceed 3,000 miles)	\$1,500
	Total Budget:	\$14,400

Todd County, MN Board Action Form



Action Requested	
<input type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Approve/Support BWSR Grant Application	
Date of Meeting: September 7, 2010	Total time requested: 5 Min
Department Requesting Action: Planning and Zoning	
Presenting Board Action/Discussion at Meeting: Planning and Zoning Director	
Background <input checked="" type="checkbox"/> Supporting Documentation enclosed	
Planning and Zoning, in cooperation with the Sauk River Watershed District has prepared a grant application for funding to gain septic compliance in lakeshore districts. The County Board is requested to support and the grant application.	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
Approve resolution	
Financial Implications: \$62750	Comments
Funding Source: Levy	
Budgeted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
STATE OF MINNESOTA } COUNTY OF TODD }	
I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:	
Seal	

TODD COUNTY BOARD OF COMMISSIONERS

A RESOLUTION APPROVING AND SUPPORTING APPLICATION TO THE MINNESOTA BOARD OF WATER AND SOIL RESOURCES FOR GRANT FUNDS RELATED TO THE INSPECTION AND COMPLIANCE ENFORCEMENT OF SEPTIC SYSTEMS IN LAKESHORE DISTRICTS

WHEREAS, the Todd County Board of Commissioners is concerned about and committed to maintaining clean water resources in Todd County, and;

WHEREAS, the Todd County 2030 Comprehensive Plan states that the County will “protect the quality and use of surface water” by enforcing regulations and collaboration between lake associations and other natural resource protection agencies and organizations, and;

WHEREAS, there are currently nearly 700 individual septic systems on the lakes of Osakis, Big Birch, Maple and Latimer out of nearly 1200 which are currently not in compliance with regulation; and,

WHEREAS, lakes Osakis and Maple are on the DNR’s list of impaired waters; and,

WHEREAS, the County is in possession of letters of support of a project to gain septic compliance from the lake associations of Osakis, Big Birch, Maple and Latimer.

NOW, THEREFORE BE IT RESOLVED, that the Todd County Board of Commissioners supports application to the Minnesota Board of Water and Soil Resources for the purposes of inspection of septic systems in lakeshore districts in the County of Todd;

BE IT FURTHER RESOLVED, upon receipt of approval of this grant application that the Todd County Board of Commissioners will approve resources to ensure completion of the work plan and will support future enforcement of septic system compliance.

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Acceptance of Bond Funds (SAP 77-621-16)	
Date of Meeting: August 31st, 2010	Total time requested: 10 Minutes
Department Requesting Action: Public Works	
Presenting Board Action/Discussion at Meeting: Loren Fellbaum, County Engineer	
Background <input type="checkbox"/> Supporting Documentation enclosed	
Approval of Agreement to State Transportation Fund (Bridge Funds) for SAP 77-621-16.	
Options <input checked="" type="checkbox"/> Supporting Documentation enclosed	
#1 Approve resolution #2 Do not approve resolution	
Recommendation <input type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion: Approve attached resolution.	
Financial Implications: \$113,220.49	Comments
Funding Source: State Bridge Bonding	
Budgeted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
County Board Chairman:	

David Kircher	
Clerk to the Board:	

Nathan Burkett, County Administrator	
Seal	

TODD COUNTY BOARD OF COMMISSIONERS

For Agreement to State Transportation Fund (Bridge Funds)

Grant Terms and Conditions

SAP 77-621-16

WHEREAS, Todd County has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for construction of Bridge #77J71, and;

WHEREAS, the Commissioner of Transportation has given notice that funding for this bridge is available, and;

WHEREAS, the amount of the grant has been determined to be \$113,220.49 by reason of the lowest responsible bid.

NOW, THEREFORE BE IT RESOLVED, that Todd County does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes, section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the costs exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for the bridge but not required. The proper county officers are authorized to execute a grant agreement with the Commissioner of Transportation concerning the above referenced grant.

General Obligation Bond Proceeds

**Grant Agreement – Construction Grant for
SAP 77-621-16 (Bridge 77J71)
under the
Local Bridge Replacement Program**

THIS AGREEMENT shall be effective as of September 7th, 2010, and is between Todd County, a political subdivision of the State of Minnesota (the “Public Entity”), and the Minnesota Department of Transportation (“MnDOT”).

RECITALS

- A. MnDOT created and is operating the Local Bridge Replacement Program (LBRP) under the authority granted by Minn. Stat. §174.52 and all rules related to such legislation.
- B. Under the LBRP, MnDOT is authorized to provide grants funded with proceeds of state general obligation bonds authorized to be issued under Article XI, §5(a) of the Minnesota Constitution.
- C. Under the LBRP the recipients of a grant must use such funds to perform those functions delineated in the LBRP Enabling Legislation.
- D. Under the LBRP the recipient of a grant may not expend any part of the grant for work to be done on a state trunk highway or within a trunk highway easement.
- E. The Public Entity submitted a grant application to MnDOT requesting a grant under the LBRP, the proceeds of which will be used for the purposes of removing and/or replacing a bridge.
- F. The Public Entity has applied to and been selected by MnDOT for a receipt of a grant under the LBRP in an amount of \$113,220.49 , the proceeds must be used by the Public Entity to perform those functions and activities imposed by MnDOT under the LBRP as delineated in the Grant Application.
- G. Under the provisions contained in Minn. Stat. §163.02, the Public Entity has been given the authority to perform those functions and activities required of it under the LBRP and delineated in the Grant Application, and to operate that real estate for which the Public Entity uses the proceeds of the Grant, subject to applicable statutory authority or limitations as trunk highways, county highways, county state-aid highways, town roads, or city streets.
- H. The Public Entity’s receipt and use of the LBRP Grant to improve real property will cause all of such real property to become “state bond financed property”, as such term is used in Minn. Stat. §16A.695 and in that certain “Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” executed by the Commissioner of Minnesota Management & Budget on July 20, 1995 (the “Commissioner’s Order”), even though such funds will only pay for a portion of the acquisition or work to be performed.
- I. The Public Entity and MnDOT desire to set forth herein the provisions relating to the granting and disbursement of the proceeds of the LBRP Grant to the Public Entity and the operation of the Real Property.

IN CONSIDERATION of the grant described and other provisions in this Agreement, the parties to this Agreement agree as follows.

Article I
DEFINITIONS

Section 1.01 **Defined Terms.** As used in this Agreement, 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 this General Obligation Bond Proceeds Grant Agreement - Construction Grant for the SAP 77-621-16 (Bridge 77J71) under the Local Bridge Replacement Program.

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

“Commissioner” - means the commissioner of the Minnesota Management & Budget, and any designated representatives of Minnesota Management & Budget thereof.

“Commissioner’s Order” - means that certain “Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” executed by the then Commissioner of Minnesota Management & Budget on July 20, 1995.

“Completion Date” – means the 15th day of October, 2010, which is the projected date for completion of the Project.

“Declaration” - means a declaration, or declarations, in the form contained in **Attachment I** to this Agreement indicating that the Public Entity’s interest in the Real Property is bond financed property within the meaning of the G.O. Compliance Legislation and is subject to certain restrictions imposed thereby.

“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 herein.

“Event of Default” - means one or more of those events delineated in Section 2.06.

“G.O. Bonds” - means that portion of the state general obligation bonds issued under the authority granted in Article XI, §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.

“G.O. Compliance Legislation” - means Minn. Stat. §16A.695 as such may be subsequently be amended, modified or replaced from time to time unless such amendment, modification or replacement imposes an unconstitutional impairment of a contract right.

“Grant Application” – means that certain grant application attached hereto as **Attachment V** that the Public Entity submitted to MnDOT.

“LBRP Enabling Legislation” – means the legislation contained in the Minnesota statute(s) delineated in Recital A and all rules related to such legislation.

“LBRP Grant” - means a grant of monies from MnDOT to the Public Entity under the LBRP in the amount specified in Recital E to this Agreement, as such amount may be modified under the provisions contained in Sections 2.11 and 4.01 herein.

“LBRP” – means the program delineated in the LBRP Enabling Legislation.

“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 or on behalf of the Public Entity minus any amounts returned to the Commissioner.

“Project” - means the Public Entity’s performance of the activities denoted in Section 2.03 herein.

“Public Entity” - means the entity identified as the “Public Entity” in the lead-in paragraph of this Agreement, and such entity is: (Check the appropriate box.)

- a statutory city
- a home rule city
- a township
- a county

“Real Property” - means the real property located in the County of Todd, State of Minnesota, legally described in **Attachment II** to this Agreement.

**Article II
GRANT**

Section 2.01 **Grant of Monies.** MnDOT shall make and issue the LBRP Grant to the Public Entity, and disburse the proceeds in accordance with the provisions of this Agreement. The LBRP Grant is not intended to be a loan even though the portion thereof that is disbursed may need to be returned to MnDOT or the Commissioner under certain circumstances.

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 thereof all of the Real Estate must be owned by one or more public entities. In order to establish that this public ownership requirement is satisfied, the Public Entity represents and warrants to MnDOT that it has the following ownership interests in the Real Property: (Check the appropriate box.)

- Fee simple ownership of the Real Property
- An easement for the Real Property that is for a term that (i) extends beyond the date that is 37.5 years from the effective date of this Agreement, or such shorter term that is authorized by a Minnesota Statue, and (ii) which cannot be modified, restated, amended, changed, in any other way, or prematurely cancelled or terminated without the prior written consent of MnDOT and the Commissioner.
- A prescriptive easement for the Real Property for a term that extends beyond the date that is 37.5 years from the effective date of this Agreement, and is created by way of the authority contained in Minn. Stat. §160.04 or by authority granted under _____.

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, in the performance of the following activities, and may not use the

LBRP Grant for any other purpose. (Check all appropriate boxes.)

- Paying the costs to construct or reconstruct a bridge.
- Paying the costs of preliminary engineering and environmental studies authorized under Minn. Stat. §174.50, subdivision 6a.
- Paying the cost to abandon an existing bridge that is deficient and is in need of replacement, but where no replacement will be made.
- Paying the cost to construct a road to facilitate the abandonment or removal of an existing bridge determined to be deficient.

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 no other purposes or uses. Provided, however, the Public Entity may not 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 statement, sworn to before a notary public, to such effect to the requesting entity.

Section 2.05 Sale or Lease of Real Property. The Public Entity may not and 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 the G.O. Compliance Legislation regarding such sale or leasing.

Section 2.06 Public Entity Representations and Warranties. The Public Entity further covenants with, and represents and warrants to MnDOT as follows:

- A. It has legal authority to enter into, execute, and deliver this Agreement, the Declaration, and all documents referred to herein, and it has taken all actions necessary to its execution and delivery of such documents.
- B. It has legal authority to use the LBRP Grant for the purpose or purposes delineated in Section 2.03 herein.
- C. It has legal authority to operate the Real Property for the purposes delineated in Section 2.04 herein.
- D. It has the ability and a plan to fund the operation of the Real Property for the purposes specified in Section 2.04 herein, and will include in its annual budget all funds necessary for the operation of the Real Property for such purposes.
- E. This Agreement, the Declaration, and all other documents referred to herein are the legal, valid and binding obligations of the Public Entity enforceable against the Public Entity in accordance with their respective terms.
- F. It will comply with all of the terms, conditions, provisions, covenants, requirements, and warranties in this Agreement, the Declaration, and all other documents referred to herein.

- G. It will comply with all of the provisions and requirements contained in and imposed by the G.O. Compliance Legislation, the Commissioner's Order, and the LBRP.
- H. It has made no material false statement or misstatement of fact in connection with its receipt of the LBRP Grant, and all of the information it has submitted or will submit to MnDOT or Commissioner relating to the LBRP Grant or the disbursement of any of the LBRP Grant is and will be true and correct.
- I. 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, suits, 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 this Agreement, the Declaration, or any document referred to herein, or to perform any of the acts required of it in such documents.
- J. Neither the execution and delivery of this Agreement, the Declaration, or any document referred to herein nor compliance with any of the terms, conditions, requirements, or provisions contained in any of such documents is prevented by, is a breach of, or will result in a breach of, any term, condition, or provision of any agreement or document to which it is now a party or by which it is bound.
- K. 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.
- L. The Project will be completed in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Project.
- M. All applicable licenses, permits and bonds required for the performance and completion of the Project have been, or will be, obtained.
- N. All applicable licenses, permits and bonds required for the operation of the Real Property in the manner specified in Section 2.04 herein have been, or will be, obtained.
- O. It will operate, maintain, and manage the Real Property in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Real Property.
- P. It reasonably expects to possess the ownership interest in the Real Property described Section 2.02 herein for at least 37.5 years, and it does not expect to sell such ownership interest.
- Q. It does not expect to sell or transfer any portion of its ownership interest in the Real Property.
- R. It does not expect to lease out or enter into any contract that would allow another entity to use or operate the Real Property.
- S. No buildings or other structures currently exist on the Real Property, and it does not expect to construct or relocate any buildings or other structures onto the Real Property.

