



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Chris Jenkins, Parks & Recreation Director
Date: May 20, 2024
Item: Vermillion River Greenway JPA

Council Action Requested: Approve JPA for the Vermillion River Greenway Construction Project

Background Information: Dakota County and the City of Hastings have been working cooperatively to reconstruct multiple miles of trail along the Vermillion River Greenway corridor. That work began in 2023 and continues in 2024 with Dakota County investing a little over \$1.7M in trail and amenity improvements in the Hastings section of the VRG.

As a part of this project, the City desires to have some reconstruction of connecting trails. Doing so in conjunction with the County's bigger project offers cost savings for the City.

Specifically the trail section along Hwy 61 by Applebee's will be overlaid with new pavement to enhance its function for now. The trail section along West 22nd St on the south side of Applebee's will be reconstructed completely.

Financial Impact: The city will pay \$10,470.00 which the City Council has previously approved along with the budget adjustment for that work. No additional cost to the City for this work.

Advisory Commission Discussion: N/A

Council Committee Discussion: N/A

Attachments:

- JPA

**JOINT POWERS AGREEMENT BETWEEN DAKOTA COUNTY
AND THE CITY OF HASTINGS FOR COST SHARING OF REGIONAL GREENWAY
TRAIL IMPROVEMENTS AND RECONSTRUCTION**

WHEREAS, Minn. Stat. § 471.59 authorizes local governmental units to jointly or cooperatively exercise any power common to the contracting parties; and

WHEREAS, Dakota County (“County”) is a political subdivision of the State of Minnesota; and

WHEREAS, the City of Hastings (“City”) is a Minnesota municipal corporation (collectively herein the County and the City are referred to as the “Parties”); and

WHEREAS, by resolution 19-767, the Dakota County Board authorized the adoption of the Vermillion River Greenway Hastings Segment Master Plan which utilized existing Hastings City trail facilities (“Trail”); and

WHEREAS, by resolution 23-406, the Dakota County Board authorized the reconstruction and improvement of 4.25 miles (“Greenway Project”) from the connection with the Mississippi River Greenway in Levee Park to Pleasant Drive that will become the Vermillion River Greenway; and

WHEREAS, the Greenway will be co-branded with City and County signage, kiosks, wayfinding; and

WHEREAS, the estimated cost of the Project is \$1,704,062.75; and

WHEREAS, the Parties are desirous of entering into this Agreement so that the County and the City may share the actual construction costs for trail improvements and trail reconstruction, of 450 feet of local city trails (“Local Trails”) connecting to the Greenway Project to afford the opportunity to realize competitive pricing and construction mobilization; and

WHEREAS, the Parties anticipate that the 450 feet of the Local Trails will be not incorporated into the regional trail system leading to points of interest outside the City; and

WHEREAS, the City agrees to reimburse the County for the construction work associated with the 450 feet of local trails at cost of \$10,470.00; and

WHEREAS, as part of incorporation of the Trail into a regional trail system, it is mutually desirable to transfer jurisdiction, maintenance, use, and operations to the County.

NOW, THEREFORE, in consideration of the mutual promises and benefits that the Parties shall derive from this Joint Powers Agreement (“Agreement”), the Parties hereby enter into this Agreement for the purposes stated herein.

ARTICLE 1

Purpose

The purpose of this Agreement is to provide cooperation and funding by the City to the County for actual construction costs of the local City Trails connecting to the Greenway Project and to define the responsibilities and obligations of the Parties for cost contribution and Project management. All funds provided by the City are to be used by the County solely for this purpose. The County shall use funds pursuant to this Agreement exclusively for the payment of actual construction costs as provided in this Agreement. The other purpose of this Agreement is to provide a procedure for transferring jurisdiction and power over maintenance, use, operation, repair, replacement, reconstruction, and installation of signage, markings, landscaping, drainage, utilities, sewer, water, improvements, alterations, and any other work directly related to the Trail to Dakota County.

ARTICLE 2

Parties

The Parties to this Agreement are the City and County. County is acting by and through its Parks Department. City is acting by and through its Parks Department.

ARTICLE 3

Term

This Agreement shall be effective on the date of the signature (“Effective Date”) of the last party to sign this Agreement and expires on December 31, 2025 or upon completion by the Parties of their respective obligations under this Agreement, whichever occurs first, unless amended in writing or earlier terminated by law or according to the provisions of this Agreement.

ARTICLE 4

Cooperation

The Parties agree to cooperate and use their reasonable efforts to ensure prompt implementation of the various provisions of this Agreement and to, in good faith, undertake resolution of any disputes in an equitable and timely manner.

