

**STATE OF MINNESOTA**  
**JOINT POWERS AGREEMENT**  
**FOR CONTRACT COMPLIANCE ACTIVITIES**

This Agreement is between the State of Minnesota Department of Transportation (“MnDOT”), acting through its Commissioner, and the State of Minnesota Department of Human Rights (“MDHR”), acting through its Commissioner.

**Recitals**

1. Minnesota Statutes §471.59 authorizes MnDOT and MDHR (the “parties”), agencies of the State of Minnesota, to enter into this Agreement.
2. The purpose of this agreement is to renew an ongoing interagency relationship between the parties to ensure contractor compliance with state and federal Equal Employment Opportunity (“EEO”) requirements.
  - 2.1. This agreement will result in a comprehensive compliance mechanism and prevent duplicative efforts by the parties.
  - 2.2. This agreement will enhance cooperation, coordination, and legal support between the parties to ensure contractors comply with EEO requirements.
3. The scope of the parties’ authority under this agreement is equivalent to the jurisdiction and authority granted to MnDOT and MDHR in the following statutes, administrative rules and regulations (as amended):
  - Minnesota Statutes §363A.36
  - Minnesota Rules 5000.3400 - 3600
  - 23 C.F.R. Part 230
4. This Agreement does not limit the authority of the parties under applicable state or federal laws, rules, and regulations.
5. MnDOT and MDHR agree to exercise their common powers to perform workforce and Equal Employment Opportunity (“EEO”) statutory and regulatory contract compliance functions cooperatively on highway heavy construction contracts. This agreement provides for the following:
  - 5.1. Explains the roles and responsibilities of each agency,
  - 5.2. Identifies the types of data that will be shared for purposes of project monitoring,
  - 5.3. Share reports on contractor performance as it relates to compliance with federal and state EEO laws and rules.

**Agreement****1. Term of Agreement; Survival of Terms; Incorporation of Exhibits**

1.1 *Effective Date:* This Agreement will be effective on the date the parties complete all required signatures.

1.2 *Expiration Date:* This Agreement will expire on February 3, 2025, or when all obligations have been satisfactorily fulfilled, whichever occurs first. The parties may, by mutual agreement, continue to perform their obligations and duties as described in this agreement after the expiration date for a

period of 60 calendar days to permit the re-negotiation or reauthorization of this agreement.

- 1.3 *Survival of Terms:* All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement.

## **2. Scope of Work and Deliverables**

### 2.1. Contractors subject to this Agreement are:

- 2.1.1. Highway heavy construction contractors using federal funds disbursed through MnDOT as the recipient agency, and
  - 2.1.2. Highway heavy construction contractors for which MnDOT is the project owner, and
  - 2.1.3. Highway heavy construction contractors using general obligation bonding funds disbursed through MnDOT to political subdivisions.
- 2.2. The parties will meet or confer monthly to coordinate and evaluate highway heavy construction contract reviews, monitoring, and compliance efforts for which MnDOT is the project owner as well as Affirmative Action Plan, equal pay, and workplace equity and inclusion efforts. A contractor compliance review is defined as the formal assessment and evaluation of a contractor's adherence to governing statutory rules of both agencies and federal regulations. In addition to sharing the data, the parties will develop and monitor corrective action plans for contractors that have not met workforce and/or EEO goals and objectives or failed to show good faith efforts to do so.

### 2.3. MDHR will:

- 2.3.1. Attend MnDOT DBE & Workforce Collaborative meetings.
- 2.3.2. Retain the discretion to attend preconstruction meetings for projects awarded to prime contractors that have not consistently met established workforce goals and for projects with significant workforce opportunities as determined by MnDOT and MDHR.
- 2.3.3. Review compliance reports submitted by MnDOT and work with MnDOT to determine appropriate sanctions under the Minnesota Human Rights Act for contractors that have not implemented corrective action for deficiencies and/or non-compliance.
- 2.3.4. Notify MnDOT prior to suspension or revocation of a contractor's Certificate of Compliance.
- 2.3.5. Make recommendations to MnDOT to amend or terminate a contract due to impending revocation or suspension of the contractor's Certificate of Compliance.
- 2.3.6. Provide technical assistance on issues relating to Minnesota Statutes §363A.36 and Minnesota Rules 5000.3400 – 3600.
- 2.3.7. Collaborate with MNDOT to ensure consistent enforcement of workforce goals and the Minnesota Human Rights Act between agencies.
- 2.3.8. Will meet quarterly with MNDOT to ensure consistent implementation and enforcement of equity in bonding requirements for funds disbursed through MnDOT to political subdivisions for highway heavy construction projects.
- 2.3.9. Confirm at the start of each construction season whether candidates selected by MnDOT for compliance reviews underwent a Workforce audit or Equal Pay audit within the preceding three years and, if applicable, the date(s) of said audit(s).
- 2.3.10. Refer contractors to MnDOT for compliance reviews when appropriate.

