



City Council Memorandum

To: Mayor Fasbender & City Council Members
From: Nick Egger – Public Works Director
Date: July 30, 2020
Item: Approve Entry into Joint Powers Agreement with Dakota County – County Road 46 Corridor Study

Council Action Requested:

Enclosed for Council consideration is the final draft of a Joint Powers Agreement with Dakota County for the City's partnership in the upcoming County State Aid Highway 46 Corridor Study being led by the County. City Attorney Dan Fluegel and myself have both reviewed the document and recommend its approval.

Background Information:

The County has programmed a comprehensive transportation study of the County State Aid Highway 46 Corridor from Highway 61 west to about ¼ mile west of General Sieben Drive at the western City limits. Work is scheduled to begin late this summer and conclude in the fall of 2021. The study will examine the potential for future changes to this important transportation facility. The County worked closely with City staff to develop the request and solicit proposals for the study work, and received four proposals earlier this month. The proposal that will be taken forward was submitted by Alliant Engineering in the amount of \$400,000.

Among the key aspects the study will focus on are, safety enhancements for motorists, bicyclists, and pedestrians; vehicle speeds, access and mobility enhancements for all modes of transportation including trail enhancements, economic development opportunities that may be enhanced or catalyzed through changes to transportation facilities, and a layout that is sensitive to natural resources such as the Vermillion River and the Vermillion River Greenway spaces.

The primary goal of the study is to land on the most promising array of improvements that adequately addresses the public's concerns as well as the context of the project, and to reach a 30% level scope design that would be used as the foundation of a final design and construction at a future point in time. Along the way, extensive public engagement tools will be used to gather feedback from residents, businesses, property owners, the Chamber of Commerce, and of course the City Council itself.

Financial Impact:

The City's cost-share responsibility per Dakota County Transportation Department policy for the study, preliminary design work, and other pre-project costs facilitated through the County will be approximately \$115,000. I have requested an allotment to pay for the City's full cost in the 2021 Budget. However, I have also requested of the County that the City be allowed to use the County's Advanced Funding policy provision that will result in County delaying invoice of the City until after May 1, 2022. This will allow a fair amount of breathing room for the City to allocate funding sources and mix. Additionally, the City may utilize its State Aid for Local Transportation funds to cover study expense. All told, the City will have good flexibility for how it is able to cover its portion of the study costs.

Staff Recommendation:

Staff recommends the Council approve the City's entry into the JPA and authorize the Mayor's and City Clerk's signatures to be affixed.

JOINT POWERS AGREEMENT FOR

CORRIDOR STUDY, PRELIMINARY ENGINEERING AND COST PARTICIPATION

BETWEEN

THE COUNTY OF DAKOTA

AND

THE CITY OF HASTINGS

FOR

COUNTY PROJECT NO. 46-50

SYNOPSIS: Dakota County and the City of Hastings agree to conduct a corridor study and preliminary engineering through 30% design for the future reconstruction of County State Aid Highway (CSAH) 46 (160th Street East/County 47) from 1,300 feet west of General Sieben Drive in Nininger and Marshan Townships to Trunk Highway (TH) 61 (Vermillion Street) in Hastings, Dakota County.

THIS AGREEMENT, made and entered into by and between the County of Dakota, referred to in this Agreement as the "County", the City of Hastings, referred to in this agreement as "City", and witnesses the following:

WHEREAS, under Minnesota Statutes Sections 162.17, subd. 1 and 471.59, subd. 1, two governmental units may enter into an Agreement to cooperatively exercise any power common to the contracting parties, and one of the participating governmental units may exercise one of its powers on behalf of the other governmental units; and

WHEREAS, to provide a safe and efficient transportation system, the County and the City are partnering on County Project (CP) 46-50; and

WHEREAS, CP 46-50 includes a corridor study and preliminary design engineering to develop the County State Aid Highway (CSAH) 46 (160th Street East/County Road 47) corridor from 1,300 feet west of General Sieben Drive in Nininger and Marshan Townships to Trunk Highway (TH) 61 (Vermillion Street) in Hastings, Dakota County (the "Project"); and

WHEREAS, County staff recommends a joint powers agreement with the City to define the corridor study and preliminary design responsibilities and project cost participation; and

WHEREAS, the County and City have included this project in their Capital Improvement Programs to share project responsibilities.

NOW, THEREFORE, it is agreed the County and City will share project responsibilities and jointly participate in the project costs associated with the Project:

1. Administration: The County is the lead agency for the corridor study and preliminary design administration of the Project. Subject to the requirements below, the County and City shall each retain final decision-making authority within their respective jurisdictions.
2. Engineering: Corridor study and preliminary design engineering costs, including public involvement, agency involvement, corridor study, preliminary design, bridge evaluation and necessary design, preliminary layouts, plans, specifications and

proposal, surveying, mapping, consultant engineering, right of way mapping and all related materials testing, including the cost of County and City staff time for these purposes, (collectively, "Engineering Costs") shall be shared based on the County's and City's share of the final corridor study and preliminary design costs in accordance with the current adopted County Transportation Plan Cost Participation Policy.