ARTICLE 5

City’s Payment Obligation

5.1. Contribution Amount. The City shall reimburse the County Ten Thousand Four Hundred Seventy Dollars and 00/100 (\$10,470.00), including a zero percent (0%) contingency for a total amount not to exceed Ten Thousand Four Hundred Seventy Dollars and 00/100 (\$10,470.00) for actual construction costs incurred for the paving, reconstruction, and associated work of 450 feet of local trails that connect to the Vermillion River Greenway in Hastings. The areas of construction, widening, and reconstruction are depicted and highlighted in yellow in Exhibit 1.

- 5.2. Reimbursement by City. After this Agreement has been executed by both Parties, the County may claim reimbursement for costs in accordance with the Agreement.
- A. The City will reimburse the County within forty-five (45) calendar days of the County's submission of invoices for actual construction costs to the City. Invoices must be submitted in the form acceptable to the County. All requests for reimbursement must be submitted by December 31, 2025. The County must certify that the requested reimbursements are accurate, appropriate and that such expenditures have not been otherwise reimbursed. If the invoice is incorrect, defective, or otherwise improper, the City will notify County within ten (10) calendar days of receiving the incorrect invoice. Upon receiving the corrected invoice from County, the City will make payment within forty-five (45) calendar days.
- B. Actual Construction Costs. Any net increase in actual construction costs exceeding \$10,470.00 shall not affect or increase the City's contribution amounts. The City's contribution amounts shall not exceed the limits set forth herein, regardless of net increases in the estimated or actual costs of the trail reconstruction.
- C. Right to Refuse Payment. The City may refuse to pay any claim that is not specifically authorized by this Agreement. Payment of a claim shall not preclude the County from questioning the propriety of the claim. The City reserves the right to offset any overpayment or disallowance of claim by reducing future payments.
- D. Change Orders and Supplemental Agreements. Any change orders or supplemental agreements that affect the Project cost, scope or cost participation must be approved by the Authorized Representatives of both Parties prior to execution of work. Both Parties shall endeavor to provide timely approval of change orders and supplemental agreements so as not to delay construction operations.

ARTICLE 6

County's Obligations

- 6.1. Construction. The County, or its agents or contractors, shall reconstruct, improve, and widen 4.25 miles of existing eight-foot-wide Trail segments to ten feet as part of the Greenway Project, and 450 feet of Local Trails. Exhibit 1 further identifies and describes the Greenway Project area and the Local Trail project area. Exhibit 2 further identifies the Local Trail project area and scope of work. The County will lead the reconstruction, utilizing a contractor and shall be responsible for awarding contracts for the construction of said Trail. The County will provide project design and management. Greenway Project bid, specifications, and completion shall be reviewed and approved by the County and City.
- 6.2. Acknowledgement. The County shall appropriately acknowledge the funding assistance provided by the City pursuant to this Agreement in any promotional materials, signage, reports, publications, notices and presentations concerning the Project. The City shall appropriately acknowledge the assistance provided by the County pursuant to this

Agreement in any promotional materials, signage, reports, publications, notices and presentations concerning the Greenway Project.

- 6.3. Compliance with Laws/Standard. The County shall abide by all federal, state, or local laws, statutes, ordinances, rules and regulations related to the construction of the work anticipated by this Greenway Project. The County or contractor, if any, is responsible for obtaining and complying with all federal, state, or local permits, licenses, and authorizations necessary for performing the work.
- A. Assignment. Neither the City nor the County may assign nor transfer any rights, duties, interests, or obligations under this Agreement without the prior consent of the other party and a fully executed assignment agreement, executed by the County and the City.
- B. Use of Contractors. The County may engage contractors to perform activities funded pursuant to this Agreement. However, the County retains primary responsibility to the City for performance of the activities and the use of such contractors does not relieve the County from any of its obligations under this Agreement.

If the County engages any contractors to perform any part of the Greenway Project, the County agrees that the contract for such services, labor, or materials shall include the following provisions:

- (a) The contractor must maintain all records and provide all reporting as required by this Agreement;
- (b) The contractor must defend, indemnify, and hold harmless the City from all claims, suits, demands, damages, judgments, costs, interest, and expenses arising out of or by reason of the performance of the contracted work, caused by any intentional or negligent act or omission of the contractor, including negligent acts or omissions of its employees, subcontractors, or anyone for whose acts any of them may be liable;
- (c) The contractor must provide and maintain insurance through the term of this Agreement in amounts and types of coverage as set forth in the Insurance Terms, which is attached and incorporated as Exhibit 3, and provide to the County prior to commencement of the contracted work a certificate of insurance evidencing such insurance coverage;
- (d) The contractor must be an independent contractor for the purposes of completing the contracted work;
- (e) The contractor must acknowledge that the contract between the County and the contractor does not create any contractual relationship between City and the contractor, but that the City is a third-party beneficiary of the contract;