- T. It will supply whatever funds are needed above and beyond the amount of the LBRP Grant to complete and fully pay for the Project.
- U. The provisions contained in Minn. Stat. §16B.335 and requirements imposed thereunder do not apply to the Project.
- V. 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.

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 this 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 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 in this Agreement, in any Draw Requisition, in any other document furnished pursuant to this Agreement, or in order to induce MnDOT to disburse any of 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, term, condition, covenant, or warranty contained in this Agreement.
- C. If the Public Entity fails to fully comply with any provision, term, condition, covenant or warranty contained in the G.O. Compliance Legislation, the Commissioner's Order, or the LBRP Enabling Legislation.
- D. If the Public Entity fails to use the proceeds of the LBRP Grant for the purposes delineated in Section 2.03 herein, 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 herein.
- 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 leases out or enters into any contract that would allow another entity to use or operate the Real Property without the written consent of MnDOT and the Commissioner.
- I. If the Public Entity fails to provide any and all additional funds needed to fully pay for the Project.
- J. If the Public Entity fails to supply whatever funds are needed to operate the Real Property in the manner specified in Section 2.04 herein

Notwithstanding the foregoing, any of the above delineated events that cannot be cured shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under this 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 thereby waiving its rights and remedies hereunder.
- B. The Commissioner, as a third party beneficiary of this Agreement, may demand that the Outstanding Balance of the LBRP Grant be returned to it, and upon such demand the Public Entity shall return such amount to the Commissioner.
- C. Either MnDOT or the Commissioner, as a third party beneficiary of this Agreement, may enforce any additional remedies they may have in law or equity.

The rights and remedies herein specified 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 in this Agreement 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 taken from or off-set 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 7 days after it has obtained knowledge of the occurrence of each Event of Default or each event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement setting forth details of each Event of Default or event which with the giving of notice or upon the lapse of time or both would constitute an Event of Default and the action which the Public Entity proposes to take with respect thereto.

Section 2.10 **Effect of Event of Default.** This Agreement shall survive any and all Events of Default and remain in full force and effect even upon the payment of any amounts due under this Agreement, and shall only be terminated upon the Public Entity's sale of its interest in the Real Property in accordance with the provisions contained in the G.O. Compliance Legislation and the Commissioner's Order, or in accordance with the provisions contained in Section 2.11 herein.

Section 2.11 **Termination/Modification of Grant.** If the Project is not started on or before the date that is 5 years from the effective date of this Agreement or all of the LBRP Grant has not been disbursed as of the date that is 4 years from the date on which the Project is started, or such later dates to which the Public Entity and MnDOT may agree in writing, then 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 dates then MnDOT's obligation to fund any portion of the LBRP Grant shall terminate and this Agreement shall terminate and no longer be of any force or effect, and (ii) if some but not all of the LBRP Grant has been disbursed by such dates then MnDOT shall have no further obligation to provide any additional funding for the Grant LBRP and this Agreement shall remain in full force and effect but shall be modified and amended to reflect the amount of the LBRP Grant that was actually disbursed as of such date. This provision shall not, in any way, affect the Public Entity's obligation to complete the Project by the Completion Date.

Article III
COMPLIANCE WITH G.O. COMPLIANCE LEGISLATION
AND THE COMMISSIONER'S ORDER

Section 3.01 **State Bond Financed Property.** The Public Entity acknowledges and agrees 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 the G.O. Compliance Legislation 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.

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 Section 148 of the Code.
- B. It will deposit into and hold all of the LBRP Grant that it receives under this Agreement in a segregated non-interest bearing account until such funds are used for payments for the Project in accordance with the provisions contained herein.
- C. It will, upon written request, provide the Commissioner all information required to satisfy the informational requirements set forth in the Code including, but not limited to, Sections 103 and 148 thereof, 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 either; (i) compliance with proceedings intended to classify the G.O. Bonds as a "qualified bond" within the meaning of Section 141(e) of the Code, (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 used, directly or indirectly, in an "unrelated trade or business" or for any "private business use" (within the meaning of Sections 141(b) and 145(a) of the Code), or (iii) compliance with other Code provisions, regulations, or revenue procedures which amend or supersede the foregoing.
- E. It will not otherwise use any of the LBRP Grant, including earnings thereon, if any, or take or permit to or cause to be taken any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, nor otherwise omit, take, or cause to be taken any action necessary to maintain such tax exempt status, and if it should take, permit, omit to take, or cause to be taken, as appropriate, any such action, it shall take all lawful actions necessary to rescind or correct such actions or omissions promptly upon having knowledge thereof.

Section 3.03 **Changes to G.O. Compliance Legislation or the Commissioner's Order.** In the event that the G.O. Compliance Legislation 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 is exempt from the G.O. Compliance Legislation and the Commissioner's Order, then upon written request by the Public Entity MnDOT shall enter into and execute an amendment to this Agreement to implement such amendment to or exempt the Public Entity's interest in the Real Property from the G.O. Compliance Legislation or the Commissioner's Order.

Article IV
DISBURSEMENT OF GRANT PROCEEDS

Section 4.01 **The Advances.** The MnDOT agrees, on the terms and subject to the conditions set forth herein, to make Advances from 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 herein, 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 herein, MnDOT's obligation to make Advances shall terminate as of the dates specified in Section 2.11 herein 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 hereto as **Attachment III**, (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. Therefore, the cumulative amount of all Advances disbursed by MnDOT at any point in time shall not exceed the portion of the Project that has been completed. This requirement is expressed by way of the following formula: Cumulative Advances \leq (LBRP Grant) x (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 all landscape requirements and off-site utilities and streets needed for access to the Real Property and 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 delineated in Section 1.01 herein.
- B. MnDOT shall have received a duly executed Declaration that has been duly recorded in the appropriate governmental office, with all of the recording information displayed thereon.
- C. 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.
- D. 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 herein, 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.
- E. The Public Entity has supplied to MnDOT all other items that MnDOT 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 their own inspections and observations of regarding the completion of the Project, and shall determine to their 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 delineated in Section 2.02 herein all or any portion of the Real Property is condemned to an extent that the Public Entity can no longer comply with the provisions contained in Section 2.04 herein, then the Public Entity shall, at its sole option and discretion, either; (i) use or cause the condemnation proceeds to be used to acquire an interest in additional real property needed for the Public Entity to continue to comply with the provisions contained in Section 2.04 herein and to provide or cause to be provided 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 that are not used to acquire an interest in additional real property shall be paid to the Commissioner as a partial or full repayment of the LBRP Grant.

As recipient of any of condemnation awards or proceeds referred to herein, MnDOT agrees to and will disclaim, assign or pay over to the Public Entity all of such condemnation awards or proceeds it receives so that the Public Entity can comply with the requirements that this Section imposes upon the Public Entity as to the use of such condemnation awards or proceeds.

Section 5.03 **Use, Maintenance, Repair and Alterations.** The Public Entity shall comply with all laws, ordinances, regulations, requirements, covenants, conditions and restrictions now or hereafter affecting the Real Property, or any part thereof.

The Public Entity shall not, without the written consent of MnDOT and the Commissioner, (i) permit or suffer the use of any of the Real Property for any purpose other than the purposes specified in Section 2.04 herein, (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 such Real Property by increasing the value thereof or improving its ability to be used for the purposes delineated in Section 2.04 herein, (iii) do any act or thing which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, (v) commit or permit any waste or deterioration of the Real Property, or (vi) commit, suffer or permit any act to be done in or upon the Real Property in violation of any law, ordinance or regulation.

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

Section 5.04 **Records Keeping and Reporting.** The Public Entity shall maintain or cause to be maintained books, records, documents and other evidence pertaining to the costs or expenses associated with the Project and operation of the Real Property needed to comply with the requirements contained in this Agreement, the G.O. Compliance Legislation, the Commissioner's Order, and the LBRP Enabling Legislation, and upon request shall allow or cause the entity which is maintaining such items to allow MnDOT, auditors for MnDOT, 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 or cause the entity which is maintaining such items to use generally accepted accounting principles in the maintenance of such items, and shall retain or cause to be retained (i) all of such items that relate to the Project for a period of 6 years from the date that the Project is fully completed and placed into operation, and (ii) all of such items that relate to the operation of the Real Property for a period of 6 years from the date such operation is initiated.

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

Section 5.06 **Data Practices.** The Public Entity agrees with respect to any data that it possesses regarding the LBRP Grant, the Project, or the operation of the Real Property, to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Chapter 13 of the Minnesota Statutes that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

Section 5.07 **Non-Discrimination.** The Public Entity agrees to not engage in discriminatory employment practices regarding the Project, or operation of the Real Property, and it shall, with respect to such activities, fully comply with all of the provisions contained in Chapters 363A and 181 of the Minnesota Statutes that exist as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

Section 5.08 **Worker's Compensation.** The Public Entity agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. §§176.181 Subd. 2 & 176.182 that exist as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time, with respect to the Project and the operation of the Real Property.

Section 5.09 **Antitrust Claims.** The Public Entity hereby assigns to MnDOT and the Commissioner all claims it may have for over charges as to goods or services provided with respect to the Project, and operation of the Real Property that arise under the antitrust laws of the State of Minnesota or of the United States of America.

Section 5.11 **Prevailing Wages.** The Public Entity agrees to comply with all of the applicable provisions contained in Chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn. Stat. §§177.41 through 177.435 that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time with respect to the Project and the operation of the Real Property. By agreeing to this provision, the Public Entity is not acknowledging or agreeing that the cited provisions apply to the Project or the operation of the Real Property.

Section 5.12 **Liability.** The Public Entity and MnDOT agree that they will, subject to any indemnifications provided herein, be responsible for their own acts and the results thereof to the extent authorized by law, and they shall not 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 contained in Minn. Stat. §3.736 that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time. If the Public Entity is a "municipality" as such term is used in Chapter 466 of the Minnesota Statutes that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time, then the liability of the Public Entity, including but not limited to the indemnification provided under Section 5.13 herein, is governed by the provisions contained in such Chapter 466.

Section 5.13 **Indemnification by the Public Entity.** The Public Entity shall bear all loss, expense (including attorneys' fees), and damage in connection with the Project and operation of the Real Property, and agrees to indemnify and hold harmless MnDOT, the Commissioner, and the State of Minnesota, their agents, servants and employees from all claims, demands and judgments made or recovered against MnDOT, the Commissioner, and the State of Minnesota, their agents, servants and employees, because of bodily injuries, including death at any

time resulting therefrom, or because of damages to property of MnDOT, the Commissioner, or the State of Minnesota, or others (including loss of use) from any cause whatsoever, arising out of, incidental to, or in connection with the Project or operation of the Real Property, whether or not due to any act of omission or commission, including negligence of the Public Entity or any contractor or his or their employees, servants or agents, and whether or not due to any act of omission or commission (excluding, however, negligence or breach of statutory duty) of MnDOT, the Commissioner, or the State of Minnesota, their employees, servants or agents.

The Public Entity further agrees to indemnify, save, and hold MnDOT, the Commissioner, and the State of Minnesota, their agents and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation by the Public Entity, its officers, employees, or agents of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce the provisions contained in Section 5.06 herein.

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 5.14 Relationship of the Parties. Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners or a joint venture between the Public Entity, MnDOT, or the Commissioner, nor shall the Public Entity be considered or deemed to be an agent, representative, or employee of either MnDOT, the Commissioner, or the State of Minnesota in the performance of this Agreement, the Project, or operation of the Real Property.

