

CONSTRUCTION AGREEMENT

The City of Morristown (the “City”), a municipality under the laws of the State of Minnesota, and the Waterville-Elysian-Morristown School District ISD #2143 (the “School”) hereby enter into the following agreement.

RECITALS

A. The City intends to conduct a 2024 Street and Utility Improvement Project (the “Project”). Among other things, the Project will include the resurfacing of that portion of Ann Street adjacent to the following described parcels owned by the School.

Rice County Parcel #2026223019

Rice County Parcel #2026226027

(the “Parcels”).

B. The School has petitioned for a vacation of a portion of Ann Street and intends to construct a driveway and parking lot on the Parcels and over a portion of the vacated street. Said street vacation is pending approval by the City.

C. The School has requested that the City include as part of the Project, as an alternative bid, the work to construct the driveway and parking lot on its Parcels (the “Parcel Work”). The estimated costs of said Parcel Work include the following:

\$361,489.25	Street, Curb & Gutter, Sidwalk, Driveways, Drainage Pipe
\$68,317.50	Storm Sewer
\$6,300	Engineering
\$436,106.75	Total

The School and City acknowledge that the above referenced costs are estimates, and that the actual costs to perform the Parcel Work may be higher or lower than these amounts.

D. The School requests, and subject to the terms of this Agreement as hereafter set forth the City agrees, to include the Parcel Work in the Project.

NOW, THEREFORE, the parties stipulate and agree to the following terms:

TERMS

1. **Vacation of Ann Street.** Upon the approval by the City of the vacation of a portion of Ann Street, the School shall grant to the City, in recordable form, a Right of First Refusal and Option to Purchase the vacated portion of Ann Street for the consideration of \$1.00. Said option may be exercised by the City, in its sole discretion, only in the event that a school is no longer located on the Parcels and that the School sells the Parcels.

2. **Incorporation of Parcel Work in Project.** The City shall include the Parcel Work in the Project, subject to the terms as hereafter set forth.

3. **Reimbursement for Costs of Parcel Work.** The School shall reimburse the City for the total actual costs to perform the Parcel Work, including all construction and engineering costs. The City shall invoice the School for costs incurred for the Parcel Work as construction proceeds, and the School shall pay said invoices within thirty (30) days of receipt of each invoice, provided however, no payment shall be due prior to July 1, 2024.

4. **Satisfaction of the School.** The Parcel Work shall be performed to the reasonable satisfaction of the School. In the event that the School objects to the work or

materials provided by the contractor to complete the Parcel Work, the City shall take all actions reasonably necessary to facilitate corrective action on behalf of the School.

5. **Special Assessment.** The actual costs to perform the Parcel Work shall be a special assessment against the Parcels until paid in full by the School. All requirements regarding accrued interest and payment of the special assessment for the Parcel Work shall remain in full force and effect.

6. **Waiver of Objection.** In consideration of the foregoing, the School hereby waives all its rights to object to or appeal the special assessment for the Parcels. The School does agree to and hereby does waive and release any and all objections of every kind to the special assessment levied by the City, including without limitation, objections to procedures and hearings before the City Council in connection with the improvements and assessments therefore, objections resulting from failure to fully comply with any applicable statute and objections to the actual amount of any assessment levied against the Parcels due to the improvements stated herein, and does further waive and release the right to appeal, pursuant to M.S.A. Chapter 429, from any assessment levied.

7. **Breach of Agreement.** In the event of a breach of this Agreement by the School, the School shall reimburse the City for all its costs incurred to enforce the terms of this Agreement, including its reasonable attorneys fees.

By setting forth their signatures below, the undersigned signify their agreement to the above stated terms.

Dated: 4.3.24

CITY OF MORRISTOWN:

By: Tony Lindahl

Tony Lindahl

Its: Mayor

By: Ellen Judd

Ellen Judd

Its: City Administrator

WATERVILLE-ELYSIAN-MORRITOWN
SCHOOL DISTRICT ISD #2143

Dated: _____

By: _____

Its: _____