- (f) The contractor shall perform and complete the activities in full compliance with this Agreement and all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the activities.
- 6.4. Future Platting. If part of the Trail is located on property included in a plat map submitted for approval, including without limitation a submission for replatting or subdivision platting, the Trail shall be reflected and shown on the plat map. The County is responsible for fulfilling any condition precedent necessary to reflect or show the Trail on a plat map, including, without limitation, obtaining an easement.
- 6.5. County Responsibility for Project Delivery. The County will be responsible for management and inspection of the work of the Project assuring it is in accordance with State laws and meets approved construction standards. The City will have no actual or implied legal responsibility to the County relating to the above obligations and responsibilities of the Greenway Project.
- 6.6. Trail Maintenance. The City and County agree to enter into a separate supplemental maintenance agreement for trail maintenance, use, operations, repairs, replacement, reconstruction, removal, or installation of signage, markings, landscaping, drainage, utilities, sewer, water, improvements, alterations, or any other work as described above.

ARTICLE 7

Transfer of Jurisdiction

- 7.1. Upon completion of the Project, the City and the County shall execute a separate Agreement addressing maintenance and operation of the Trail (“Supplemental Maintenance Agreement”). Exhibit 4 further identifies and describes the segments of the Trail that are subject to this Article 7. Execution of the Supplemental Maintenance Agreement is a condition precedent to the County accepting the Project and designating the Trail as a Regional Greenway Trail.
- A. Pursuant to the Supplemental Maintenance Agreement, the County shall assume jurisdiction, and shall thereafter have the power to maintain, use, operate, repair, replace, reconstruct, remove, and install signage, markings, landscaping, drainage, utilities, sewer, water, improvements, alterations, or any other work directly arising from operation of the Trail. The County may hire contractors or County staff, or use volunteers, or pay another government unit to perform, provide, or supply the labor, materials, work, services (professional or otherwise), or products necessary or advisable to exercise its powers over the Trail.
- B. Pursuant to the Supplemental Maintenance Agreement, the County shall have no responsibility for repairs, maintenance, use, operations, replacement, reconstruction, removal, or installation of signage, markings, landscaping, drainage, utilities, sewer, water, improvements, alterations, or any other work that does not arise from the ownership and operation of the Trail. This exception applies regardless of whether

work occurs within the Trail or whether there is an incidental benefit to the Trail or the area surrounding the Trail.

- 7.2. At County's request, the City shall execute and obtain all documents or instruments that are necessary or advisable, as determined by the County, to convey the rights and permissions that will allow or facilitate the County to fulfill its obligations and responsibilities under the Supplemental Maintenance Agreement and exercise jurisdiction and control over the trail segments incorporated into the County's Regional Trail System. These may include, without limitation, deeds, licenses, waivers, consents, joint power agreements, easements, assignments, agreements, transfers, or permits. At its own expense, City shall procure all deeds, licenses, waivers, consents, joint power agreements, easements, assignments, agreements, transfers, or permits, or other rights as required by the County. The City shall furnish copies of the above to the County upon request.

ARTICLE 8

Indemnification and Insurance

- 8.1. Each party to this Agreement shall be solely liable for the acts of its officers, employees or agents and the results thereof to the extent authorized by law and shall not be responsible for the acts of the other party, its officers, employees or agents. The provisions of the Municipal Tort Claims Act, Minn. Stat. Ch. 466 and other applicable laws govern liability of the County and the City. Each Party warrants that they are able to comply with the aforementioned indemnity requirements through an insurance or self-insurance program and that each has minimum coverage consistent with liability limits contained in Minn. Stat. Ch. 466. In the event of any claims or actions filed against either party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual Parties. In order to insure a unified defense against any third-party liability claim arising from the work of the Project, County agrees to require all contractors or subcontractors hired to do any of the work contemplated by this Agreement to maintain commercial general liability insurance in amounts consistent with minimum limits of coverage established under Minn. Stat. § 466.04 during the term of such activity. All such insurance policies shall name City and County as additional insureds. City agrees to promptly provide County copies of any insurance policy related to this Agreement upon the County's request.
- 8.2. Notwithstanding anything herein to the contrary, to the greatest extent allowed by law, the City shall indemnify and hold harmless the County, its officers, agents, and employees, from and against any actual or alleged loss, litigation cost (e.g., reasonable attorney fees and costs and expenses), costs, settlement, judgment, demands, damage, lien, debt, liability, injury, harm, fees, fines, penalties, interest, expenditure, diminution in value, or disbursement arising from, attributable to, sustained, or incurred by Dakota County, or its officers, agents, and employees, which is attributable to City's, or City's agents', independent contractors', employees', or delegates' performance of or failure to perform the City's obligations in Section 7.2

- A. **Construction and Survivorship.** The language in Section 8.2 shall be construed and construed so as to give its natural and ordinary meaning and effect, regardless of any rule or law to the contrary. This indemnity provision survives expiration or termination of this Agreement.