The Public Entity represents that it has already or will secure or cause to be secured all personnel required for the performance of this Agreement and the Project, and the operation of the Real Property. All personnel of the Public Entity or other persons while engaging in the performance of this Agreement, the Project, or the operation of the Real Property shall not have any contractual relationship with MnDOT, the Commissioner, or the State of Minnesota and shall not be considered employees of any of such entities. In addition, all claims that may arise on behalf of said personnel or other persons out of employment or alleged employment including, but not limited to, claims under the Workers' Compensation Act of the State of Minnesota, claims of discrimination against the Public Entity, its officers, agents, contractors, or employees shall in no way be the responsibility of either MnDOT, the Commissioner, or the State of Minnesota. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from either MnDOT, the Commissioner, or the State of Minnesota including, but not limited to, tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

Section 5.15 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 shall be sufficient if personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the business address of the party to whom it is directed. Such business address shall be that address specified below or such different address as may hereafter be specified, by either party by written notice to the other:

To the Public Entity at:

Todd County Public Works Department
44 Riverside Drive
Long Prairie, MN 56347
Attention: Loren Fellbaum, County Engineer

To MnDOT at:

Minnesota Department of Transportation
Office of State Aid
395 John Ireland Blvd., MS 500
Saint Paul, MN 55155
Attention: Patti Loken, 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 5.16 **Binding Effect and Assignment or Modification.** This Agreement and the Declaration shall be binding upon and inure to the benefit of the Public Entity and MnDOT, and their respective successors and assigns. Provided, however, that neither the Public Entity nor MnDOT may assign any of its rights or obligations under this Agreement or the Declaration without the prior written consent of the other party. No change or modification of

The terms or provisions of this Agreement or the Declaration shall be binding on either the Public Entity or MnDOT unless such change or modification is in writing and signed by an authorized official of the party against which such change or modification is to be imposed.

Section 5.17 **Waiver.** Neither the failure by the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of this Agreement, in any one or more instances to insist upon the complete and total observance or performance of any term or provision hereof, nor the failure of the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of this Agreement, to exercise any right, privilege, or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of either the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of this Agreement, 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 5.18 **Entire Agreement.** This Agreement and the Declaration 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 5.19 **Choice of Law and Venue.** All matters relating to the validity, construction, performance, or enforcement of this Agreement or the Declaration shall be determined in accordance with the laws of the State of Minnesota. All legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued in the State of Minnesota District Court located in the City of St. Paul, County of Ramsey, State of Minnesota.

Section 5.20 **Severability.** If any provision of this 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 5.21 **Times is of Essence.** Time is of the essence with respect to all of the matters contained in this Agreement.

Section 5.22 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

Section 5.23 **Source and Use of Funds.** The Public Entity represents to MnDOT and the Commissioner that the Source and Use of Funds Statement attached hereto as **Attachment III** shows the total cost of the Project and all of the funds that are available for the completion of the Project, and that the information contained in such **Attachment III** correctly and accurately delineates the following information.

- A. The total cost of the Project detailing all of the major elements that make up such total cost and how much of such total cost is attributed to each such major element.
- B. The source of all funds needed to complete the Project broken down amongst the following categories:
 - (i) State funds including the LBRP Grant, identifying the source and amount of such funds.
 - (ii) Other funds supplied by the Public Entity, identifying the source and amount of such funds.
 - (iii) Loans, identifying each such loan, the entity providing the loan, the amount of each such loan, the terms and conditions of each such loan, and all collateral pledged for repayment of each such loan.

If any of the funds included under the source of funds have conditions precedent to the release of such funds, then the Public Entity must provide to MnDOT and the Commissioner a detailed description of such conditions and what is being done to satisfy such conditions.

The Public Entity shall also supply whatever other information and documentation that MnDOT or the Commissioner may request to support or explain any of the information contained in **Attachment III** to this Agreement.

Section 5.24 **Project Completion Schedule.** The Public Entity represents to MnDOT and the Commissioner that **Attachment IV** to this Agreement correctly and accurately delineates the projected schedule for the completion of the Project.

Section 5.25 **Third-Party Beneficiary.** The State Program will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both MnDOT and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner, is and shall be a third-party beneficiary of this Agreement.

Section 5.26 **Public Entity Tasks.** Any tasks that this 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 5.27 **MnDOT and Commissioner Required Acts and Approvals.** The MnDOT and the Commissioner shall not (i) perform any act herein required or authorized by it in an unreasonable manner, (ii) unreasonably refuse to perform any act that it is required to perform hereunder, or (iii) unreasonably refuse to provide or withhold any approval that is required of it herein.

Section 5.28 **Additional Requirements.** The Public Entity and MnDOT agree to comply with the following additional requirements. In the event of any conflict or inconsistency between the following additional requirements and any other provisions or requirement contained in this Agreement, the following additional requirements contained in this Section shall control.

NONE

IN TESTIMONY HEREOF, the Public Entity and MnDOT have executed this General Obligation Bond Proceeds Grant Agreement Construction Grant for the SAP 77-621-16 (Bridge 77J71) Project under the Local Bridge Replacement Program on the day and date indicated immediately below their respective signatures.

STATE ENCUMBRANCE VERIFICATION

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

By: _____

Date: _____

PUBLIC ENTITY

By: _____

Title: Todd County Board - Chairman

Date: _____

By: _____

Title: Todd County Administrator

Date: _____

DEPARTMENT OF TRANSPORTATION

Recommended for approval:

By: _____
(With delegated authority)

Title: _____

Date: _____

OFFICE OF CONTRACT MANAGEMENT

By: _____
Contract Administrator

Date: _____

**Attachment I to Grant Agreement
DECLARATION**

The undersigned has the following interest in the real property located in the County of Todd, State of Minnesota, which is legally described in **Exhibit A** attached and all facilities situated thereon (cumulatively referred to as the “Restricted Property”)

Check the appropriate box:

- a fee simple title
- an easement

and; as owner of such fee title, lease or easement, does hereby declare that such interest in the Restricted Property is hereby made subject to the following restrictions and encumbrances:

- A. The Restricted Property is bond financed property within the meaning of Minn. Stat. §16A.695 that exists as of the effective date of the grant agreement identified in B hereinbelow, is subject to the encumbrance created and requirements imposed by such statutory provision, and cannot be sold or otherwise disposed of by the public officer or agency which has jurisdiction over it or owns it without the approval of the commissioner of the Minnesota Department of Finance, which approval must be evidenced by a written statement signed by said commissioner and attached to the deed or instrument used to sell or otherwise dispose of the Restricted Property; and
- B. The Restricted Property is subject to all of the terms, conditions, provisions, and limitations contained in the General Obligation Bond Proceeds Grant Agreement – Construction Grant for the SAP 77-621-16 (Bridge 77J71) Project Under the Local Bridge Replacement Program between Todd County and the Minnesota Department of Transportation with an effective date of the 7th day of September, 2010.

The Restricted Property shall remain subject to such restrictions and encumbrances until it is released therefrom by way of a written release in recordable form signed by both the commissioner of the Minnesota Department of Transportation and the commissioner of the Minnesota Management and Budget Office, and such written release is recorded in the real estate records relating to the Restricted Property.

This Declaration may not be terminated, amended, or in any way modified without the specific written consent of the commissioner of the Minnesota Management Budget Office.

Declaration Signatures & Notary Acknowledgment

By: _____

By: _____

Title: Todd County Board – Chairman

Title: Todd County Board – Chairman

Date: _____

Date: _____

STATE OF MINNESOTA

County of Todd

The foregoing instrument was acknowledged before me this 7th Day of September, 2010

by _____.

<p>NOTARY STAMP OR SEAL OR (OTHER TITLE OR RANK)</p>

SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT

This instrument was drafted by Todd County Public Works Department, 44 Riverside Drive, Long Prairie, Minnesota 56347.

**Exhibit A of Attachment I
LEGAL DESCRIPTION OF REAL PROPERTY**

The Easterly 175' of the North 125' of the South 299.8' of the Southeast Quarter of Section 15, Township 132 North, Range 33 West, Todd County, Minnesota.

And

The Westerly 100' of the North 125' of the South 299.8' of the South Half of the Southwest Quarter of Section 14, Township 132 North, Range 33 West, Todd County, Minnesota.

**Attachment II to Grant Agreement
LEGAL DESCRIPTION OF REAL PROPERTY**

The Easterly 175' of the North 125' of the South 299.8' of the Southeast Quarter of Section 15, Township 132 North, Range 33 West, Todd County, Minnesota.

And

The Westerly 100' of the North 125' of the South 299.8' of the South Half of the Southwest Quarter of Section 14, Township 132 North, Range 33 West, Todd County, Minnesota.

**Attachment IV to Grant Agreement
PROJECT COMPLETION SCHEDULE**

Project Start Date: September 13, 2010

Project End Date: October 15, 2010

**Attachment III to Grant Agreement
SOURCE AND USE OF FUNDS STATEMENT**

Source of Funds		Use of Funds	
Entity Supplying Funds	Amount	Identity of Items	Amount
State Funds			
LBRP Grant	\$113,220.49	Items Paid for with LBRP Grant Funds	\$113,220.49
State Aid	\$122,820.48		
Sub-Total	\$236,040.97		
Other Public Entity Funds			
	\$0.00	Items Paid for with None LBRP Grant Funds	\$122,820.48
TOTAL FUNDS	\$236,040.97	TOTAL PROJECT COSTS	\$236,040.97

Attachment V to Grant Agreement GRANT APPLICATION

Mn/DOT 30809(9/01)



APPLICATION FOR BRIDGE FUNDS State Transportation Fund Grants and Town Bridge Funds State of Minnesota – Department of Transportation State Aid for Local Transportation

Identification	Project Number <u>SAP 77-621-16</u> Old Bridge Number <u>89949</u> New Bridge No. <u>77J71</u> Over <u>Moran Brook</u> County of <u>Todd</u> Road or Street No. <u>CSAH #21</u> Municipality of _____ Road or Street Name _____ Township of <u>Moran</u> Proposed Const. Year <u>2010</u>																						
Eligibility	Bridge Sufficiency Rating <u>46.1</u> this bridge hydraulically deficient? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Adequacy Status from Structure Inventory <input checked="" type="checkbox"/> Structurally Deficient <input type="checkbox"/> Functionally Obsolete <input type="checkbox"/> Adequate Date of Council/Board action prioritizing this bridge <u>August 18, 2009</u> Is this a road-in-lieu of bridge project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Is the bridge on a private approach and within the public right-of-way? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																						
Prioritization	Will completion of this project effectively eliminate a deficiency in the transportation system? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No How many people are affected by this deficiency? <u>1265 vpd (2009)</u> What is the ADT on this bridge? <u>1645 vpd (2029)</u> Describe the economic importance of replacing this bridge. <u>Replacement of this bridge will maintain CSAH #21 as the most direct connection between US #71 at Browerville and TH #210, 2 Miles South of Staples.</u> Will this project adversely affect optimum land use or cause other planning concerns? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Have federal-aid funds been applied for on this project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 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	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">Eligible Amount</th> <th style="text-align: center;">Ineligible Amount</th> </tr> </thead> <tbody> <tr> <td>Structure Costs</td> <td style="text-align: right;">\$ 205,000</td> <td style="text-align: right;">\$ 5,000</td> </tr> <tr> <td>Approach Costs</td> <td></td> <td style="text-align: right;">\$ 25,000</td> </tr> <tr> <td>Engineering Costs</td> <td></td> <td style="text-align: right;">\$ 25,000</td> </tr> <tr> <td>Total Costs</td> <td style="text-align: right;">\$ 205,000</td> <td style="text-align: right;">\$ 55,000</td> </tr> <tr> <td>Total Project Cost</td> <td colspan="2" style="text-align: right;">\$ 260,000</td> </tr> </tbody> </table> <table style="width: 100%;"> <tr> <td style="width: 60%;"><u>Love Fellen</u></td> <td style="width: 40%; text-align: right;"><u>10-22-2009</u></td> </tr> <tr> <td style="text-align: center;">County/City Engineer</td> <td style="text-align: center;">Date</td> </tr> </table>		Eligible Amount	Ineligible Amount	Structure Costs	\$ 205,000	\$ 5,000	Approach Costs		\$ 25,000	Engineering Costs		\$ 25,000	Total Costs	\$ 205,000	\$ 55,000	Total Project Cost	\$ 260,000		<u>Love Fellen</u>	<u>10-22-2009</u>	County/City Engineer	Date
	Eligible Amount	Ineligible Amount																					
Structure Costs	\$ 205,000	\$ 5,000																					
Approach Costs		\$ 25,000																					
Engineering Costs		\$ 25,000																					
Total Costs	\$ 205,000	\$ 55,000																					
Total Project Cost	\$ 260,000																						
<u>Love Fellen</u>	<u>10-22-2009</u>																						
County/City Engineer	Date																						
DSAE	DISTRICT STATE AID ENGINEER RECOMMENDATION Replace _____ Defer _____ District State Aid Engineer Signature _____ Date _____																						
Approval	<table style="width: 100%;"> <tr> <td style="width: 50%;">STATE AID USE ONLY</td> <td style="width: 20%;">Federal-Aid</td> <td style="width: 30%; text-align: right;">\$</td> </tr> <tr> <td>Date RDC or Met Council Notified</td> <td>State-Aid</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Resolution Received? <input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td>Local/Other</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>SR < 80 and FO or SD? <input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td>Town Bridge</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>OR</td> <td>Unallocated Town Bridge</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Hydraulically deficient? <input type="checkbox"/> Yes <input type="checkbox"/> No</td> <td>State Bridge Funds</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Priority Number _____</td> <td>Total</td> <td style="text-align: right;">\$</td> </tr> </table>	STATE AID USE ONLY	Federal-Aid	\$	Date RDC or Met Council Notified	State-Aid	\$	Resolution Received? <input type="checkbox"/> Yes <input type="checkbox"/> No	Local/Other	\$	SR < 80 and FO or SD? <input type="checkbox"/> Yes <input type="checkbox"/> No	Town Bridge	\$	OR	Unallocated Town Bridge	\$	Hydraulically deficient? <input type="checkbox"/> Yes <input type="checkbox"/> No	State Bridge Funds	\$	Priority Number _____	Total	\$	
STATE AID USE ONLY	Federal-Aid	\$																					
Date RDC or Met Council Notified	State-Aid	\$																					
Resolution Received? <input type="checkbox"/> Yes <input type="checkbox"/> No	Local/Other	\$																					
SR < 80 and FO or SD? <input type="checkbox"/> Yes <input type="checkbox"/> No	Town Bridge	\$																					
OR	Unallocated Town Bridge	\$																					
Hydraulically deficient? <input type="checkbox"/> Yes <input type="checkbox"/> No	State Bridge Funds	\$																					
Priority Number _____	Total	\$																					

