



Le Sueur County, MN

Tuesday, February 19, 2019

Board Meeting

Item 5

9:50 a.m. Dave Tiegs, Highway Engineer (5 min)

Staff Contact:

Highway Department Agenda Items

Tuesday, February 19th, 2019 County Board Meeting:

- 1.) Seasonal Equipment and Materials Bids

- 2.) MnDOT Lighting Agreement for T.H. 99 Intersections

- 3.) MnDOT Detour Agreement for T.H. 99 Detour

LE SUEUR COUNTY

RESOLUTION

IT IS RESOLVED that Le Sueur County enter into MnDOT Agreement No. 1032888 with the State of Minnesota, Department of Transportation for the following purposes:

To provide ownership, operation, and maintenance of Lighting System on Trunk Highway (T.H.) No. 99 at County State Aid Highway No. 45, No. 46 and No. 3. The contract construction is to be performed under State Project No. 4010-10 (T.H. 99).

IT IS FURTHER RESOLVED that the _____
(Title)
and the _____
(Title)
are authorized to execute the Agreement and any amendments to the Agreement.

CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Board of Commissioners of Le Sueur County at an authorized meeting held on the ___ day of _____, 20___, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this _____ day of _____, 20____
Notary Public _____
My Commission Expires _____

_____ (Signature)
_____ (Type or Print Name)
_____ (Title)

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
LE SUEUR COUNTY
LIGHTING MAINTENANCE
AGREEMENT**

Trunk Highway Number (T.H.): 99
Control Section Number (C.S.): 4010, 4008, and 6609
Feed Point Number: A, B and C
State Project Number (S.P.): 4010-10

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and Le Sueur County acting through its Board of Commissioners ("County").

Recitals

1. The State will install, in coordination with the County, a new Trunk Highway Lighting System ("Lighting System") on Trunk Highway (T.H.) No. 99 at the intersections of County State Aid Highway (C.S.A.H.) No. 45, No. 46, and No. 3 according to State-prepared typical drawings, standard plates, specifications and special provisions as State Project No. 4010-10 & 4008-31 ("Project"); and
2. The County will provide for the operation, maintenance and electrical energy of the new Lighting System; and
3. Minnesota Statutes § 161.20, subdivision 2 authorizes the Commissioner of Transportation to make arrangements with and cooperate with any governmental authority for the purposes of constructing, maintaining and improving the trunk highway system.

Agreement

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

- 1.1. **Effective Date.** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2. **Expiration Date.** This Agreement will expire when all obligations have been satisfactorily fulfilled.
- 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, including, without limitation, the following clauses: 4. Maintenance by the County; 7. Liability; Worker Compensation Claims; 9. State Audits; 10. Government Data Practices; 11. Governing Law; Jurisdiction; Venue; and 13. Force Majeure.
- 1.4. **Typical Drawings, Standard Plates, Specifications, Special Provisions.** State prepared typical drawings, standard plates, specifications and special provisions are on file in the office of the County's Engineer and incorporated into this Agreement by reference ("Project Plans").
- 1.5. **Exhibits.** Exhibit "A", showing the location of the new Lighting System, is attached and incorporated into this Agreement.

2. Construction by the State

- 2.1. **Lighting System Construction.** The State, with its own resources and equipment or by contract, will install a new Lighting System on T.H. 99 at C.S.A.H. No. 45, No. 46 and No. 3 according to the Project Plans.

-1-

New State Installed Local Lighting Maintenance (1/2018)

2.2. Direction, Supervision and Inspection of Construction. The State will direct and supervise all Lighting System construction activities including final light pole locations. All Lighting System construction will be performed according to the Project Plans.

3. State Furnished Materials

The State will furnish screw-in bases, 9-40 standard light poles and luminaires for the new Lighting System according to the Project Plans at no cost or expense to the County.

4. Maintenance by the County

Operation, maintenance and electrical energy responsibilities will be as follows for the Lighting System on T.H. No. 99 at C.S.A.H. No. 45, No. 46 and No. 3 shown in Exhibit "A".

