

**AGREEMENT
FOR INSTALLATION OF SCHOOL ZONE DRIVER FEEDBACK SIGNS
S.A.P. 02-030-04**

THIS AGREEMENT is made and entered into between the County of Anoka, a political Subdivision of the State of Minnesota, Egan Company, 7625 Boone Avenue North, Brooklyn Park, MN 55428.

WITNESSETH:

WHEREAS, the County requested School Zone Driver Feedback Signs be installed at 8 school locations listed below; and,

WHEREAS, Egan Company represents that they are qualified and willing to furnish these services; and,

WHEREAS, the County wishes to purchase these services from Egan Company.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed and understood as follows:

I. TERM

This Agreement shall commence on the 2nd day of August 2005, and terminate upon satisfactory completion of the services described herein.

II. SCOPE OF SERVICES

The County agrees to purchase and Egan Company agrees to furnish the services generally described as follows: Project S.A.P. 02-030-04, the installation of School Zone Driver Feedback Forms at:

- CSAH 11 at Eisenhower Elementary
- CSAH 78 at Epiphany Middle & Elementary School
- CSAH 1 at L.O. Jacob Elementary
- CSAH 11 at Sorteberg Elementary

- CSAH 12 at Northdale Middle School
- CSAH 51 at University Avenue Elementary
- CSAH 14 at Lino Lakes Elementary
- CSAH 10 at Rice Lake Elementary

III. COMPENSATION

As compensation for the services satisfactorily performed under this Agreement, the County shall pay the Contractor on a MnDOT Force Account.

IV. ADDITIONAL SERVICES

The performance of additional services related to this project shall be approved, in writing, by the County prior to their performance. The County shall then compensate the Contractor for any required additional services at the hourly rates listed in the Contractor's Proposal.

V. INSURANCE

The Contractor shall procure and maintain in full force and effect during the term of this Agreement, insurance coverage for injuries to persons or damages to property which may arise from or in connection with the performance of the work herein by the Contractor, its agents, representatives, employees or subcontractors, as well as Workers Compensation and Professional Liability coverage. The insurance coverage shall satisfy the requirements set forth in the Exhibit, which is attached hereto and incorporated by reference into this Agreement.

VI. SERVICES NOT PROVIDED FOR

No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the County.

VII. INDEPENDENT CONTRACTOR

It is agreed by the parties that at all times and for all purposes hereunder the relationship of the Contractor to the County is that of an independent contractor and not an employee or agent of the County.

VIII. COMPLIANCE WITH LAWS

In providing all services pursuant to this Agreement, the Contractor shall abide by all statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereby adopted. Any violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement and shall entitle the County to terminate this Agreement immediately upon delivery of written notice of

termination to the Contractor.

IX. STATE TAX LAWS

The County shall not make final payment until the Contractor has made satisfactory showing that it has complied with the provisions of Minn. Stat. § 290.92 requiring the withholding of state income tax from wages paid to the Contractor's employees and to employees of any subcontractors hired by the Contractor for work performed under this Agreement. The Contractor will provide the County with a letter stating the requirements have been met.

X. SUBCONTRACTING AND ASSIGNMENTS

Contractor shall not enter into any subcontract for performance of any of the services contemplated under this Agreement, nor assign any interest in the Agreement without the prior written approval of the County and subject to such conditions and provisions as the County may deem necessary. The Contractor shall be responsible for the performance of all subcontractors.

XI. MODIFICATIONS

Any material alterations, modifications or variations of the terms of this Agreement shall be valid and enforceable only when they have been reduced to writing as an amendment and signed by the parties.

XII. NON-DISCRIMINATION

The Contractor agrees as follows:

A. In accordance with the County's Affirmative Action Policy and the County Commissioners' policies against discrimination, no person shall illegally be excluded from full-time employment rights in, be denied the benefits of, or be otherwise subjected to discrimination in the program which is the subject of this Agreement on the basis of race, creed, color, sex, sexual orientation, marital status, public assistance status, age, disability, or national origin.

B. The Contractor hereto agrees to comply with the provisions of Executive Order No. 11246, (in revised order) entitled "Equal Employment Opportunity," as supplemented in the Department of Labor Regulations (41 CFR, Part 60) and as amended by Executive Order 11375 and all other applicable state and federal regulations.

C. The Contractor also agrees to comply with all affirmative action or equal employment opportunity requirements imposed upon the County or the Contractor by any other federal or state law, rule or regulation. The Contractor further agrees to furnish all information or reports that may be required by the above cited Executive Order, Department of Labor regulations or any other state or federal agency, or as required by the County.

D. This Agreement may be canceled or terminated by the County and all money due, or to become due hereunder, may be forfeited for a second or any subsequent violation of the terms or conditions of this subdivision.

XIII. DATA PRIVACY

In collecting, storing, using and disseminating data on individuals in the course of providing services hereunder, the Contractor agrees to abide by all pertinent state and federal statutes, rules and regulations covering data privacy, including but not limited to the Minnesota Data Practices Act and all rules promulgated pursuant thereto by the Commissioner of the Department of Administration.

XIV. EARLY TERMINATION

This Agreement may be terminated by the County at any time, with or without cause, upon fourteen (14) written days notice delivered by mail or in person. Notice to Contractor shall be delivered to Contractor at the address first written above. If notices are delivered by mail, they shall be effective two (2) days after mailing. The Contractor shall be compensated for services provided to the date of termination.

XV. DEFAULT AND REMEDY

Failure of the Contractor (including the failure of any employee or agent of the Contractor) to abide by any of the terms, conditions or requirements expressed in this Agreement shall constitute a default if not properly corrected by the Contractor upon receipt of a notice of deficiency and a request for compliance from the County. In the event of a default by the Contractor, the County may cancel this Agreement by sending a written notice of cancellation to the Contractor and may recover from the Contractor any damages sustained by the County which may directly or consequently arise out of the breach of this Agreement by the Contractor.

XVI. ENTIRE AGREEMENT

It is understood and agreed by the parties that the entire agreements of the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the County and Contractor relating to the subject matter hereof. The parties hereto revoke any prior oral or written agreement between themselves and hereby agree that this Agreement is the only and complete agreement regarding the subject hereof.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands.

COUNTY OF ANOKA

By: Margaret Langfeld
Margaret Langfeld, Chair
Anoka County Board of Commissioners

Dated: 11/3/06

ATTEST

By: John Jay McLinden
John "Jay" McLinden
County Administrator

Dated: 11/3/06

RECOMMENDED FOR APPROVAL

By: Douglas W. Fischer
Douglas W. Fischer, P.E.
County Contractor

Dated: 11/21/05

APPROVED AS TO FORM

By: Dan Clint
Dan Clint
Assistant County Attorney

Dated: 1-23-06

Egan Company

By: Duane J. Hendricks VP
Duane J. Hendricks
Its: Exec. VP

Dated: 11-16-05

By: John M. Galvin
John M. Galvin
Its: VP

Dated: 11-16-05

INSURANCE REQUIREMENTS

Bidders/contractors/consultants (hereinafter referred to as the "Contractor") will procure and maintain for the duration of this Agreement/Contract (hereinafter referred to as the "Contract"), insurance coverage for injuries to persons or damages to property which may arise from or in connection with the performance of the work herein by the contractor, its agents, representatives, employees or subcontractors. **ANOKA COUNTY CONTRACT NUMBER:** _____.

1.1 Commercial General Liability and Umbrella Liability Insurance. Contractors will maintain Commercial General Liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 each occurrence.

- 1.1.1 CGL Insurance will be written on ISO occurrence form CG 00 01 96 (or a substitute form providing equivalent coverage), and will cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract.
- 1.1.2 **Anoka County** will be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Anoka County. There will be no endorsement or modifications of the CGL to make it excess over other insurance available; alternatively, if the CGL states that it is excess or pro-rata, the policy will be endorsed to be primary with respects to the additional insured.
- 1.1.3 Coverage as required in paragraph in 1.1 above will include Per-Project General Aggregate Limit, using ISO form CG 25 03 (or a substitute form providing equivalent coverage).
- 1.1.4 The County's insurance shall be excess of the contractor's insurance and will not contribute to it. The contractor's coverage will contain no special limitations on the scope of protection afforded to the County, its agents, officers, directors, and employees.

1.2 Automobile Liability and Umbrella Liability Insurance. Contractor will maintain automobile liability and, if necessary, commercial umbrella insurance with a limit of not less than \$5,000,000 each accident.

- 1.2.1 Automobile insurance will cover liability arising out of any auto (including owned, hired and non-owned autos). If the Contractor does not own any vehicles, Anoka County will accept hired and non-owned autos with a letter from the Contractor stating that it does not own any autos.

- 1.2.2 Coverage as required in paragraph 1.2 above will be written on ISO form CA 00 01, or substitute form providing equivalent liability coverage. If necessary, the policy will be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later edition of CA 00 01.
- 1.2.3 **Waiver of Subrogation.** Contractor waives all rights against Anoka County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the business auto liability or commercial umbrella liability insurance obtained by Contractor pursuant to Paragraph 1.2 of this Exhibit.
- 1.3 **Workers' Compensation Insurance.** Contractor will maintain Workers' Compensation Insurance as required by the State of Minnesota and Employers Liability Insurance with a limits not less than \$5,000,000 Bodily Injury By Accident for each accident, not less than \$5,000,000 Bodily Injury By Disease each employee and not less than \$5,000,000 Bodily Injury By Disease policy limit.
 - 1.3.1 Contractor waives all rights against Anoka County and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employers' Liability or Commercial Umbrella Liability Insurance obtained by Contractor pursuant to paragraph 1.3 of this agreement. Contractor will obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.
- 1.4 **Builders' Risk Insurance.** Anoka County will maintain Builders' Risk Insurance for this project. Contractor will be responsible for the \$5,000.00 deductible.
- 1.5 **Other Insurance Provisions**
 - 1.5.1 Prior to the start of this Contract, Contractor will furnish Anoka County with a completed copy of Anoka County 's certificate of insurance form, which is attached as part of this Exhibit, or as a certificate of insurance and copies of the endorsements, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.
 - 1.5.2 All certificates will provide for 30 days written notice to Anoka County prior to the cancellation or material change of any insurance referred to in this Contract.
 - 1.5.3 The words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its

agents or representatives" shall be deleted from the certificate form's cancellation provision.

- 1.5.4 **No Representation of Coverage Adequacy.** By requiring insurance herein, Anoka County does not represent that coverage and limits will necessarily be adequate to protect the Contractor, and such coverage and limits shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Anoka County in this Contract.
- 1.5.5 Failure of Anoka County to demand such certification or other evidence of full compliance with these insurance requirements or failure of Anoka County to identify deficiency from evidence that is provided will not be construed as a waiver of Contractor's obligation to maintain such insurance.
- 1.5.6 Failure to maintain the required insurance may result in termination of this Contract at Anoka County option.
- 1.5.7 Contractor will provide certified copies of all insurance policies required herein within 10 days of Anoka County's written request for said copies.
- 1.5.8 **Cross-Liability coverage.** If Contractor's liability does not contain the standard ISO separation of insured provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.
- 1.5.9 **Acceptability of Insurers.** Anoka County reserves the right to reject any insurance carriers that are rated less than: A.M. Best rating of A: IV.

EXH08.doc