ARTICLE 9
Reporting, Accounting and Auditing Requirements

- 9.1. **Accounting Records.** The City and County agree to establish and maintain accurate and complete accounts, financial records and supporting documents relating to the receipt and expenditure of the funding provided in accordance with this Agreement. Such accounts and records shall be kept and maintained by the Parties for a minimum period of six (6) years following the expiration of this Agreement. The Parties agree to promptly provide copies of any accounting records related to this Agreement upon the request of the other party.
- 9.2. **Auditing.** The City and County shall maintain books, records, documents and other evidence pertaining to the costs or expenses associated with the work performed pursuant to this Agreement. Upon request, the Parties shall allow the other party, Legislative Auditor or the State Auditor to inspect, audit, copy or abstract all of the books, records, papers or other documents relevant to this Agreement. The Parties shall use generally accepted accounting principles in the maintenance of such books and records, and shall retain all such books, records, documents and other evidence for a period of six (6) years from the date of the completion of the activities funded by this Agreement.
- 9.3. **Data Practices.** The Parties agree with respect to any data that it possesses regarding the Agreement to comply with all of the provisions of the Minnesota Government Data Practices Act contained in Minnesota Statutes Chapter 13, as the same may be amended from time to time.
- 9.4. **Authorized Representatives.** The following named persons are designated as the Authorized Representatives of the Parties for purposes of this Agreement. These persons have authority to bind the party they represent and to consent to modifications, except that the Authorized Representatives shall have only authority specifically granted by their respective governing boards. Notice required to be provided pursuant this Agreement shall be provided to the following named persons and addresses unless otherwise stated in this Agreement, or in a modification to this Agreement:

TO THE COUNTY: Georg Fischer, or successor
 Physical Development Division Director
 14955 Galaxie Avenue
 Apple Valley, MN 55124-8579

Georg Fischer, or his successor, has the responsibility to monitor the City’s performance pursuant to this Agreement and the authority to approve invoices submitted for reimbursement.

TO THE CITY: Dan Wietecha, or successor
City Administrator
101 East 4th Street
Hastings, MN 55033

In addition, notification to the County regarding termination of this Agreement by the other Party shall be provided to the Office of the Dakota County Attorney, Civil Division, 1560 Highway 55, Hastings, Minnesota 55033.

- 9.5. Liaisons. To assist the Parties in the day-to-day performance of this Agreement and to ensure compliance and provide ongoing consultation, a liaison shall be designated by the County and the City. The Parties shall keep each other continually informed, in writing, of any change in the designated liaison. At the time of execution of this Agreement, the following persons are the designated liaisons:

County Liaison: Niki Geisler, Parks Director
Telephone: (952) 891-7088
Email: Niki.Geisler@co.dakota.mn.us

City Liaison: Chris Jenkins, Parks & Recreation Director
Telephone: (651) 480-6176
Email: CJenkins@hastingsmn.gov

- 9.6. Changes to Designated Liaisons or Authorized Representatives. The Parties shall provide written notification to each other of any change to the designated liaison or authorized representative. Such written notification shall be effective to change the designated liaison or authorized representative under this Agreement, without necessitating an amendment of this Agreement.

ARTICLE 10
Modifications

Any alterations, amendments, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, approved by the Parties’ respective Boards, and signed by the Authorized Representatives of the County and the City.

ARTICLE 11
Termination

- 11.1. In General. Either Party may terminate this Agreement for cause by giving seven (7) calendar days written notice of its intent to terminate to the other Party. Such Notice of Termination for cause shall specify the circumstances warranting termination of the

Agreement. Cause shall mean a material breach of this Agreement and any supplemental agreements or amendments thereto. Notice of Termination shall be made by certified mail or personal delivery to the Authorized Representative of the other Party. The non-performing party shall have fifteen (15) calendar days from the date of the Notice of Termination to cure or to submit a plan for cure that is acceptable to the other party. Termination of this Agreement shall not discharge any liability, responsibility or right of any party, which arises from the performance of or failure to adequately perform the terms of this Agreement prior to the Effective Date of termination.

- 11.2. Termination by Dakota County for Lack Of Funding. Notwithstanding any provision of this Agreement to the contrary, County may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, Minnesota Agencies, or other funding source, or if funding cannot be continued at a level sufficient to allow payments due under this Agreement or any contract or work orders of Invoices submitted. Written notice of termination sent by County to the City by facsimile is sufficient notice under this section. County is not obligated to pay for any services that are provided after written notice of termination for lack of funding. County will not be assessed any penalty or damages if the Agreement is terminated due to lack of funding.