- 4.1. Power.** The County will pay all monthly electrical service expenses necessary to operate the Lighting System.
- 4.2. Lighting System Maintenance.** The County will provide maintenance and ownership of the lighting facilities construction. Maintenance of electrical lighting systems includes everything within the system, from the point of attachment to the power source or utility, to the last light on the feed point, including but not limited to re-lamping of lighting units or replacing of LED luminaires, repair or replacement of all damaged luminaire glassware, loose connections, luminaires when damaged or when ballasts fail, photoelectric control on luminaires, defective starter boards or drivers, damaged fuse holders, blown fuses, knocked down poles including wiring within the poles, damaged poles, pullboxes, underground wire, damaged foundations, equipment pad, installation of approved splices or replacement of wires, repair or extending of conduit, lighting cabinet maintenance including photoelectric cell, electrical distribution system, entering into the Gopher State One Call (GSOC) system and performing locates and painting of poles and other equipment.
- 4.3. Right-of-Way Access.** The State authorizes the County to enter upon State Right-of-Way to perform the maintenance activities described in this Agreement.
- 4.4. Utility Permit.** After completion of the Lighting System construction, the County will submit to the State's Utility Engineer an original permit application for the new County owned Lighting System constructed within the Trunk Highway Right-of-Way. Applications for permits will be made on State form "Application for Utility Permit on Trunk Highway Right-of-Way" (Form 2525).

5. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

5.1. The State's Authorized Representative will be:

Name/Title: Susan Museus, Contract Administrator (or successor)
 Address: 2151 Bassett Drive, Mankato, MN 56001
 Telephone: 507-304-6202
 E-Mail: susan.museus@state.mn.us

5.2. The County's Authorized Representative will be:

Name/Title: Dave Tiegs, Le Sueur County Engineer (or successor)
 Address: 88 South Park Avenue, Le Center, MN 56057
 Telephone: 507-357-2251
 E-Mail: dtiegs@co.le-sueur.mn.us

6. Assignment; Amendments; Waiver; Contract Complete

- 6.1. *Assignment.*** Neither party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 6.2. *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.
- 6.3. *Waiver.*** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 6.4. *Contract Complete.*** This Agreement contains all prior negotiations and agreements between the State and the County. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

7. Liability; Worker Compensation Claims

- 7.1.** Each party is responsible for its own acts, omissions and the results thereof to the extent authorized by law and will not be responsible for the acts and omissions of others and the results thereof. Minnesota Statutes § 3.736 and other applicable law govern liability of the State. Minnesota Statutes Chapter 466 and other applicable law govern liability of the County.
- 7.2.** Each party is responsible for its own employees for any claims arising under the Workers Compensation Act.

8. Nondiscrimination

Provisions of Minnesota Statutes § 181.59 and of any applicable law relating to civil rights and discrimination are considered part of this Agreement.

9. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the County's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

10. Government Data Practices

The County and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the County 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 the County or the State.

11. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

12. Termination; Suspension

- 12.1. *By Mutual Agreement.*** This Agreement may be terminated by mutual agreement of the parties.
- 12.2. *Suspension.*** In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities and performance of work authorized through this Agreement.

13. Force Majeure

Neither party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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LE SUEUR COUNTY

DEPARTMENT OF TRANSPORTATION

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

Recommended for Approval:

By: _____
(District Traffic Engineer)

Date: _____

Approved:

By: _____
(District Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

By: _____
(With Delegated Authority)

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

INCLUDE COPY OF THE RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
And
LE SUEUR COUNTY
DETOUR AGREEMENT
For Trunk Highway No. 99 Detour**

State Project Number (S.P.):	4010-10	Original Amount Encumbered
Trunk Highway Number (T.H.):	99=99	<u>\$801.51</u>
State Project Number (S.P.):	6609-10	
State Project Number (S.P.):	4008-31	
Federal Project Number:	STPF 4019(122)	

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and Le Sueur County acting through its Board of Commissioners ("County").