3. Cost Share: The County and City shall divide the project costs for the corridor study and preliminary engineering as follows:
 - The County shall be responsible for 82% of all project costs
 - The City shall be responsible for 18% of all project costs
4. Non-Project Costs. It is understood that for efficiency and cost effectiveness, the City may request elements exceeding the City's Municipal State Aid collector/local street standards such as City utilities, pedestrian tunnels not required as part of the highway project and aesthetic improvements, be included in the Project. The City shall be responsible for 100% of the costs of City utilities not required due to construction, and 100% of all aesthetic elements that exceed the County maximum participation for aesthetic elements in accordance with County policies included in the current adopted Dakota County Transportation Plan.
5. Municipal Construction Items. The costs for the design and reconstruction of improvements to any street under City jurisdiction, outside of the scope and construction limits for the Project, and any access or access improvements to local developments that are planned but not required by the Project, shall be the responsibility of the City.
6. Aesthetic Elements. Aesthetic elements for the Project consist of decorative pavements, trail lighting, undergrounding of private utilities, landscaping and plantings. The County will participate up to 50 percent (50%) of the cost of aesthetic elements up to a maximum amount of three percent (3%) of the County's share (prior to application of Federal funding) of highway construction costs. Highway construction costs exclude costs for items such as right of way, storm sewer and ponding. The City shall be responsible for 50 percent (50%) of the costs of all aesthetic elements and

100 percent (100%) of the costs that exceed the County's maximum participation for aesthetic elements. The responsibility for maintenance of all aesthetic elements shall be in accordance with County policies included in the current adopted Dakota County Transportation Plan.

7. Miscellaneous Elements. General maintenance will be handled in accordance with County policies included in the current adopted Dakota County Transportation Plan.
8. Street Lighting, Trail Lighting and Maintenance Costs. Upon completion of the Projects, electrical power necessary for the operation of the streetlights (including roundabout lighting, trail lighting and underpass lighting) and maintenance of the streetlights will be provided in accordance with County policies included in the current adopted Dakota County Transportation Plan.
9. Right of Way: The preliminary design for the Project will determine the existing right of way, proposed permanent and temporary highway easement and drainage and utility easements required to complete the recommended corridor design. The County will determine the existing right of way for use of determining the proposed project easements. Any right of way needs for new sanitary sewer, water mains and appurtenances, and aesthetic elements outside of the right of way needed for the highway improvements shall be the responsibility of the City.
10. Plans and Specifications: The lead agency will prepare the 30% final design plans consistent with County, City and Township design standards, State-Aid design standards and MnDOT standards and specifications.
11. City Utilities: Except as stated in the sections of this agreement, the City shall pay for all other preliminary design costs associated with their respective utility improvements that are not impacted by the proposed project.
12. Project Cost Updates: The County will provide updated cost estimates to the City showing the County and City shares of Project costs annually at the time of Capital Improvement Program development. Updated cost estimates will also be provided by the County to the City at the following times:

- prior to approval of the selected design consultant;
- on a quarterly basis through preliminary design;
- prior to approval of any necessary contract amendment.

Project cost estimate updates include actual and estimated costs for the corridor study and preliminary engineering.

The Parties acknowledge that Project cost estimates are subject to numerous variables causing the estimates to be subject to change and the updates are provided for informational purposes in good faith. Each agency is responsible for informing their respective council or board regarding Project costs estimates.

13. Payment: The County will administer the contract and act as the paying agent for all payments to the Contractor. Payments to the contractor will be made as the project work progresses and when certified by the County Engineer. The County will request payment of the City's share of the Project's engineering/design and preliminary right of way costs (estimated at \$115,137) after May 1, 2022. To the extent the actual City share of costs are higher than the estimate listed above, the County will request payment of any balance due after February 1, 2023. The City, by written notification, may request billing as soon as May 1, 2021 and February 1, 2022, respectively.

Upon presentation of an itemized claim by one agency to the other, the receiving agency shall reimburse the invoicing agency for its share of the costs incurred under this Agreement upon receipt or within a maximum of 35 days from the presentation of the claim. If any portion of an itemized claim is questioned by the receiving agency, the remainder of the claim shall be promptly paid, and accompanied by a written explanation of the amounts in question. Payment of any outstanding amount will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.

14. Change Orders and Supplemental Agreements: Any change orders or supplemental agreements that affect the project cost participation must be approved by the Authorized Representative of each party prior to execution of work.

15. Amendments: Any amendments to this Agreement will be effective only after approval by each governing body and execution of a written amendment document by duly authorized officials of each body.