C:\Documents and Settings\ken\Local Settings\Temporary Internet Files\OLKFF\7083fundapp (3).doc

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Acceptance of Bond Funds (SAP 77-650-03)	
Date of Meeting: August 31st, 2010	Total time requested: 10 Minutes
Department Requesting Action: Public Works	
Presenting Board Action/Discussion at Meeting: Loren Fellbaum, County Engineer	
Background <input type="checkbox"/> Supporting Documentation enclosed	
Approval of Agreement to State Transportation Fund (Bridge Funds) for SAP 77-650-03.	
Options <input checked="" type="checkbox"/> Supporting Documentation enclosed	
#1 Approve resolution #2 Do not approve resolution	
Recommendation <input type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion: Approve attached resolution.	
Financial Implications: \$113,013.63	Comments
Funding Source: Sate Bridge Bonding	
Budgeted: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
County Board Chairman:	

David Kircher	
Clerk to the Board:	

Nathan Burkett, County Administrator	
Seal	

TODD COUNTY BOARD OF COMMISSIONERS

For Agreement to State Transportation Fund (Bridge Funds)

Grant Terms and Conditions

SAP 77-650-03

WHEREAS, Todd County has applied to the Commissioner of Transportation for a grant from the Minnesota State Transportation Fund for construction of Bridge #77J75, and;

WHEREAS, the Commissioner of Transportation has given notice that funding for this bridge is available, and;

WHEREAS, the amount of the grant has been determined to be \$113,013.63 by reason of the lowest responsible bid.

NOW, THEREFORE BE IT RESOLVED, that Todd County does hereby agree to the terms and conditions of the grant consistent with Minnesota Statutes, section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the costs exceeds the estimate, and will return to the Minnesota State Transportation Fund any amount appropriated for the bridge but not required. The proper county officers are authorized to execute a grant agreement with the Commissioner of Transportation concerning the above referenced grant.

General Obligation Bond Proceeds

**Grant Agreement – Construction Grant for
SAP 77-650-03 (Bridge 77J75)
under the
Local Bridge Replacement Program**

THIS AGREEMENT shall be effective as of September 7, 2010, and is between Todd County, a political subdivision of the State of Minnesota (the “Public Entity”), and the Minnesota Department of Transportation (“MnDOT”).

RECITALS

- A. MnDOT created and is operating the Local Bridge Replacement Program (LBRP) under the authority granted by Minn. Stat. §174.52 and all rules related to such legislation.
- B. Under the LBRP, MnDOT is authorized to provide grants funded with proceeds of state general obligation bonds authorized to be issued under Article XI, §5(a) of the Minnesota Constitution.
- C. Under the LBRP the recipients of a grant must use such funds to perform those functions delineated in the LBRP Enabling Legislation.
- D. Under the LBRP the recipient of a grant may not expend any part of the grant for work to be done on a state trunk highway or within a trunk highway easement.
- E. The Public Entity submitted a grant application to MnDOT requesting a grant under the LBRP, the proceeds of which will be used for the purposes of removing and/or replacing a bridge.
- F. The Public Entity has applied to and been selected by MnDOT for a receipt of a grant under the LBRP in an amount of \$113,013.63, the proceeds must be used by the Public Entity to perform those functions and activities imposed by MnDOT under the LBRP as delineated in the Grant Application.
- G. Under the provisions contained in Minn. Stat. §163.02, the Public Entity has been given the authority to perform those functions and activities required of it under the LBRP and delineated in the Grant Application, and to operate that real estate for which the Public Entity uses the proceeds of the Grant, subject to applicable statutory authority or limitations as trunk highways, county highways, county state-aid highways, town roads, or city streets.
- H. The Public Entity’s receipt and use of the LBRP Grant to improve real property will cause all of such real property to become “state bond financed property”, as such term is used in Minn. Stat. §16A.695 and in that certain “Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” executed by the Commissioner of Minnesota Management & Budget on July 20, 1995 (the “Commissioner’s Order”), even though such funds will only pay for a portion of the acquisition or work to be performed.
- I. The Public Entity and MnDOT desire to set forth herein the provisions relating to the granting and disbursement of the proceeds of the LBRP Grant to the Public Entity and the operation of the Real Property.

IN CONSIDERATION of the grant described and other provisions in this Agreement, the parties to this Agreement agree as follows.

Article I
DEFINITIONS

Section 1.01 **Defined Terms.** As used in this Agreement, 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 this General Obligation Bond Proceeds Grant Agreement - Construction Grant for the SAP 77-650-03 (Bridge 77J75) under the Local Bridge Replacement Program.

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

“Commissioner” - means the commissioner of the Minnesota Management & Budget, and any designated representatives of Minnesota Management & Budget thereof.

“Commissioner’s Order” - means that certain “Order Amending Order of the Commissioner of Minnesota Management & Budget Relating to Use and Sale of State Bond Financed Property” executed by the then Commissioner of Minnesota Management & Budget on July 20, 1995.

“Completion Date” – means the 15th day of October, 2010, which is the projected date for completion of the Project.

“Declaration” - means a declaration, or declarations, in the form contained in **Attachment I** to this Agreement indicating that the Public Entity’s interest in the Real Property is bond financed property within the meaning of the G.O. Compliance Legislation and is subject to certain restrictions imposed thereby.

“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 herein.

“Event of Default” - means one or more of those events delineated in Section 2.06.

“G.O. Bonds” - means that portion of the state general obligation bonds issued under the authority granted in Article XI, §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.

“G.O. Compliance Legislation” - means Minn. Stat. §16A.695 as such may be subsequently be amended, modified or replaced from time to time unless such amendment, modification or replacement imposes an unconstitutional impairment of a contract right.

“Grant Application” – means that certain grant application attached hereto as **Attachment V** that the Public Entity submitted to MnDOT.

“LBRP Enabling Legislation” – means the legislation contained in the Minnesota statute(s) delineated in Recital A and all rules related to such legislation.

“LBRP Grant” - means a grant of monies from MnDOT to the Public Entity under the LBRP in the amount specified in Recital E to this Agreement, as such amount may be modified under the provisions contained in Sections 2.11 and 4.01 herein.

“LBRP” – means the program delineated in the LBRP Enabling Legislation.

“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 or on behalf of the Public Entity minus any amounts returned to the Commissioner.

“Project” - means the Public Entity’s performance of the activities denoted in Section 2.03 herein.

“Public Entity” - means the entity identified as the “Public Entity” in the lead-in paragraph of this Agreement, and such entity is: (Check the appropriate box.)

- a statutory city
- a home rule city
- a township
- a county

“Real Property” - means the real property located in the County of Todd, State of Minnesota, legally described in **Attachment II** to this Agreement.

Article II GRANT

Section 2.01 **Grant of Monies.** MnDOT shall make and issue the LBRP Grant to the Public Entity, and disburse the proceeds in accordance with the provisions of this Agreement. The LBRP Grant is not intended to be a loan even though the portion thereof that is disbursed may need to be returned to MnDOT or the Commissioner under certain circumstances.

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 thereof all of the Real Estate must be owned by one or more public entities. In order to establish that this public ownership requirement is satisfied, the Public Entity represents and warrants to MnDOT that it has the following ownership interests in the Real Property: (Check the appropriate box.)

- Fee simple ownership of the Real Property
- An easement for the Real Property that is for a term that (i) extends beyond the date that is 37.5 years from the effective date of this Agreement, or such shorter term that is authorized by a Minnesota Statue, and (ii) which cannot be modified, restated, amended, changed, in any other way, or prematurely cancelled or terminated without the prior written consent of MnDOT and the Commissioner.
- A prescriptive easement for the Real Property for a term that extends beyond the date that is 37.5 years from the effective date of this Agreement, and is created by way of the authority contained in Minn. Stat. §160.04 or by authority granted under _____.

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, in the performance of the following activities, and may not use the

LBRP Grant for any other purpose. (Check all appropriate boxes.)

- Paying the costs to construct or reconstruct a bridge.
- Paying the costs of preliminary engineering and environmental studies authorized under Minn. Stat. §174.50, subdivision 6a.
- Paying the cost to abandon an existing bridge that is deficient and is in need of replacement, but where no replacement will be made.
- Paying the cost to construct a road to facilitate the abandonment or removal of an existing bridge determined to be deficient.

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 no other purposes or uses. Provided, however, the Public Entity may not 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 statement, sworn to before a notary public, to such effect to the requesting entity.

Section 2.05 Sale or Lease of Real Property. The Public Entity may not and 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 the G.O. Compliance Legislation regarding such sale or leasing.

Section 2.06 Public Entity Representations and Warranties. The Public Entity further covenants with, and represents and warrants to MnDOT as follows:

- A. It has legal authority to enter into, execute, and deliver this Agreement, the Declaration, and all documents referred to herein, and it has taken all actions necessary to its execution and delivery of such documents.
- B. It has legal authority to use the LBRP Grant for the purpose or purposes delineated in Section 2.03 herein.
- C. It has legal authority to operate the Real Property for the purposes delineated in Section 2.04 herein.
- D. It has the ability and a plan to fund the operation of the Real Property for the purposes specified in Section 2.04 herein, and will include in its annual budget all funds necessary for the operation of the Real Property for such purposes.
- E. This Agreement, the Declaration, and all other documents referred to herein are the legal, valid and binding obligations of the Public Entity enforceable against the Public Entity in accordance with their respective terms.
- F. It will comply with all of the terms, conditions, provisions, covenants, requirements, and warranties in this Agreement, the Declaration, and all other documents referred to herein.