ARTICLE 12

Minnesota Law to Govern

This Agreement shall be governed by and construed in accordance with the substantive and procedural laws of the State of Minnesota, without giving effect to the principles of conflict of laws. All proceedings related to this Agreement or its breach shall be venued in Dakota County, Minnesota.

ARTICLE 13

Merger

- 13.1. Final Agreement. This Agreement is the final expression of the agreement of the Parties and the complete and exclusive statement of the terms agreed upon and shall supersede all prior negotiations, understandings, or agreements. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.
- 13.2. Exhibits 1 (including all attachments or addenda) through and including Exhibit 2 are attached hereto, and all terms, obligations and conditions in said Exhibits are incorporated herein and made a part of this Agreement. By signing this Agreement, the Parties affirm and acknowledge receipt of all the above referenced Exhibits (including all attachments or addenda).

ARTICLE 14

Severability

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or parts that are void, invalid or

otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either Party.

ARTICLE 15
Waiver

If either of the Parties fails to enforce any provision of this Agreement, that failure shall not result in a waiver of the right to enforce the same or another provision of this Agreement.

ARTICLE 16
Relationship of the Parties

Nothing contained in this Agreement is intended or should be construed as creating or establishing the relationship of co-partners or joint ventures between the County and the City, nor shall either of the Parties be considered or deemed to be an agent, representative or employee of the other party in the performance of this Agreement. Personnel of either of the Parties or other persons while engaging in the performance of this Agreement shall not be considered employees of the other party and shall not be entitled to any compensation, rights or benefits of any kind whatsoever.

ARTICLE 17
Interpretation and Construction

It is the intent of the Parties that every section (including any subsection thereto), clause, term, provision, condition, and all other language used in this Agreement shall be constructed and construed so as to give its natural and ordinary meaning and effect.

ARTICLE 18
Survivorship

The following provisions under this Agreement shall survive after the termination or expiration of this Agreement: Article 6.2 (Acknowledgement); Article 7 (Transfer of Jurisdiction); Article 8 (Indemnification and Insurance); Article 9 (Reporting, Accounting and Auditing); Article 12 (Minnesota Law to Govern); Article 14 (Severability); Article 17 (Interpretation and Construction); and Article 18 (Survivorship).

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date(s) indicated below.

APPROVED AS TO FORM:

DAKOTA COUNTY

/s/ Joseph Marek 4/12/24
Assistant County Attorney/Date
KS-23-506

By _____
Georg Fischer, Director
Physical Development

Date of Signature: _____

County Board Res. No. 23-406

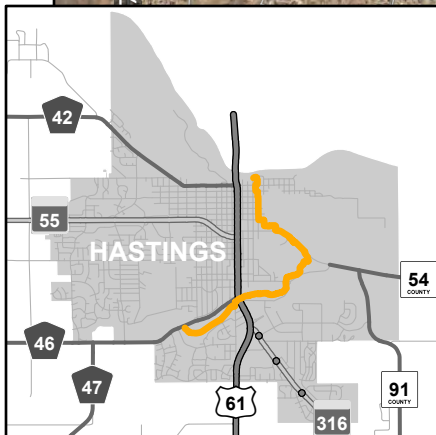
CITY OF HASTINGS



By _____
Mary Fasbender, Mayor

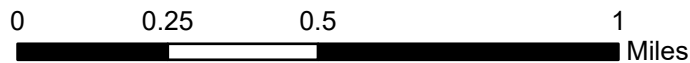
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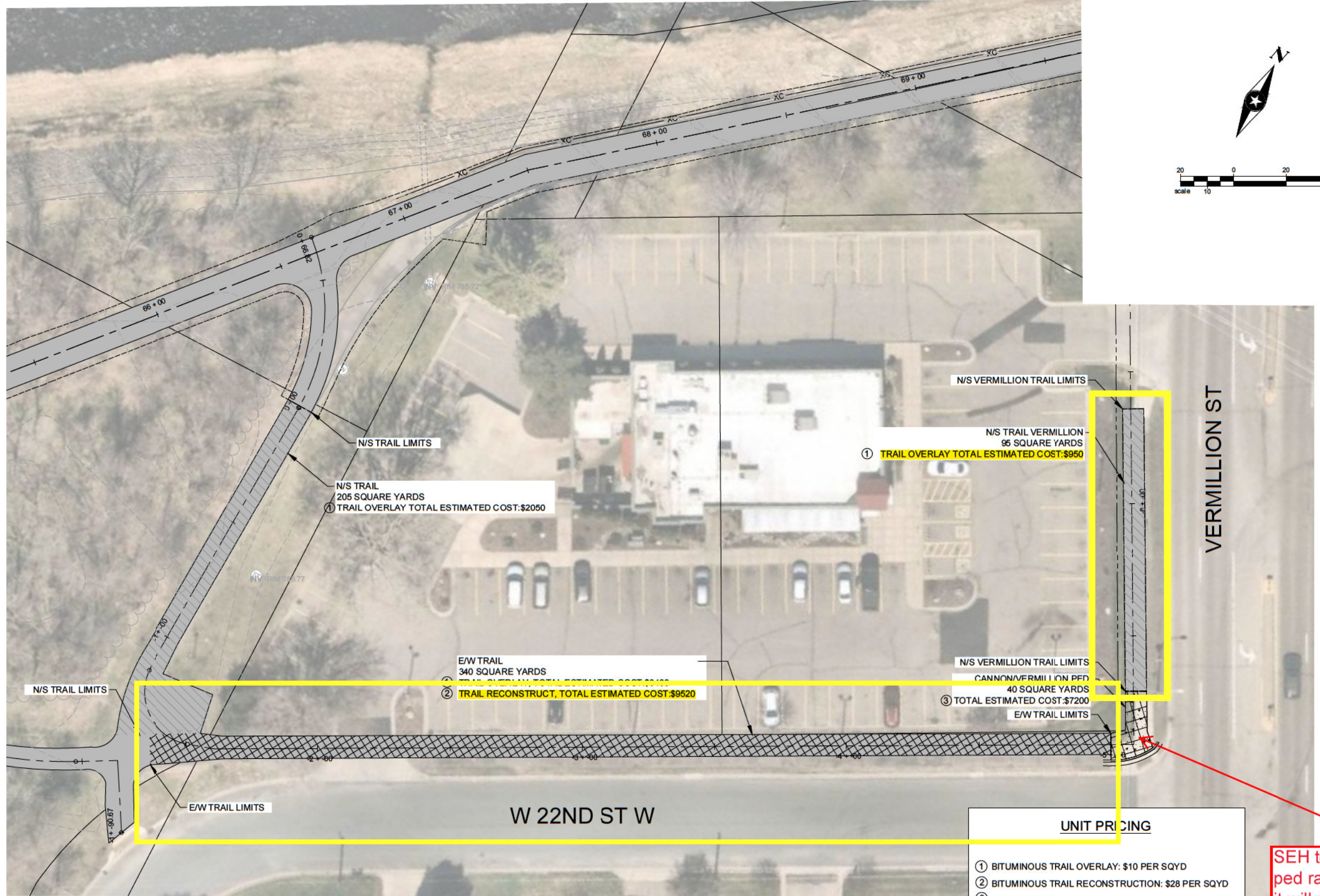
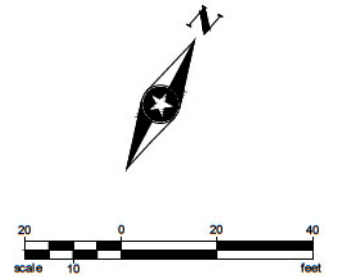
By _____
Kelly Murtaugh, City Clerk

Date of Signature: _____



-  Greenway Project Area
-  Local Trails Project Area





UNIT PRICING	
①	BITUMINOUS TRAIL OVERLAY: \$10 PER SQYD
②	BITUMINOUS TRAIL RECONSTRUCTION: \$28 PER SQYD
③	PEDESTRIAN RAMP RECONSTRUCTION: \$180 PER SQYD

SEH to remove ped ramp work as it will remain as-is per City direction

Save: 4/20/2023 3:01 PM szsyzmonowicz Plot: 4/20/2023 3:20 PM X:\AE\DD\AKOT\10778205-final-dsgn\101-drawings\110-Civil\cad\dwg\sheet\VHG_DA16778FP-SPUR_TRAILS.dwg

SEH Project	DAKOT 167882	Rev.#	Revision Issue Description	Date	Rev.#	Revision Issue Description	Date
Drawn By	SBS	.			.		
Designed By	BKH	.			.		
Checked By	BKH	.			.		