16. Effective Dates for Design of Project: This Agreement will be effective upon execution by duly authorized officials of each governing body and shall continue in effect until all work to be carried out in accordance with this Agreement has been completed. Absent an amendment, however, in no event will this Agreement continue in effect after December 31, 2021.

17. Storm Sewer Construction and Maintenance. The City and County entered into a Maintenance Agreement for Storm Sewer Systems dated November 4, 2013 (Dakota County Contract #C0025414) (“Maintenance Agreement”) which governs maintenance, repair and replacement duties and costs shared by the County and City for stormwater sewer system located on or along County Highway right-of-way. Upon acceptance of the Project, on-going maintenance and repairs of storm sewer systems shall be provided in accordance with the current County and City Maintenance Agreement. The County will participate in replacement or repair of storm sewer systems constructed by future construction projects related to the Project in accordance with County policies included in the current adopted Dakota County Transportation Plan.

18. Sidewalks and Trails. Upon acceptance of the Project, current and future maintenance of sidewalk and trails shall be provided in accordance with the current County and City Maintenance Agreement for County Bikeway Trails. The County and City shall be responsible for the costs of trail resurfacing or reconstruction in accordance with County policies included in the current adopted Dakota County Transportation Plan.

19. Rules and Regulations: The County and the City shall abide by Minnesota Department of Transportation and standard specifications, rules, and contract administration procedures.

20. Indemnification: Each Party agrees to defend, indemnify, and hold harmless the other Parties against any and all claims, liability, loss, damage, or expense arising under

the provisions of this Agreement and caused by or resulting from negligent acts or omissions of the indemnifying Party and/or those of its employees or agents. All Parties to this Agreement recognize that liability for any claims arising under this Agreement are subject to the provisions of the Minnesota Municipal Tort Claims Law; Minnesota Statutes, Chapter 466. In the event of any claims or actions filed against either Party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual Parties. Each Party shall include the other Party as additional insured in the contract documents.

21. Employees of Parties. Any and all persons engaged in the work to be performed by the County shall not be considered employees of the City, for any purpose, including Worker's Compensation, and any and all claims that may or might arise out of said employment context on behalf of said employees while so engaged. Any and all claims made by any third party as a consequence of any act or omission on the part of said employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of the City.

Any and all persons engaged in the work to be performed by the City shall not be considered employees of the County for any purpose, including Worker's Compensation, and any and all claims that may or might arise out of said employment context on behalf of said employee while so engaged. Any and all claims made by any third party as a consequence of any act or omissions of the part of the City's employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of the County.

22. Audits: Pursuant to Minnesota Statute §16C.05, Subd. 5, any books, records, documents, and accounting procedures and practices of the County and the City relevant to the Agreement are subject to examination by the County or the City and either the Legislative Auditor or the State Auditor as appropriate. The County and City agree to maintain these records for a period of six years from the date of performance of all services covered under this Agreement. Dakota County will be financially responsible for the cost of the audit.

23. Integration and Continuing Effect: The entire and integrated agreement of the Parties contained in this Agreement shall supersede all prior negotiations, representations or agreements between the City and the County regarding the Project; whether written or oral. All agreements for future maintenance or cost responsibilities shall survive and continue in full force and effect after completion of the improvements provided for in this Agreement.

24. Authorized Representatives: The authorized representatives for the purpose of the administration of this Agreement are:

COUNTY OF DAKOTA

Mark Krebsbach (or successor)
Dakota County Transportation
Director/County Engineer
14955 Galaxie Avenue
Apple Valley, MN 55124
(952) 891-7100
Mark.krebsbach@co.dakota.mn.us

CITY OF HASTINGS

Nick Egger (or successor)
Public Works Director
1225 Progress Drive
Hastings, MN 55033
Telephone: (651) 480-2370
NEgger@hastingsmn.gov

The Authorized Representative shall obtain authorization to implement or administer any provision of this Agreement from his or her respective governing body as required by the governing body's policies and procedures. The parties shall promptly provide notice to each other when an Authorized Representative's successor is appointed. The Authorized Representative's successor shall thereafter be the Authorized Representative for purposes of this Agreement.

Notification required to be provided pursuant to this Agreement shall be provided to the following named persons and addresses, unless otherwise stated in this Agreement or in a modification of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, the parties have caused this agreement to be executed by their duly authorized officials.

CITY OF HASTINGS

RECOMMENDED FOR APPROVAL:

Public Works Director

By _____
Mayor

APPROVED AS TO FORM:

(SEAL)

City Attorney

By _____
City Clerk

Date _____



DAKOTA COUNTY

RECOMMENDED FOR APPROVAL:

Dakota County Transportation Director/County Engineer

By _____
Physical Development Director

Date: _____

APPROVED AS TO FORM:

Assistant Dakota County Attorney/Date
KS-

COUNTY BOARD RESOLUTION

No. 20- Date: