

AGREEMENT BETWEEN
THE CITY OF ANN ARBOR AND THE REGENTS OF THE UNIVERSITY OF MICHIGAN
REGARDING RESPONSIBILITIES AND COST ALLOCATION FOR THE EAST MEDICAL
CENTER DRIVE BRIDGE REHABILITATION AND WIDENING PROJECT

This Agreement (“Agreement”) is made and entered into this ___ day of _____, 2024, by and between the City of Ann Arbor, a Michigan municipal corporation (“City”), and the Regents of the University of Michigan, a Michigan constitutional corporation (“University”), for the purpose of establishing the rights and obligations of the parties related to the construction, including all appropriate inspection and testing services, of the East Medical Center Drive Bridge Rehabilitation and Widening Project (the “Project).” Relevant details and scope of the Project are set forth in Exhibit A.

Whereas, the City and the University desire to rehabilitate and widen the East Medical Center Drive Bridge, between Fuller Road and West Medical Center Drive;

Whereas, the City and the University recognize the mutual benefits in completing a joint Project;

Whereas, the City contracted with DLZ Michigan (“DLZ”) to provide professional design engineering services for the Project, and DLZ provided completed project engineering design plans for the Project (“Project Plans”);

Whereas, the City has entered into a professional services agreement with Fishbeck (“Fishbeck”) for project management and construction engineering services for the Project;

Whereas, with the University’s written approval, the City may enter into other contracts with other consultants for professional services for the Project (“Other Consultants”), collectively DLZ, Fishbeck, and any Other Consultants are hereinafter collectively referred to as the “Consultants”;

Whereas, the City competitively bid the construction contract for the Project (RFP 23-59) and selected the proposal submitted by C.A. Hull Co., Inc. as being the best value, and after consultation with the University, the City entered into a construction contract with C.A. Hull Co., Inc. (“Contractor”) for the East Medical Center Drive Bridge Rehabilitation and Widening Project in the amount of \$10,173.757.03;

Whereas, the City and the University have reached an understanding with each other regarding the performance of and payment for the Project and desire to enter into this Agreement to memorialize that understanding; and

Therefore, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, the City and the University agree:

1. Subject to and consistent with the University’s consultation, input and approval, the City shall complete, or have completed, the Project’s design and construction in accordance with this Agreement and the Project Plans, which are incorporated into this Agreement by reference.

2. The City shall contractually require the Consultants and Contractor to indemnify and defend the University for and from all claims or lawsuits by third parties arising from or related to the Consultants' and Contractor's work, and shall require the Consultants and Contractor to add the University as an additional insured on Consultants' and Contractor's insurance to the same extent as the City. In addition, the City shall, and shall require the Consultants and Contractor to name the University as a third party beneficiary under their contracts with the City regarding their work under those contracts.

3. In consideration of the University being named a third party beneficiary as described in Section 2 above, the University releases the City from any claims regarding work performed by the Consultants and Contractor on the Project under their respective contracts with the City, and from other claims related to or based on those contracts, and University shall raise any such claims directly with the Consultants and/or Contractor. This release does not apply to other claims the University might have arising from or related to the Project.

4. The University shall reimburse the City, in the proportions stated in Exhibit B, for the amounts contractually-owed and paid by the City to the Contractor and Consultants pursuant to their respective contracts with the City. The University also shall reimburse the City for other costs for the Project, as described in Exhibit A, in the proportions stated in Exhibit B. The City may invoice the University for those and all other amounts owed under this Agreement no more frequently than monthly. The University shall pay amounts properly invoiced within 30 days of receipt of the invoice.

5. The University and the City agree that while the proportions reflected in Exhibit B are binding under this Agreement, the costs upon which they are based are estimates only. Actual costs may vary.

6. The City shall not agree to any change order or amendment over \$25,000 (per change order or amendment) to the Contract, or to any contract with the Consultants or Contractor, unless the University first agrees in writing to the change order or amendment. The University shall reimburse the City for any monies contractually-owed to the Contractor and/or the Consultants based upon final invoices with time and material, bid unit prices, and as-built quantity invoice support, as applicable, from the Contractor and/or Consultants.

7. The City and the University shall each identify a project manager as the point of contact for the other party on the Project. Each such project manager shall have the authority to provide written approvals required under this Agreement, or shall obtain any written approval that is needed from a person with the authority to provide that approval if the project manager does not have that authority.

8. Nothing in this Agreement shall be construed to obligate the University to complete or have completed construction of the Project, or to administer or manage any contracts to which it is not a party.

9. The City and University agree they will enter into the standard "Agreement between the City of Ann Arbor and Regents of the University of Michigan for Right-of-Way Occupancy" for

each type of installation (“RoW Agreements”) to allow the City to relocate and construct, and for the University to maintain, certain University-owned installations on, in and under the City’s rights-of-way (the “City’s Property”).

10. The City and the University understand and agree that the Project, as described in Exhibit A, includes work to remove, replace, modify, and/or install University-owned facilities. The City agrees the design and construction of these University-owned facilities by the Consultants and the Contractor, must comply with University and contract specifications for those facilities, and that ownership of a new, modified, or repaired University-owned facility will not be accepted by the University unless and until it meets all University and contract specifications. The University agrees that if the Contractor obtains all City and other applicable permits required to perform the foregoing work, the University will not require any additional permits or permissions for the work.

11. The City and the University may provide or contract for unique or special services related to the Project, each at their own expense.

12. Each person signing this Agreement represents and warrants that he or she has authority to sign this it on behalf of the University or the City, respectively.

13. Except as explicitly provided in this Agreement, this Agreement shall not be construed to require the University to pay any amounts more for Project costs than those described in Exhibit B.

[Signatures on Next Page]

CITY OF ANN ARBOR, a Michigan municipal corporation

THE REGENTS OF THE UNIVERSITY OF MICHIGAN, a Michigan constitutional corporation

By: _____
Christopher Taylor, Mayor

By: _____
Geoff Chatas, Executive Vice President & Chief Financial Officer

By: _____
Jacqueline Beaudry, City Clerk

Date: _____

Date: _____

Approved as to substance:

By: _____
Milton Dohoney Jr, City Administrator

By: _____
Brian Steglitz, Public Services Area Administrator

Approved as to form:

By: _____
Atleen Kaur, City Attorney

EXHIBIT A

EXHIBIT B