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

PRELIMINARY

BLAKE K. HUNTER, P.E.
DATE: XX-XX-XX LICENSE NO.: 58904

VERMILLION RIVER GREENWAY
HASTINGS, MN

CITY SPUR TRAIL REHABILITATION EXHIBIT
VERMILLION RIVER GREENWAY

STATE OF MINNESOTA
COUNTY OF DAKOTA

DAKOTA COUNTY PROJECT XX
SAP NOS. XX

DAKOTA COUNTY TRANSPORTATION DEPARTMENT
CONTRACTOR'S PAYMENT AND PERFORMANCE BOND

PART A: PAYMENT

KNOW ALL PERSONS BY THESE PRESENTS, That We, **BCM Construction, Inc., 15760 Acorn Trail, Faribault, MN 55021**, contractor, as principal, and **United Fire & Casualty Company, 118 Second Ave SE, Cedar Rapids, IA 52407**, as surety, are held and firmly bound unto the State of Minnesota and the County of Dakota, 14955 Galaxie Avenue, MN 55124, in the amount of **One Million Seven Hundred Four Thousand Sixty Two and 75/100 (\$1,704,062.75)** for payment of all claims, costs and charges as hereinafter set forth.

For the payment of this well and truly to be made we jointly and severally bind ourselves, our representatives and successors firmly by these presents.

The condition of this obligation is such that whereas the principal has entered into a Contract with the County of Dakota acting by its agent, the County of Transportation under authority of Minnesota Statutes, Section 161.36, for **Dakota County Project Construction of 4.25 Miles of Trail in the Vermillion River Greenway, from its connection with the Mississippi River Greenway in Levee Park, to Pleasant Drive in the City of XX in Dakota County**, for the Dakota County Transportation Department which Contract is on file in the Transportation Department of said County the regularity and validity of which is hereby affirmed:

NOW, THEREFORE, if the principal shall pay as they may become due all just claims for work done, and for furnishing labor, work, skills, tools, machinery, materials, insurance premiums, equipment and supplies, for the purpose and completion of the contract in accordance with its terms, and all taxes incurred under Minnesota Statutes, Section 290.92 and Chapter 297A, and shall pay all costs of enforcement of the terms of the bond, if action is brought thereon, including reasonable attorney's fees, in any of case in which such action is successfully maintained, and shall comply with the laws of the state appertaining to such contract, then this obligation shall be void but otherwise it shall remain in full force and effect pursuant to Minnesota Statutes, Chapter 574.

KNOW ALL PERSONS BY THESE PRESENTS, That the aforesaid principal and surety are held and firmly bound unto the State of Minnesota and the County of Dakota, in the additional amount of **One Million Seven Hundred Four Thousand Sixty Two and 75/100 (\$1,704,062.75)** for the faithful performance of the contract as hereinafter set forth.

For the payment of this obligation is such that whereas the principal has entered into the contract more particularly described in part A hereof, the regularity and validity of which is hereby affirmed;

NOW, THEREFORE, if the principal shall faithfully perform the contract and shall save the State of Minnesota and the County of Dakota harmless from all cost and charges that may accrue on account of the doing of the work specified and shall pay all costs of enforcement of the terms of the bond, if action is brought thereon, including reasonable attorney's fees, in any case in which such action is successfully maintained, and shall comply with the laws of the state appertaining to such contract, then this obligation shall be void but otherwise it shall remain in full force and effect pursuant to Minnesota Statutes, Chapter 574.

**THE AGGREGATE LIABILITY UNDER PART A AND PART B HEREOF IS
Three Million Four Hundred Eight Thousand One Hundred Twenty Five and 50/100**

(\$ 3,408,125.50)

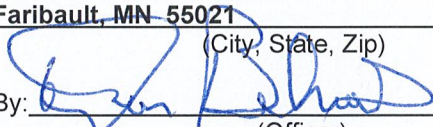
SIGNATURES


Dated October 6th, 2023

BCM Construction, Inc.
(Contractor)

15760 Acorn Trail
(Address)

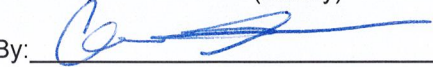
Faribault, MN 55021
(City, State, Zip)

By: 
(Officer)
Dan Behrens, President

By: 
(Officer)
Troy Zabinski, CFO

(Surety Corporate Seal)

United Fire & Casualty Company
(Surety)

By: 
(Attorney in Fact) Alan Starks

CONTRACTOR ACKNOWLEDGEMENT IN AN INDIVIDUAL CAPACITY

STATE OF MINNESOTA,)
) ss.
COUNTY OF _____)

This instrument was acknowledge before me on _____ day of _____ 20____, by
_____.

(Notarial Seal)

Notary Signature
Commissioner Expiration: _____

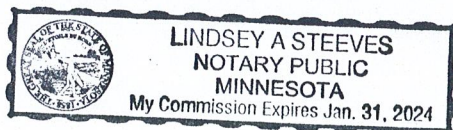
CONTRACTOR CORPORATE ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY
(Corporation, LLC, Partnership or Other Entity)

STATE OF MINNESOTA,)
) ss.
COUNTY OF Rice)

On this instrument was acknowledged before me on 6th day of
October, 2023, by Dan Behrens and
Troy Zabinski as President
and CFO of BCM Construction, Inc.
a Minnesota Corporation (Corporation, LLC, Partnership or Other Entity).