- G. It will comply with all of the provisions and requirements contained in and imposed by the G.O. Compliance Legislation, the Commissioner's Order, and the LBRP.
- H. It has made no material false statement or misstatement of fact in connection with its receipt of the LBRP Grant, and all of the information it has submitted or will submit to MnDOT or Commissioner relating to the LBRP Grant or the disbursement of any of the LBRP Grant is and will be true and correct.
- I. 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, suits, 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 this Agreement, the Declaration, or any document referred to herein, or to perform any of the acts required of it in such documents.
- J. Neither the execution and delivery of this Agreement, the Declaration, or any document referred to herein nor compliance with any of the terms, conditions, requirements, or provisions contained in any of such documents is prevented by, is a breach of, or will result in a breach of, any term, condition, or provision of any agreement or document to which it is now a party or by which it is bound.
- K. 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.
- L. The Project will be completed in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Project.
- M. All applicable licenses, permits and bonds required for the performance and completion of the Project have been, or will be, obtained.
- N. All applicable licenses, permits and bonds required for the operation of the Real Property in the manner specified in Section 2.04 herein have been, or will be, obtained.
- O. It will operate, maintain, and manage the Real Property in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Real Property.
- P. It reasonably expects to possess the ownership interest in the Real Property described Section 2.02 herein for at least 37.5 years, and it does not expect to sell such ownership interest.
- Q. It does not expect to sell or transfer any portion of its ownership interest in the Real Property.
- R. It does not expect to lease out or enter into any contract that would allow another entity to use or operate the Real Property.
- S. No buildings or other structures currently exist on the Real Property, and it does not expect to construct or relocate any buildings or other structures onto the Real Property.

- T. It will supply whatever funds are needed above and beyond the amount of the LBRP Grant to complete and fully pay for the Project.
- U. The provisions contained in Minn. Stat. §16B.335 and requirements imposed thereunder do not apply to the Project.
- V. 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.

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 this 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 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 in this Agreement, in any Draw Requisition, in any other document furnished pursuant to this Agreement, or in order to induce MnDOT to disburse any of 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, term, condition, covenant, or warranty contained in this Agreement.
- C. If the Public Entity fails to fully comply with any provision, term, condition, covenant or warranty contained in the G.O. Compliance Legislation, the Commissioner's Order, or the LBRP Enabling Legislation.
- D. If the Public Entity fails to use the proceeds of the LBRP Grant for the purposes delineated in Section 2.03 herein, 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 herein.
- 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 leases out or enters into any contract that would allow another entity to use or operate the Real Property without the written consent of MnDOT and the Commissioner.
- I. If the Public Entity fails to provide any and all additional funds needed to fully pay for the Project.
- J. If the Public Entity fails to supply whatever funds are needed to operate the Real Property in the manner specified in Section 2.04 herein

Notwithstanding the foregoing, any of the above delineated events that cannot be cured shall, unless waived in writing by MnDOT and the Commissioner, constitute an Event of Default under this 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 thereby waiving its rights and remedies hereunder.
- B. The Commissioner, as a third party beneficiary of this Agreement, may demand that the Outstanding Balance of the LBRP Grant be returned to it, and upon such demand the Public Entity shall return such amount to the Commissioner.
- C. Either MnDOT or the Commissioner, as a third party beneficiary of this Agreement, may enforce any additional remedies they may have in law or equity.

The rights and remedies herein specified 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 in this Agreement 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 taken from or off-set 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 7 days after it has obtained knowledge of the occurrence of each Event of Default or each event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement setting forth details of each Event of Default or event which with the giving of notice or upon the lapse of time or both would constitute an Event of Default and the action which the Public Entity proposes to take with respect thereto.

Section 2.10 **Effect of Event of Default.** This Agreement shall survive any and all Events of Default and remain in full force and effect even upon the payment of any amounts due under this Agreement, and shall only be terminated upon the Public Entity's sale of its interest in the Real Property in accordance with the provisions contained in the G.O. Compliance Legislation and the Commissioner's Order, or in accordance with the provisions contained in Section 2.11 herein.

Section 2.11 **Termination/Modification of Grant.** If the Project is not started on or before the date that is 5 years from the effective date of this Agreement or all of the LBRP Grant has not been disbursed as of the date that is 4 years from the date on which the Project is started, or such later dates to which the Public Entity and MnDOT may agree in writing, then 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 dates then MnDOT's obligation to fund any portion of the LBRP Grant shall terminate and this Agreement shall terminate and no longer be of any force or effect, and (ii) if some but not all of the LBRP Grant has been disbursed by such dates then MnDOT shall have no further obligation to provide any additional funding for the Grant LBRP and this Agreement shall remain in full force and effect but shall be modified and amended to reflect the amount of the LBRP Grant that was actually disbursed as of such date. This provision shall not, in any way, affect the Public Entity's obligation to complete the Project by the Completion Date.

Article III
COMPLIANCE WITH G.O. COMPLIANCE LEGISLATION
AND THE COMMISSIONER'S ORDER

Section 3.01 **State Bond Financed Property.** The Public Entity acknowledges and agrees 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 the G.O. Compliance Legislation 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.

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 Section 148 of the Code.
- B. It will deposit into and hold all of the LBRP Grant that it receives under this Agreement in a segregated non-interest bearing account until such funds are used for payments for the Project in accordance with the provisions contained herein.
- C. It will, upon written request, provide the Commissioner all information required to satisfy the informational requirements set forth in the Code including, but not limited to, Sections 103 and 148 thereof, 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 either; (i) compliance with proceedings intended to classify the G.O. Bonds as a “qualified bond” within the meaning of Section 141(e) of the Code, (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 used, directly or indirectly, in an “unrelated trade or business” or for any “private business use” (within the meaning of Sections 141(b) and 145(a) of the Code), or (iii) compliance with other Code provisions, regulations, or revenue procedures which amend or supersede the foregoing.
- E. It will not otherwise use any of the LBRP Grant, including earnings thereon, if any, or take or permit to or cause to be taken any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, nor otherwise omit, take, or cause to be taken any action necessary to maintain such tax exempt status, and if it should take, permit, omit to take, or cause to be taken, as appropriate, any such action, it shall take all lawful actions necessary to rescind or correct such actions or omissions promptly upon having knowledge thereof.

Section 3.03 **Changes to G.O. Compliance Legislation or the Commissioner’s Order.** In the event that the G.O. Compliance Legislation 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 is exempt from the G.O. Compliance Legislation and the Commissioner’s Order, then upon written request by the Public Entity MnDOT shall enter into and execute an amendment to this Agreement to implement such amendment to or exempt the Public Entity’s interest in the Real Property from the G.O. Compliance Legislation or the Commissioner’s Order.

Article IV
DISBURSEMENT OF GRANT PROCEEDS

Section 4.01 **The Advances.** The MnDOT agrees, on the terms and subject to the conditions set forth herein, to make Advances from 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 herein, 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 herein, MnDOT's obligation to make Advances shall terminate as of the dates specified in Section 2.11 herein 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 hereto as **Attachment III**, (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. Therefore, the cumulative amount of all Advances disbursed by MnDOT at any point in time shall not exceed the portion of the Project that has been completed. This requirement is expressed by way of the following formula: Cumulative Advances \leq (LBRP Grant) x (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 all landscape requirements and off-site utilities and streets needed for access to the Real Property and 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 delineated in Section 1.01 herein.
- B. MnDOT shall have received a duly executed Declaration that has been duly recorded in the appropriate governmental office, with all of the recording information displayed thereon.
- C. 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.
- D. 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 herein, 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.
- E. The Public Entity has supplied to MnDOT all other items that MnDOT 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 their own inspections and observations of regarding the completion of the Project, and shall determine to their 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 delineated in Section 2.02 herein all or any portion of the Real Property is condemned to an extent that the Public Entity can no longer comply with the provisions contained in Section 2.04 herein, then the Public Entity shall, at its sole option and discretion, either; (i) use or cause the condemnation proceeds to be used to acquire an interest in additional real property needed for the Public Entity to continue to comply with the provisions contained in Section 2.04 herein and to provide or cause to be provided 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 that are not used to acquire an interest in additional real property shall be paid to the Commissioner as a partial or full repayment of the LBRP Grant.

As recipient of any of condemnation awards or proceeds referred to herein, MnDOT agrees to and will disclaim, assign or pay over to the Public Entity all of such condemnation awards or proceeds it receives so that the Public Entity can comply with the requirements that this Section imposes upon the Public Entity as to the use of such condemnation awards or proceeds.

Section 5.03 **Use, Maintenance, Repair and Alterations.** The Public Entity shall comply with all laws, ordinances, regulations, requirements, covenants, conditions and restrictions now or hereafter affecting the Real Property, or any part thereof.

The Public Entity shall not, without the written consent of MnDOT and the Commissioner, (i) permit or suffer the use of any of the Real Property for any purpose other than the purposes specified in Section 2.04 herein, (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 such Real Property by increasing the value thereof or improving its ability to be used for the purposes delineated in Section 2.04 herein, (iii) do any act or thing which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, (v) commit or permit any waste or deterioration of the Real Property, or (vi) commit, suffer or permit any act to be done in or upon the Real Property in violation of any law, ordinance or regulation.

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

Section 5.04 **Records Keeping and Reporting.** The Public Entity shall maintain or cause to be maintained books, records, documents and other evidence pertaining to the costs or expenses associated with the Project and operation of the Real Property needed to comply with the requirements contained in this Agreement, the G.O. Compliance Legislation, the Commissioner's Order, and the LBRP Enabling Legislation, and upon request shall allow or cause the entity which is maintaining such items to allow MnDOT, auditors for MnDOT, 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 or cause the entity which is maintaining such items to use generally accepted accounting principles in the maintenance of such items, and shall retain or cause to be retained (i) all of such items that relate to the Project for a period of 6 years from the date that the Project is fully completed and placed into operation, and (ii) all of such items that relate to the operation of the Real Property for a period of 6 years from the date such operation is initiated.

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

Section 5.06 **Data Practices.** The Public Entity agrees with respect to any data that it possesses regarding the LBRP Grant, the Project, or the operation of the Real Property, to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Chapter 13 of the Minnesota Statutes that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

Section 5.07 **Non-Discrimination.** The Public Entity agrees to not engage in discriminatory employment practices regarding the Project, or operation of the Real Property, and it shall, with respect to such activities, fully comply with all of the provisions contained in Chapters 363A and 181 of the Minnesota Statutes that exist as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

Section 5.08 **Worker's Compensation.** The Public Entity agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. §§176.181 Subd. 2 & 176.182 that exist as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time, with respect to the Project and the operation of the Real Property.

Section 5.09 **Antitrust Claims.** The Public Entity hereby assigns to MnDOT and the Commissioner all claims it may have for over charges as to goods or services provided with respect to the Project, and operation of the Real Property that arise under the antitrust laws of the State of Minnesota or of the United States of America.

Section 5.11 **Prevailing Wages.** The Public Entity agrees to comply with all of the applicable provisions contained in Chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn. Stat. §§177.41 through 177.435 that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time with respect to the Project and the operation of the Real Property. By agreeing to this provision, the Public Entity is not acknowledging or agreeing that the cited provisions apply to the Project or the operation of the Real Property.

Section 5.12 **Liability.** The Public Entity and MnDOT agree that they will, subject to any indemnifications provided herein, be responsible for their own acts and the results thereof to the extent authorized by law, and they shall not 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 contained in Minn. Stat. §3.736 that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time. If the Public Entity is a "municipality" as such term is used in Chapter 466 of the Minnesota Statutes that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time, then the liability of the Public Entity, including but not limited to the indemnification provided under Section 5.13 herein, is governed by the provisions contained in such Chapter 466.

Section 5.13 **Indemnification by the Public Entity.** The Public Entity shall bear all loss, expense (including attorneys' fees), and damage in connection with the Project and operation of the Real Property, and agrees to indemnify and hold harmless MnDOT, the Commissioner, and the State of Minnesota, their agents, servants and employees from all claims, demands and judgments made or recovered against MnDOT, the Commissioner, and the State of Minnesota, their agents, servants and employees, because of bodily injuries, including death at any

time resulting therefrom, or because of damages to property of MnDOT, the Commissioner, or the State of Minnesota, or others (including loss of use) from any cause whatsoever, arising out of, incidental to, or in connection with the Project or operation of the Real Property, whether or not due to any act of omission or commission, including negligence of the Public Entity or any contractor or his or their employees, servants or agents, and whether or not due to any act of omission or commission (excluding, however, negligence or breach of statutory duty) of MnDOT, the Commissioner, or the State of Minnesota, their employees, servants or agents.