2.3.11. Review complaints forwarded by MNDOT alleging violations of Title VII of the Civil Rights Act of 1964 and, consistent with the MHRA and MDHR's intake review process, may draft charges of discrimination for investigation and/or referral to the U.S. Equal Employment Opportunity Commission (EEOC) pursuant to any applicable worksharing agreement between MDHR and the EEOC.

MnDOT will:

- 2.3.12. Monitor compliance and conduct compliance reviews in accordance with Minnesota Statutes §363A.36 and Minnesota Rules 5000.3400 – 3600 and notify MDHR prior to issuing Show Cause Notice.
- 2.3.13. Recommend for corrective action and refer to MDHR for sanctions as appropriate.
- 2.3.14. Monitor and implement MDHR workforce participation goals on highway heavy construction contracts.
- 2.3.15. Provide access to aggregate monthly workforce participation reports by the 30<sup>th</sup> of each month for the project activity reported by contractors through the prior month's end. The report will contain information on project location, total hours worked, and hours worked by women and people of color.
- 2.3.16. Provide MDHR with a contractor's compliance documentation within seven business days of the date of a request from MDHR.
- 2.3.17. Retain all contractor's compliance documentation and records provided to MDHR in accordance with MnDOT document retention policies.
- 2.3.18. Monitor contractor compliance throughout the entire active status of a project and confer with MDHR when a contractor is not demonstrating good faith efforts in meeting its workforce participation goals.
- 2.3.19. Refer contractors to MDHR for Equal Pay audits when appropriate.
- 2.3.20. Collaborate with MDHR to ensure consistent enforcement of workforce goals and the Minnesota Human Rights Act between agencies.
- 2.3.21. Meet quarterly with MDHR to ensure consistent implementation and enforcement of equity in bonding requirements for funds disbursed through MnDOT to political subdivisions for highway heavy construction projects.
- 2.3.22. Send complaints by and against highway heavy construction contractors or their employees, filed under the Title VII of the Civil Rights Act of 1964, to MDHR. MDHR will review and, as appropriate, draft charge of discrimination, investigate the charge, and make a determination on the charge, in accordance with the MHRA, and/or make a referral to the U.S. Equal Employment Opportunity Commission pursuant to any applicable worksharing agreement between MDHR and the EEOC.

### **3. Payment**

3.1. No payments will be made by either party under this Agreement.

### **4. Agreement Personnel**

4.1. MnDOT's Authorized Representative will be:

Name/Title: Sean Skibbie, Office of Civil Rights Director  
Address: 395 John Ireland Blvd MS 170 St. Paul, MN 55155  
Telephone: (612) 398-1164  
Fax: (651) 366-3129  
E-Mail: sean.skibbie@state.mn.us

MnDOT's Authorized Representative, or his/her successor, will ensure MnDOT's performance and has the authority to accept or reject the services provided under this Agreement.

4.2. The MDHR's Authorized Representative will be:

Name/Title:	<u>Nick Pladson, General Counsel</u>
Address:	<u>540 Fairview Avenue North, Ste 201 St. Paul, MN 55104</u>
Telephone:	<u>651-539-1098</u>
Fax:	<u>651-296-9042</u>
E-Mail:	<u>nick.pladson@state.mn.us</u>

MDHR's Authorized Representative, or his/her successor, will ensure MDHR's performance and has the authority to accept or reject the services provided under this Agreement.

**5. Assignment, Amendments, Waiver and Contract Compliance**

- 5.1. Assignment. The parties may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of the other party and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 5.2. Amendments. Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the Original Agreement, or their successors in office.
- 5.3. Waiver. If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to subsequently enforce it.
- 5.4. Contract Complete. This Agreement contains all prior negotiations and agreements between the parties pertaining to the subject matter of workforce and EEO contract compliance. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

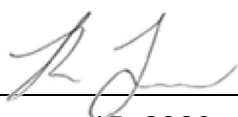
**6. Government Data Practices**

- 6.1. The parties must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, the Minnesota Human Rights Act, Minnesota Statutes Chapter 363A, and Minnesota Rule 5000 as they apply to all data provided by the parties under this Agreement, and as they apply to all data created, collected, received, stored, used, maintained or disseminated by the parties under this Agreement. The civil remedies of Minnesota Statutes §13.08 apply to the release of the data referred to in this clause by either MDHR or MnDOT.

**7. Termination; Suspension**

- 7.1. Termination. MnDOT or MDHR may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party.
- 7.2. Suspension. The parties may immediately suspend this Agreement in the event of a total or partial government shutdown due to failure to have an approved budget by the legal deadline.

**COMMISSIONER OF HUMAN RIGHTS**

By:   
Date: February 15, 2023

**COMMISSIONER OF TRANSPORTATION**

By: \_\_\_\_\_  
Date: \_\_\_\_\_

**MnDOT Contract Management  
COMMISSIONER OF ADMINISTRATION**

By: \_\_\_\_\_  
Date: \_\_\_\_\_