Recitals

1. The State is about to perform grading, bituminous surfacing, lighting, ADA improvements and Bridge No. 40X06 construction upon, along and adjacent to Trunk Highway (T.H.) No. 99 from the east end of Minnesota River Bridge to 100 feet east of South Maple Avenue (County State Aid Highway (C.S.A.H.) No. 38/County Road No. 114) under State Project No. 4010-10 (T.H. 99=99); and
2. The State requires a detour to carry T.H. No. 99 traffic on C.S.A.H. No. 46 (Broadway Street.) during the construction; and
3. The State is willing to reimburse the County for the road life consumed by the detour as hereinafter set forth; and
4. Minnesota Statutes § 471.59, subdivision 10, § 161.25, and § 161.20, subdivision 2(b), authorize the parties to enter into this Agreement.

Agreement

1. Term of Agreement; Incorporation of Exhibits

- 1.1. Effective Date.** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2. Expiration Date.** This Agreement will expire when the State removes all detour signs, returns the temporary Trunk Highway detour to the County, and pays for the detour compensation.

2. Agreement Between the Parties

2.1. Detour.

- A. Location.** *The State will establish the T.H. 99 detour route on the following County road as detailed in the project plans or Special Provisions:*
C.S.A.H. No. 46 (Broadway Street) for a total distance of 0.35 miles.
- B. Modification of the Detour Route.** The State may modify the detour route or may add additional roadways to the official detour during construction. The State will request concurrence from the

County for changes to the detour route. If such change increases the States obligation over Article 3.3B, the Agreement will be amended.

- C. **Axle Loads and Over-Dimension Loads.** The County will permit 10-ton axle loads on the detour route. .
- D. **Traffic Control Devices.** The State may install, maintain and remove any traffic control devices it considers necessary to properly control the detoured traffic. The State may paint roadway markings, such as the centerline, edge lines and necessary messages.
- E. **Detour Maintenance.** The State will perform any necessary bituminous patching and ordinary maintenance on the roadway or shoulder of the County roads used for the detour, at no cost or expense to the County. Bituminous patching is defined as any work, including continuous full width overlays, less than 100 feet in length. All State expenditures beyond those required for bituminous patching and ordinary maintenance will be credited against the road life consumed reimbursement due the County.
- F. **Duration.** The State will provide the County with advance notice identifying the dates the State intends to place and remove the detour signing.

2.2. **Basis of State Cost (Road Life Consumed).** The State will reimburse the County for the road life consumed by the detour using the following methods, as set forth in the Detour Management Study Final Report dated January 1991, and updated by MnDOT's Policy on Cost Participation for Cooperative Construction Projects and Maintenance Responsibilities between MnDOT and Local Units of Government.

- A. The "Gas Tax Method" formula, multiplies the Combined Tax Factor per mile times the Average Daily Traffic ("ADT") count of vehicles diverted from the Trunk Highway times the county road length in miles times the duration of the detour in days to determine the State's cost for the road life consumed by the detour.
- B. The County may, at its option, perform an "Equivalent Overlay Method" analysis. A State-approved firm, at no cost or expense to the State, must perform the testing and analysis. The County will keep records and accounts to verify any claim it might bring against the State for additional costs using the "Equivalent Overlay Method".

3. **Payment**

3.1. **For Road Life Consumed.** \$801.51 is the State's estimated cost for the road life consumed by the detour based on the data below:

<u>Tax Factor</u>	<u>ADT</u>	<u>Road Length (Miles)</u>	<u>Duration (Days)</u>	<u>Cost</u>
0.00513	4,800	0.35	93	\$801.51
Road Life Consumed Amount:				<u>\$801.51</u>

The State's total payment for the road life consumed by the detour is equal to the amount computed by using the "Gas Tax Method" formula plus any amount determined by using the "Equivalent Overlay Method" analysis that is in excess of twice the "Gas Tax Method" amount.