The Public Entity further agrees to indemnify, save, and hold MnDOT, the Commissioner, and the State of Minnesota, their agents and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation by the Public Entity, its officers, employees, or agents of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce the provisions contained in Section 5.06 herein.

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 5.14 Relationship of the Parties. Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners or a joint venture between the Public Entity, MnDOT, or the Commissioner, nor shall the Public Entity be considered or deemed to be an agent, representative, or employee of either MnDOT, the Commissioner, or the State of Minnesota in the performance of this Agreement, the Project, or operation of the Real Property.

The Public Entity represents that it has already or will secure or cause to be secured all personnel required for the performance of this Agreement and the Project, and the operation of the Real Property. All personnel of the Public Entity or other persons while engaging in the performance of this Agreement, the Project, or the operation of the Real Property shall not have any contractual relationship with MnDOT, the Commissioner, or the State of Minnesota and shall not be considered employees of any of such entities. In addition, all claims that may arise on behalf of said personnel or other persons out of employment or alleged employment including, but not limited to, claims under the Workers' Compensation Act of the State of Minnesota, claims of discrimination against the Public Entity, its officers, agents, contractors, or employees shall in no way be the responsibility of either MnDOT, the Commissioner, or the State of Minnesota. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from either MnDOT, the Commissioner, or the State of Minnesota including, but not limited to, tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

Section 5.15 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 shall be sufficient if personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the business address of the party to whom it is directed. Such business address shall be that address specified below or such different address as may hereafter be specified, by either party by written notice to the other:

To the Public Entity at:

Todd County Public Works Department
44 Riverside Drive
Long Prairie, MN 56347
Attention: Loren Fellbaum, County Engineer

To MnDOT at:

Minnesota Department of Transportation
Office of State Aid
395 John Ireland Blvd., MS 500
Saint Paul, MN 55155
Attention: Patti Loken, 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 5.16 **Binding Effect and Assignment or Modification.** This Agreement and the Declaration shall be binding upon and inure to the benefit of the Public Entity and MnDOT, and their respective successors and assigns. Provided, however, that neither the Public Entity nor MnDOT may assign any of its rights or obligations under this Agreement or the Declaration without the prior written consent of the other party. No change or modification of

The terms or provisions of this Agreement or the Declaration shall be binding on either the Public Entity or MnDOT unless such change or modification is in writing and signed by an authorized official of the party against which such change or modification is to be imposed.

Section 5.17 **Waiver.** Neither the failure by the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of this Agreement, in any one or more instances to insist upon the complete and total observance or performance of any term or provision hereof, nor the failure of the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of this Agreement, to exercise any right, privilege, or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of either the Public Entity, MnDOT, or the Commissioner, as a third party beneficiary of this Agreement, 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 5.18 **Entire Agreement.** This Agreement and the Declaration 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 5.19 **Choice of Law and Venue.** All matters relating to the validity, construction, performance, or enforcement of this Agreement or the Declaration shall be determined in accordance with the laws of the State of Minnesota. All legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued in the State of Minnesota District Court located in the City of St. Paul, County of Ramsey, State of Minnesota.

Section 5.20 **Severability.** If any provision of this 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 5.21 **Times is of Essence.** Time is of the essence with respect to all of the matters contained in this Agreement.

Section 5.22 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

Section 5.23 **Source and Use of Funds.** The Public Entity represents to MnDOT and the Commissioner that the Source and Use of Funds Statement attached hereto as **Attachment III** shows the total cost of the Project and all of the funds that are available for the completion of the Project, and that the information contained in such **Attachment III** correctly and accurately delineates the following information.

- A. The total cost of the Project detailing all of the major elements that make up such total cost and how much of such total cost is attributed to each such major element.
- B. The source of all funds needed to complete the Project broken down amongst the following categories:
 - (i) State funds including the LBRP Grant, identifying the source and amount of such funds.
 - (ii) Other funds supplied by the Public Entity, identifying the source and amount of such funds.
 - (iii) Loans, identifying each such loan, the entity providing the loan, the amount of each such loan, the terms and conditions of each such loan, and all collateral pledged for repayment of each such loan.

If any of the funds included under the source of funds have conditions precedent to the release of such funds, then the Public Entity must provide to MnDOT and the Commissioner a detailed description of such conditions and what is being done to satisfy such conditions.

The Public Entity shall also supply whatever other information and documentation that MnDOT or the Commissioner may request to support or explain any of the information contained in **Attachment III** to this Agreement.

Section 5.24 **Project Completion Schedule.** The Public Entity represents to MnDOT and the Commissioner that **Attachment IV** to this Agreement correctly and accurately delineates the projected schedule for the completion of the Project.

Section 5.25 **Third-Party Beneficiary.** The State Program will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both MnDOT and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner, is and shall be a third-party beneficiary of this Agreement.

Section 5.26 **Public Entity Tasks.** Any tasks that this 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 5.27 **MnDOT and Commissioner Required Acts and Approvals.** The MnDOT and the Commissioner shall not (i) perform any act herein required or authorized by it in an unreasonable manner, (ii) unreasonably refuse to perform any act that it is required to perform hereunder, or (iii) unreasonably refuse to provide or withhold any approval that is required of it herein.

Section 5.28 **Additional Requirements.** The Public Entity and MnDOT agree to comply with the following additional requirements. In the event of any conflict or inconsistency between the following additional requirements and any other provisions or requirement contained in this Agreement, the following additional requirements contained in this Section shall control.

NONE

IN TESTIMONY HEREOF, the Public Entity and MnDOT have executed this General Obligation Bond Proceeds Grant Agreement Construction Grant for the SAP 77-650-03 (Bridge 77J75) Project under the Local Bridge Replacement Program on the day and date indicated immediately below their respective signatures.

STATE ENCUMBRANCE VERIFICATION

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

By: _____

Date: _____

PUBLIC ENTITY

By: _____

Title: Todd County Board - Chairman

Date: _____

By: _____

Title: Todd County Administrator

Date: _____

DEPARTMENT OF TRANSPORTATION

Recommended for approval:

By: _____
(With delegated authority)

Title: _____

Date: _____

OFFICE OF CONTRACT MANAGEMENT

By: _____
Contract Administrator

Date: _____

**Attachment I to Grant Agreement
DECLARATION**

The undersigned has the following interest in the real property located in the County of Todd, State of Minnesota, which is legally described in **Exhibit A** attached and all facilities situated thereon (cumulatively referred to as the “Restricted Property”)

Check the appropriate box:

- a fee simple title
- an easement

and; as owner of such fee title, lease or easement, does hereby declare that such interest in the Restricted Property is hereby made subject to the following restrictions and encumbrances:

- A. The Restricted Property is bond financed property within the meaning of Minn. Stat. §16A.695 that exists as of the effective date of the grant agreement identified in B hereinbelow, is subject to the encumbrance created and requirements imposed by such statutory provision, and cannot be sold or otherwise disposed of by the public officer or agency which has jurisdiction over it or owns it without the approval of the commissioner of the Minnesota Department of Finance, which approval must be evidenced by a written statement signed by said commissioner and attached to the deed or instrument used to sell or otherwise dispose of the Restricted Property; and
- B. The Restricted Property is subject to all of the terms, conditions, provisions, and limitations contained in the General Obligation Bond Proceeds Grant Agreement – Construction Grant for the SAP 77-650-03 (Bridge 77J75) Project Under the Local Bridge Replacement Program between Todd County and the Minnesota Department of Transportation with an effective date of the 7th day of September, 2010.

The Restricted Property shall remain subject to such restrictions and encumbrances until it is released therefrom by way of a written release in recordable form signed by both the commissioner of the Minnesota Department of Transportation and the commissioner of the Minnesota Management and Budget Office, and such written release is recorded in the real estate records relating to the Restricted Property.

This Declaration may not be terminated, amended, or in any way modified without the specific written consent of the commissioner of the Minnesota Management Budget Office.

Declaration Signatures & Notary Acknowledgment

By: _____

By: _____

Title: Todd County Board – Chairman

Title: Todd County Board – Chairman

Date: _____

Date: _____

STATE OF MINNESOTA

County of Todd

The foregoing instrument was acknowledged before me this 7th Day of September, 2010

by _____.

<p>NOTARY STAMP OR SEAL OR (OTHER TITLE OR RANK)</p>

SIGNATURE OF PERSON TAKING ACKNOWLEDGEMENT

This instrument was drafted by Todd County Public Works Department, 44 Riverside Drive, Long Prairie, Minnesota 56347.

**Exhibit A of Attachment I
LEGAL DESCRIPTION OF REAL PROPERTY**

All that part of the Northwest quarter of the Northeast quarter of Section 35, Township 128 North, Range 34 West, Todd County, Minnesota. Designated by the widths below to the immediate left and right of the following described centerline; Commencing at the northeast corner of said Section 35; thence on an assumed bearing North 89 degrees 46 minutes 51 seconds West along the north line of said Section 35 a distance of 1,715.14 feet to the point of beginning road station 497+25 of the centerline to be described; thence South 28 degrees 02 minutes 51 seconds West on tangent 975.50 feet; thence southwesterly along a tangential curve, concave to the northwest, radius 3,819.72 feet, central angle 14 degrees 19 minutes 00 seconds 907.50 feet to a point on the center line of said Section 35 and said centerline there terminating road station 478+42.

1927 Road Plan, Station 493+29.78 to 493+75, 50 feet Left (2010 Culvert Plan Station 4+54.78 to 5+00)

1927 Road Plan, Station 493+75 to 495+25, 100 feet Left (2010 Culvert Plan Station 5+00 to 6+50)

1927 Road Plan, Station 495+25 to 495+75, 50 feet Left (2010 Culvert Plan Station 6+50 to 7+00)

1927 Road Plan, Station 493+75 to 495+25, 100 feet Right (2010 Culvert Plan Station 5+00 to 6+50)

**Attachment II to Grant Agreement
LEGAL DESCRIPTION OF REAL PROPERTY**

All that part of the Northwest quarter of the Northeast quarter of Section 35, Township 128 North, Range 34 West, Todd County, Minnesota. Designated by the widths below to the immediate left and right of the following described centerline; Commencing at the northeast corner of said Section 35; thence on an assumed bearing North 89 degrees 46 minutes 51 seconds West along the north line of said Section 35 a distance of 1,715.14 feet to the point of beginning road station 497+25 of the centerline to be described; thence South 28 degrees 02 minutes 51 seconds West on tangent 975.50 feet; thence southwesterly along a tangential curve, concave to the northwest, radius 3,819.72 feet, central angle 14 degrees 19 minutes 00 seconds 907.50 feet to a point on the center line of said Section 35 and said centerline there terminating road station 478+42.