(Notarial Seal)

[Signature]
Notary Signature
Commissioner Expiration: 11/31/2024



ACKNOWLEDGMENT OF CORPORATE SURETY
(may affix separate acknowledgement form completed to Surety)

STATE OF Minnesota)
) ss.
COUNTY OF Washington)

This instrument was acknowledge before me on 6th day of October 2023, by
Alan Starks as Attorney-in Fact of United Fire & Casualty Company
(Name of Surety).

(Notarial Seal)



Melissa M. Nordin
Notary Signature
Commissioner 1/31/2025

NOTICE TO PERSONAL SURETIES: Bond will not be accepted unless accompanied by a sworn financial statement of each of the sureties.

NOTICE TO CORPORATE SURETIES: This Bond will not be accepted unless executed by a Minnesota agent or a duly licensed non-resident-producer or attorney-in-fact whose name and address must be noted below.

Full Name of Surety Company United Fire & Casualty Company

Home Office Address (Street) 118 Second Ave SE

City, State and Zip Code Faribault, MN 55407

Name of Attorney in Fact Alan Starks

Name of Local Agent & Agency
Or Non-Resident Producer & Agency Christensen Group Insurance

Address of Agency (Street) 9855 West 78th Street, Suite 100

City, State and Zip Code Eden Prairie, MN 55344



UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA
 UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX
 FINANCIAL PACIFIC INSURANCE COMPANY, LOS ANGELES, CA
 CERTIFIED COPY OF POWER OF ATTORNEY
 (original on file at Home Office of Company – See Certification)

Inquiries: Surety Department
 118 Second Avenue SE
 Cedar Rapids, IA 52401

KNOW ALL PERSONS BY THESE PRESENTS, That United Fire & Casualty Company, a corporation duly organized and existing under the laws of the State of Iowa; United Fire & Indemnity Company, a corporation duly organized and existing under the laws of the State of Texas; and Financial Pacific Insurance Company, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint

MARILYN HENTGES, KATIE RANDOLPH, KELLY PRESTON, JANE THOMPSON, BARB MICHAELS, LINDA JACKSON, ALAN STARKS, JEFFREY SETTEM, MELISSA M NORDIN, NAME ALEMDAR, TYLER GERADS, EACH INDIVIDUALLY

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$100,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted shall expire the 11th day of January, 2025 unless sooner revoked by United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted by the Boards of Directors of United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

"Article VI – Surety Bonds and Undertakings"

Section 2. Appointment of Attorney-in-Fact. "The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set of forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this

11th day of January, 2023

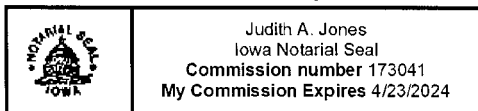


UNITED FIRE & CASUALTY COMPANY
 UNITED FIRE & INDEMNITY COMPANY
 FINANCIAL PACIFIC INSURANCE COMPANY

By: *Dennis J. Richmann*
 Vice President

State of Iowa, County of Linn, ss:

On 11th day of January, 2023, before me personally came Dennis J. Richmann to me known, who being by me duly sworn, did depose and say; that he resides in Cedar Rapids, State of Iowa; that he is a Vice President of United Fire & Casualty Company, a Vice President of United Fire & Indemnity Company, and a Vice President of Financial Pacific Insurance Company the corporations described in and which executed the above instrument; that he knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



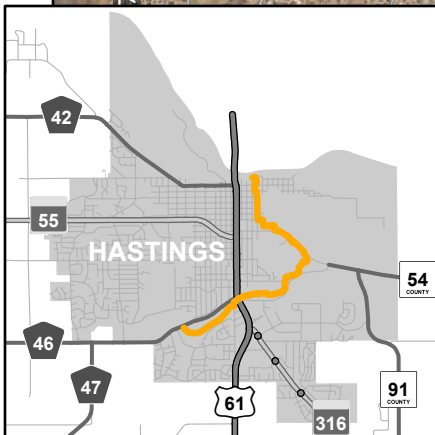
Judith A. Jones
 Notary Public
 My commission expires: 4/23/2024


I, Mary A. Bertsch, Assistant Secretary of United Fire & Casualty Company and Assistant Secretary of United Fire & Indemnity Company, and Assistant Secretary of Financial Pacific Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations this 6th day of October, 2023.



By: *Mary A. Bertsch*
 Assistant Secretary,
 UF&C & UF&I & FPIC



 Maintenance Agreement