3.2. **Maximum Obligation.** \$10,000.00 is the maximum obligation of the State under this Agreement and must not be exceeded unless the maximum obligation is increased by execution of an amendment to this Agreement.

3.3. Conditions of Payment. The State will pay the County the State's total road life consumed payment amount after performing the following conditions.

- A. Execution of this Agreement and the County's receipt of the executed Agreement.
- B. State's encumbrance of the State's total payment amount.
- C. State's removal of all detour signs.
- D. State notifies the County of the removal of the detour signs, and the number of days the detour was in effect.
- E. State's receipt of a written request from the County for payment.

4. Release of Road Restoration Obligations

By accepting the State's road life consumed payment plan and total payment amount, the County releases the State of its obligation, under Minnesota Statutes § 161.25, to restore the county roads used as a T.H. 99 detour to as good of condition as they were before designation as temporary trunk highways.

5. Authorized Representatives

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

5.1. The State's Authorized Representative will be:

Name, Title: Susan Museus, Contract Administrator (or successor)
Address: 2151 Bassett Drive, Mankato, MN 56001
Telephone: 507-304-6202
E-Mail: susan.museus@state.mn.us

5.2. The County's Authorized Representative will be:

Name, Title: Dave Tiegs, County Engineer (or successor)
Address: 88 South Park Avenue, Le Center, MN 56057
Telephone: 507-357-2251
E-Mail: dtiegs@co.le-sueur.mn.us

6. Assignment; Amendments; Waiver; Contract Complete

- 6.1. Assignment.** No party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 6.2. 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.
- 6.3. Waiver.** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 6.4. Contract Complete.** This Agreement contains all prior negotiations and agreements between the State and the County. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

7. Liability

The County and State will be responsible for their own acts and omissions, to the extent authorized by law. Minnesota Statutes § 3.736 governs the State's liability. Minnesota Statutes, Chapter 466 governs the liability of the County.

8. State Audits

Under Minnesota Statutes § 16C.05, subdivision 5, the County's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

9. Government Data Practices

The County and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the County 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 the County or the State.

10. Governing Law; Jurisdiction; Venue

Minnesota law governs the validity, interpretation and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

11. Termination; Suspension

11.1. *By Mutual Agreement.* This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.

11.2. *Termination for Insufficient Funding.* The State may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the County. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the County will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

11.3. *Suspension.* In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance and payments authorized through this Agreement. Any work performed during a period of suspension will be considered unauthorized work and will be undertaken at the risk of non-payment.

12. Force Majeure

No party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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STATE ENCUMBRANCE VERIFICATION

Individual certifies that funds have been encumbered as required by Minnesota Statutes § 16A.15 and 16C.05.

Signed: _____

Date: _____

SWIFT Purchase Order: _____

LE SUEUR COUNTY

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

INCLUDE COPY OF THE RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.

-5-

Detour Agreement without Local Maintenance (Cooperative Agreements)

DEPARTMENT OF TRANSPORTATION

Approved:

By: _____
(District Engineer)

Date: _____

COMMISSIONER OF ADMINISTRATION

By: _____
(With Delegated Authority)

Date: _____

LE SUEUR COUNTY

RESOLUTION

IT IS RESOLVED that Le Sueur County enter into MnDOT Agreement No. 1032949 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the County for the use and maintenance of County State Aid Highway No. 46 (Broadway Street) as a detour route during the contract construction to be performed upon, along and adjacent to Trunk Highway No. 99 from east end of Minnesota River Bridge to 100 feet east of South Maple Avenue (County State Aid Highway No. 38/County Road 114) under State Project No. 4010-10 (T.H. 99=99).

IT IS FURTHER RESOLVED that the _____ and the _____
(Title) are authorized to execute the Agreement and any amendments to the Agreement.

CERTIFICATION

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Board of Commissioners of Le Sueur County] at an authorized meeting held on the _____ day of _____, 2019, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this _____ day of _____, 2019
Notary Public _____
My Commission Expires _____

_____	(Signature)
_____	(Type or Print Name)
_____	(Title)