- 1927 Road Plan, Station 493+29.78 to 493+75, 50 feet Left (2010 Culvert Plan Station 4+54.78 to 5+00)
- 1927 Road Plan, Station 493+75 to 495+25, 100 feet Left (2010 Culvert Plan Station 5+00 to 6+50)
- 1927 Road Plan, Station 495+25 to 495+75, 50 feet Left (2010 Culvert Plan Station 6+50 to 7+00)

- 1927 Road Plan, Station 493+75 to 495+25, 100 feet Right (2010 Culvert Plan Station 5+00 to 6+50)

**Attachment IV to Grant Agreement
PROJECT COMPLETION SCHEDULE**

Project Start Date: September 13, 2010
Project End Date: October 15, 2010

**Attachment III to Grant Agreement
SOURCE AND USE OF FUNDS STATEMENT**

Source of Funds		Use of Funds	
Entity Supplying Funds	Amount	Identity of Items	Amount
State Funds			
LBRP Grant	\$113,013.63	Items Paid for with LBRP Grant Funds	\$113,013.63
State Aid	\$131,629.17		
Sub-Total	\$244,642.80		
Other Public Entity Funds			
	\$0.00	Items Paid for with None LBRP Grant Funds	\$131,629.17
TOTAL FUNDS	\$244,642.80	TOTAL PROJECT COSTS	\$244,642.80

Attachment V to Grant Agreement GRANT APPLICATION

Mn/DOT 30809(9/01)



APPLICATION FOR BRIDGE FUNDS State Transportation Fund Grants and Town Bridge Funds State of Minnesota – Department of Transportation State Aid for Local Transportation

Identification	Project Number <u>SAP 77-650-03</u> Old Bridge Number <u>4670</u> New Bridge No. <u>77J75</u> Over <u>Little Sauk River</u> County of <u>Todd</u> Road or Street No. <u>CSAH 50</u> Municipality of _____ Road or Street Name _____ Township of <u>Little Sauk</u> Proposed Const. Year <u>2010</u>																				
Eligibility	Bridge Sufficiency Rating <u>54.0</u> Is this bridge hydraulically deficient? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Adequacy Status from Structure Inventory <input checked="" type="checkbox"/> Structurally Deficient <input type="checkbox"/> Functionally Obsolete <input type="checkbox"/> Adequate Date of Council/Board action prioritizing this bridge <u>8/18/2009</u> Is this a road-in-lieu of bridge project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Is the bridge on a private approach and within the public right-of-way? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																				
Prioritization	Will completion of this project effectively eliminate a deficiency in the transportation system? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No How many people are affected by this deficiency? <u>221 vpd (yr 2009)</u> What is the ADT on this bridge? <u>288 vpd</u> Describe the economic importance of replacing this bridge. <u>Provides access to school bus traffic, residences, agricultural production sites.</u> Will this project adversely affect optimum land use or cause other planning concerns? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Have federal-aid funds been applied for on this project? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 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	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 30%; text-align: center;">Eligible Amount</th> <th style="width: 30%; text-align: center;">Ineligible Amount</th> </tr> </thead> <tbody> <tr> <td>Structure Costs</td> <td style="text-align: right;">\$ 200,000</td> <td style="text-align: right;">\$ 10,000</td> </tr> <tr> <td>Approach Costs</td> <td style="text-align: right;">\$ 0</td> <td style="text-align: right;">\$ 35,000</td> </tr> <tr> <td>Engineering Costs</td> <td style="text-align: right;">\$ 0</td> <td style="text-align: right;">\$ 35,000</td> </tr> <tr> <td>Total Costs</td> <td style="text-align: right;">\$ 200,000</td> <td style="text-align: right;">\$ 80,000</td> </tr> <tr> <td>Total Project Cost</td> <td colspan="2" style="text-align: right;">\$ 280,000.00</td> </tr> </tbody> </table> <table style="width: 100%;"> <tr> <td style="width: 60%; text-align: center;"><u><i>Loe Fella</i></u> County/City Engineer</td> <td style="width: 40%; text-align: center;"><u>11-17-2009</u> Date</td> </tr> </table>		Eligible Amount	Ineligible Amount	Structure Costs	\$ 200,000	\$ 10,000	Approach Costs	\$ 0	\$ 35,000	Engineering Costs	\$ 0	\$ 35,000	Total Costs	\$ 200,000	\$ 80,000	Total Project Cost	\$ 280,000.00		<u><i>Loe Fella</i></u> County/City Engineer	<u>11-17-2009</u> Date
	Eligible Amount	Ineligible Amount																			
Structure Costs	\$ 200,000	\$ 10,000																			
Approach Costs	\$ 0	\$ 35,000																			
Engineering Costs	\$ 0	\$ 35,000																			
Total Costs	\$ 200,000	\$ 80,000																			
Total Project Cost	\$ 280,000.00																				
<u><i>Loe Fella</i></u> County/City Engineer	<u>11-17-2009</u> Date																				
DSAE	DISTRICT STATE AID ENGINEER RECOMMENDATION Replace _____ Defer _____ District State Aid Engineer Signature _____ Date _____																				
Approval	<table style="width: 100%;"> <tr> <td style="width: 50%;"> STATE AID USE ONLY Date RDC or Met Council Notified _____ Resolution Received? <input type="checkbox"/> Yes <input type="checkbox"/> No SR < 80 and FO or SD? <input type="checkbox"/> Yes <input type="checkbox"/> No OR Hydraulically deficient? <input type="checkbox"/> Yes <input type="checkbox"/> No Priority Number _____ </td> <td style="width: 50%;"> <table style="width: 100%;"> <tr><td>Federal-Aid</td><td style="text-align: right;">\$</td></tr> <tr><td>State-Aid</td><td style="text-align: right;">\$</td></tr> <tr><td>Local/Other</td><td style="text-align: right;">\$</td></tr> <tr><td>Town Bridge</td><td style="text-align: right;">\$</td></tr> <tr><td>Unallocated Town Bridge</td><td style="text-align: right;">\$</td></tr> <tr><td>State Bridge Funds</td><td style="text-align: right;">\$</td></tr> <tr><td>Total</td><td style="text-align: right;">\$</td></tr> </table> </td> </tr> </table>	STATE AID USE ONLY Date RDC or Met Council Notified _____ Resolution Received? <input type="checkbox"/> Yes <input type="checkbox"/> No SR < 80 and FO or SD? <input type="checkbox"/> Yes <input type="checkbox"/> No OR Hydraulically deficient? <input type="checkbox"/> Yes <input type="checkbox"/> No Priority Number _____	<table style="width: 100%;"> <tr><td>Federal-Aid</td><td style="text-align: right;">\$</td></tr> <tr><td>State-Aid</td><td style="text-align: right;">\$</td></tr> <tr><td>Local/Other</td><td style="text-align: right;">\$</td></tr> <tr><td>Town Bridge</td><td style="text-align: right;">\$</td></tr> <tr><td>Unallocated Town Bridge</td><td style="text-align: right;">\$</td></tr> <tr><td>State Bridge Funds</td><td style="text-align: right;">\$</td></tr> <tr><td>Total</td><td style="text-align: right;">\$</td></tr> </table>	Federal-Aid	\$	State-Aid	\$	Local/Other	\$	Town Bridge	\$	Unallocated Town Bridge	\$	State Bridge Funds	\$	Total	\$				
STATE AID USE ONLY Date RDC or Met Council Notified _____ Resolution Received? <input type="checkbox"/> Yes <input type="checkbox"/> No SR < 80 and FO or SD? <input type="checkbox"/> Yes <input type="checkbox"/> No OR Hydraulically deficient? <input type="checkbox"/> Yes <input type="checkbox"/> No Priority Number _____	<table style="width: 100%;"> <tr><td>Federal-Aid</td><td style="text-align: right;">\$</td></tr> <tr><td>State-Aid</td><td style="text-align: right;">\$</td></tr> <tr><td>Local/Other</td><td style="text-align: right;">\$</td></tr> <tr><td>Town Bridge</td><td style="text-align: right;">\$</td></tr> <tr><td>Unallocated Town Bridge</td><td style="text-align: right;">\$</td></tr> <tr><td>State Bridge Funds</td><td style="text-align: right;">\$</td></tr> <tr><td>Total</td><td style="text-align: right;">\$</td></tr> </table>	Federal-Aid	\$	State-Aid	\$	Local/Other	\$	Town Bridge	\$	Unallocated Town Bridge	\$	State Bridge Funds	\$	Total	\$						
Federal-Aid	\$																				
State-Aid	\$																				
Local/Other	\$																				
Town Bridge	\$																				
Unallocated Town Bridge	\$																				
State Bridge Funds	\$																				
Total	\$																				

CA\Documents and Settings\ken\Local Settings\Temporary Internet Files\OLKFF\rev- 11_17_09fundapp.doc

Todd County, MN Board Action Form



Action Requested	
<input type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Transfer of Excess State Aid Municipal Construction Funds to State Aid Regular Construction Funds	
Date of Meeting: September 7th, 2010	Total time requested: 10 minutes
Department Requesting Action: Public Works Department	
Presenting Board Action/Discussion at Meeting: Loren Fellbaum, Todd County Engineer	
Background <input type="checkbox"/> Supporting Documentation enclosed	
Transfer the excess of two years state aid municipal construction account allocation to state aid regular construction account to avoid construction fund balance "needs" deduction per Minnesota Statute 162.08, Subdivision. 4 (3d).	
Options <input type="checkbox"/> Supporting Documentation enclosed	
#1 Approve attached resolution. #2 Do not approve attached resolution.	
Recommendation <input type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion: Approve attached resolution.	
Financial Implications: \$ 0	Comments
Funding Source: State Aid Construction	
Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
County Board Chairman:	
<div style="border-bottom: 1px solid black; width: 100%;"></div>	
David Kircher	
Clerk to the Board:	
<div style="border-bottom: 1px solid black; width: 100%;"></div>	
Nathan Burkett, County Administrator	

Seal

TODD COUNTY BOARD OF COMMISSIONERS

Transfer of Excess State Aid Municipal Construction Funds to State Aid Regular Construction Funds

WHEREAS, Minnesota Statute 162.08, Subdivision 4 (3d), provides that accumulated balances in excess of two years of municipal account apportionments may be spent on projects located outside of municipalities under 5,000 population when approved solely by resolution of the County Board, and;

WHEREAS, Counties having a State Aid Municipal Construction Fund Account balance exceeding three years apportionment are subject to a penalty on future year apportionments, and;

WHEREAS, the current State Aid Municipal Construction Fund Account balance indicates an excess amount of \$259,134.42 which would subject Todd County to a penalty reduction on the 2011 State Aid Apportionment.

NOW, THEREFORE BE IT RESOLVED, that the Todd County Board of Commissioners request that the Commissioner of Transportation transfer \$259,134.42 from the Todd County Municipal State Aid Construction Fund Account in excess of two years apportionment into the Todd County Regular State Aid Construction Fund Account.

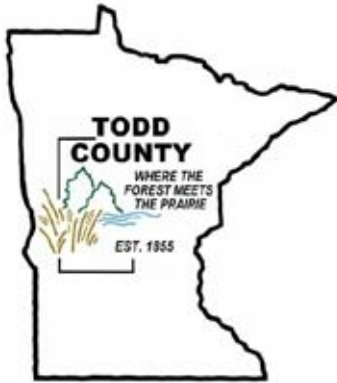
CERTIFICATION

STATE OF MINNESOTA+

COUNTY OF TODD

I do hereby certify that the foregoing resolution is a true and correct copy of the resolution presented to and adopted by the County of Todd at a duly authorized meeting thereof held on the 7th Day of September, 2010, as shown by the minutes of said meeting in my possession.

Todd County, MN Board Action Form



Action Requested	
<input type="checkbox"/> Action/Motion <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Discussion with Jason Kuboushek from Iverson Reuvers (Closed Session)	
Date of Meeting: September 7, 2010	Total time requested: 30 minutes
Department Requesting Action: Public Work Department	
Presenting Board Action/Discussion at Meeting: Loren Fellbaum, County Engineer	
Background <input type="checkbox"/> Supporting Documentation enclosed	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
Closed session discussion with Jason Kuboushek from Iverson Reuvers - Attorneys at Law regarding Todd County vs. Central Specialties Case.	
Financial Implications: \$-	Comments
Funding Source: -	
Budgeted: <input type="checkbox"/> Yes <input type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures
County Board Chairman:

David Kircher
Clerk to the Board:

Nathan Burkett, County Administrator
Seal

Todd County, MN Board Action Form



Action Requested	
<input checked="" type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Approve ARMER Consulting Agreement	
Date of Meeting: September 7, 2010	Total time requested: 10 min
Department Requesting Action: Sheriff	
Presenting Board Action/Discussion at Meeting: Sheriff, Dispatch Supervisor, Emergency Manager	
Background <input checked="" type="checkbox"/> Supporting Documentation enclosed	
The Board approved migration to ARMER by resolution. It is necessary at this point to engage with a consultant to begin implementation. Additional discussion will be held on the Commissioners policy positions as they relate to ARMER implementation.	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input checked="" type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
Approval for the County Sheriff to engage in a Consulting agreement with SEH, Inc. for up to \$40,000 for services related to the implementation of the ARMER system within Todd County.	
Financial Implications: \$ <= 40,000	Comments
Funding Source: Levy	
Budgeted: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
STATE OF MINNESOTA } COUNTY OF TODD }	
I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:	
Seal	



August 2, 2010

RE: Todd County, Minnesota
Radio System Project Management
SEH No. P-TODDC 112471

Sheriff Peter Mikkelson
Todd County Sheriff's Office
115 – 3rd Avenue South
Long Prairie, MN 56347

Dear Sheriff Mikkelson:

Todd County is seeking technical assistance to proceed with development and deployment of the Allied Radio Matrix for Emergency Response (ARMER) subsystem and with project management and engineering services to deploy the project enhancements within the County. In particular the County seeks assistance with completion of detailed design of the system, coordination of site access issues with Mn/DOT, engagement with equipment vendors, technical support and miscellaneous project management services throughout the deployment and acceptance phases of the project. This may include coordination with various stakeholders within the county and with external partners such as Motorola, the Minnesota Department of Transportation (Mn/DOT) and the Minnesota Department of Public Safety (DPS) as needed.

We propose to assist Todd County with technical support, project management and engineering services as directed by the County to deliver this project. Following is our proposed work program.

Work Program

1. Detailed Design and Site Use.

- Coordinate with the County, Mn/DOT, telephone company and others as needed to complete the detailed technical design plan and connectivity plan for Todd County ARMER radio subsystem enhancements. The design will include defining RF Control Station and telephone equipment configuration as appropriate to conform to the TODD County Plan.
- Detailed design plans, drawings and equipment recommendations will conform to Mn/DOT established ARMER standards.
- Assist as needed with scoping, planning and coordinating the site access, antennae selection, equipment locations and site use approvals to allow for the Todd County ARMER subsystem enhancements at the Lincoln, Long Prairie, West Union, and Hewitt sites.
- As assigned, assist with additional work related to connectivity plans, dispatch console requirements and subscriber equipment detail.

2. Frequency planning and licensing.
 - Complete all tasks which are beyond those included in the ARMER Participation Plan work plan; to assure the completion and approval of required 800MHz frequency assignments.
3. Technical Support – Documentation review and input.
 - Complete all tasks which are beyond those included in the ARMER Participation Plan work plan; to assure the completion and approval of Motorola Statement of Requirements document.
 - Review, and edit as needed, the tower site and PSAP layout plans and diagrams for the Todd PSAP and ARMER tower sites. Coordinate with the County and Mn/DOT to accommodate the Todd County ARMER local enhancement equipment additions.
 - Support the County with miscellaneous technical review, engineering support, and document creation and update tasks as assigned by the County to aid in their migration onto the ARMER system. Meet with county and city stakeholders to continue development of a talk group and fleet map plans.
4. Assist with the overall Project Management through the System Installation, Testing, and Acceptance phases of the ARMER project.
 - Develop equipment recommendations as needed for the procurement of radio system elements needed for deployment of a county ARMER subsystem. Specifications may include antenna systems, connectivity and backhaul interface equipment, modems and routers, dispatch console equipment, or interoperability radio equipment.
 - Provide direction, oversight and project management throughout the installation, testing and acceptance of the Todd County radio system project.
 - Represent Todd County as needed at project planning and implementation meetings or conference calls and site visits. In particular provide input and guidance related to the technical design, FCC licensing, system implementation, system cut over, and system acceptance phases of the project.
 - Coordinate activities, schedules and approvals of suppliers, vendors, and contractors throughout the installation and acceptance of the system.
 - Coordinate as needed between and among equipment suppliers, vendors, contractors, site owners, and the County to assure problems and issues are addressed and resolved.

Andy Terry will lead the project, develop technical designs and recommendations, and manage interaction with the County, vendors and various stakeholders as needed. John Cvek will assist Andy with design documentation, technical design tasks, and coordination efforts.

We are prepared to begin work on this project as soon as an executed work order is received. It is estimated that the Todd County ARMER Deployment work plan will require approximately \$ 40,000 to complete. The work will be billed monthly based on actual hours at a rate of \$185.00/hour for Andy and \$85.00/hour for John and will itemize all reimbursable expenses. The project maximum is \$ 40,000. We will not exceed that cost without prior authorization from the County. Payments to SEH will be made no later than 30 days after receiving SEH invoices for services performed.

Sheriff Peter Mikkelson
August 2, 2010
Page 3

If this letter satisfactorily sets forth your understanding of our agreement, please sign in the space provided below and return one copy to us. Receipt of the signed copy will serve as authorization to proceed.

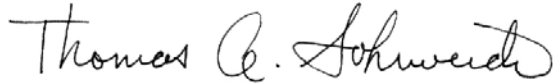
We appreciate the opportunity to present this proposal to Todd County and look forward to working with the County on this important project.

Sincerely,

SHORT ELLIOTT HENDRICKSON INC.



Andrew W. Terry, PE
Director, ITS and Public Safety Services



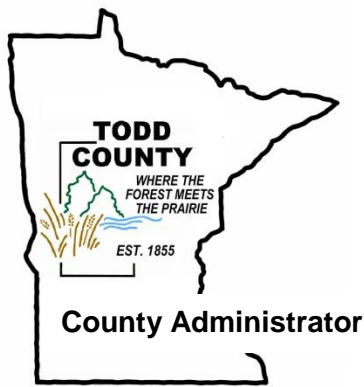
Thomas A. Sohrweide, PE, PTOE
Principal

Accepted this _____ day of _____, 2010

TODD COUNTY, MINNESOTA

By: _____

Title: _____



Nathan Burkett
Todd County Administrator
347 Central Avenue, Suite 5
Long Prairie, MN 56347
nathan.burkett@co.todd.mn.us
Phone: 320-732-6447

Date: September 1, 2010

To: County Board

From: Nathan Burkett, County Administrator

Cc: Bob Cuchna, Dispatch Supervisor
Mike Wisniewski, Emergency Manager
Pete Mikkelson, County Sheriff

Re: 800 MHz Planning and Policy

Following are a few recommendations for consideration regarding planning and implementation of the 800 MHz system. These are recommendations for the Board to consider. A decision is not necessary at this time, but guidance as to what information and policies shall be communicated to Todd County cities, fire departments, ambulance services etc will help to facilitate discussion between the entities.

We recommend the following:

- The County provides administration of the system for free. This includes only tasks which can be completed in the dispatch area as it relates to making sure that radios can communicate with dispatch.
- The County will likely charge for any services which require our technician to do work on a radio not owned by the County. Any administration service that requires a County technician to “touch” a non-County owned radio will be subject to charge. In general, when the equipment cannot be brought to the County offices the County will charge mileage at the County Board approved mileage rate.
- The County will set talk groups – any extra talk groups requested by other organizations will be at the expense of those organizations. The County will determine based on resources available and need whether or not an additional requested talk group will be allowed.
- The County Board will establish a fee schedule for all services provided by the County.
- The County should entertain the idea of purchasing all of the equipment and leasing it to organizations for an annual fee. The county would provide all administration as a part of this annual fee, provide software updates and provide new radios as they need to be replaced. Administration currently projects that the annual fee would be approximately \$500 – 600 per radio.

Projected Budget - ARMER Transition

Expenses by Locality

System	785,000
Todd County	110,500
Long Prairie	182,400
CentraCare Ambulance	57,100
Browerville	127,600
Bertha	109,600
Eagle Bend	70,000
Staples	217,400
Lakewood Health System Ambulance	84,000
Grey Eagle	49,200
Hewitt	52,000
Clarissa	95,900
Total	1,940,700

Cross -

Expenses by Function

System	785,000
Admin	6,600
Fire	589,500
Law Enforcement	207,900
EMS	234,500
Public Works	117,200
Total	1,940,700

Cross -

Financing by locality	FEMA Grant	Other Grant	E-911	Other/ Local	Total
System	450,000	317,000	-	18,000	785,000
Todd County	-	50,000	-	60,500	110,500
Long Prairie	96,120	-	10,680	75,600	182,400
CentraCare Ambulance	-	-	-	57,100	57,100
Browerville	45,180	-	5,020	77,400	127,600
Bertha	53,190	-	5,910	50,500	109,600
Eagle Bend	44,730	-	4,970	20,300	70,000
Staples	119,880	-	13,320	84,200	217,400
CentraCare Ambulance	-	-	-	84,000	84,000
Grey Eagle	44,280	-	4,920	-	49,200
Hewitt	46,800	-	5,200	-	52,000
Clarissa	80,370	-	8,930	6,600	95,900
Total	980,550	367,000	58,950	534,200	1,940,700

1 Presumes LIKELY grant funding - best effort will be made, but no guarantee

Todd County, MN Board Action Form



Action Requested	
<input type="checkbox"/> Action/Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Information Item	<input type="checkbox"/> Report <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Other
Board Action Tracking Number (Admin use):	

Title (for publication with the Agenda): Establish payable 2011 maximum levy	
Date of Meeting: September 7, 2010	Total time requested: 10 min
Department Requesting Action: Administration	
Presenting Board Action/Discussion at Meeting: County Administrator	
Background <input checked="" type="checkbox"/> Supporting Documentation enclosed	
Options <input type="checkbox"/> Supporting Documentation enclosed	
Recommendation <input checked="" type="checkbox"/> The Todd County Board of Commissioners approves the following by Motion:	
Approve Resolution	
Financial Implications: \$13,330,054	Comments
Funding Source: Levy	
Budgeted: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Action	Voting in Favor	Voting Against
Motion:	<input type="checkbox"/> Blessing	<input type="checkbox"/> Blessing
Second:	<input type="checkbox"/> Kneisl	<input type="checkbox"/> Kneisl
<input type="checkbox"/> Passed	<input type="checkbox"/> Ruda	<input type="checkbox"/> Ruda
<input type="checkbox"/> Failed	<input type="checkbox"/> Kircher	<input type="checkbox"/> Kircher
<input type="checkbox"/> Tabled	<input type="checkbox"/> Neumann	<input type="checkbox"/> Neumann

Signatures	
STATE OF MINNESOTA } COUNTY OF TODD }	
I, Nathan W. Burkett, County Administrator, Todd County, Minnesota hereby certify that I have compared the foregoing copy of the proceedings of the County Board of said County with the original record thereof on file in the Administration Office of Todd County in Long Prairie, Minnesota as stated in the minutes of the proceedings of said board and that the same is a true and correct copy of said original record and of the whole thereof, and that said motion was duly passed by said board at said meeting. Witness my hand and seal:	
Seal	

TODD COUNTY BOARD OF COMMISSIONERS

A RESOLUTION ADOPTING THE 2011 PRELIMINARY LEVY

WHEREAS, the Laws of the State of Minnesota direct that the Todd County Board of Commissioners is required to annually approve by resolution a preliminary levy; and

WHEREAS, The Todd County Board of Commissioners has considered the financial situation of the County and had an opportunity to deliberate the levying of property taxes upon property owners within the County.

NOW THEREFORE BE IT RESOLVED, the Todd County Board of Commissioners approves the Preliminary Levy for Todd County, for property taxes payable in 2010 as follows:

	Certified Levy	Program Aids	Local Levy
Revenue	6,607,485	910,223	5,697,262
Road/Bridge	2,326,548	350,000	1,976,548
Welfare	3,855,965	-	3,855,965
Comp Water	5,304	-	5,304
Regional Library	317,942	-	317,942
Bond Debt	201,810	-	201,810
County Fair	10,000	-	10,000
County Parks and Trails	5,000	-	5,000
Total	13,330,054	1,260,223	12,069,831

**TODD COUNTY
RESOLUTION 2009-**

Adopting a Preliminary Levy for 2010

WHEREAS, the Laws of the State of Minnesota direct that the Todd County Board of Commissioners is required to annually approve by resolution a preliminary levy; and

WHEREAS, The Todd County Board of Commissioners has considered the financial situation of the County and had an opportunity to deliberate the levying of property taxes upon property owners within the County.

NOW THEREFORE BE IT RESOLVED, the Todd County Board of Commissioners approves the Preliminary Levy for Todd County, for property taxes payable in 2010 as follows:

	Certified Levy	Program Aids	Local Levy
Revenue	6,702,854	615,315	6,087,539
Road/Bridge	2,386,548	458,417	1,928,131
Welfare	3,945,965	411,930	3,534,035
Comp Water	5,304	352	4,952
Regional Library	323,203	21,454	301,749
Bond Debt	201,810	13,396	188,414
County Fair	20,000	1,328	18,672
County Parks and Trails	6,790	451	6,339
Total	13,592,474	1,522,643	12,069,831

Adopted this 15th day of September, 2009.

Gary Kneisl, Chairman, County Board

Karen Busch, Clerk to the Board

Motion: _____

Second: _____

Adopted: _____