

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: IV. K.

From: Chad A. Millner, PE, Director of Engineering

Action

Discussion

Date: September 16, 2014

Information

Subject: Resolution No. 2014-99 Authorizing Vernon Avenue Sidewalk Cooperative Agreement with Hennepin County

Action Requested:

Approve Resolution No. 2014-99 authorizing Mayor and City Manager to sign attached cooperative agreement with Hennepin County for the Vernon Avenue Sidewalk.

Information / Background:

The cooperative agreement details the responsibilities between the City of Edina and Hennepin County concerning the construction of sidewalk improvements along the north side of County State Aid Highway No (CSAH) 158 (Vernon Avenue) from Doncaster Way to Ayrshire Boulevard in 2014. Please recall that this project is partially funded with a grant from Hennepin County.

Staff recommends the City Council approve this resolution.

Attachments:

Resolution No. 2014-99
Cooperative Agreement



**RESOLUTION NO. 2014-99
APPROVING CITY OF EDINA
AND
HENNEPIN COUNTY
VERNON AVENUE SIDEWALK IMPROVEMENTS
COOPERATIVE AGREEMENT**

WHEREAS, the City of Edina and Hennepin County approved sidewalk improvements along the north side of County State Aid Highway No (CSAH) 158 (Vernon Avenue) from Doncaster Way to Ayrshire Boulevard in 2014; and

WHEREAS, the City or its agent shall be responsible for administering construction of the Project and have adequate personnel available to perform the construction staking, testing, inspection and development of as-built plans required on the project;

NOW THEREFORE, BE IT RESOLVED, Mayor James B. Hovland and City Manager Scott H. Neal, are hereby authorized and directed for and on behalf of the City to execute and enter into a construction cooperative agreement with Hennepin County for Vernon Avenue Sidewalk Improvements, a copy of which said agreement was before the City Council and which is made a part hereof by reference.

Dated: September 16, 2014

Attest: _____
Debra A. Mangen, City Clerk

James B. Hovland, Mayor

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina City Council at its Regular Meeting of September 16, 2014, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 20____.

City Clerk

**Agreement No. PW 51-11-13
County Project No. 1337
County State Aid Highway No. 158
City of Edina
County of Hennepin**

COOPERATIVE AGREEMENT

THIS AGREEMENT, Made and entered into this _____ day of _____, 20__ by and between the **County of Hennepin**, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "County", and the **City of Edina**, a body politic and corporate under the laws of the State of Minnesota, hereinafter referred to as the "City".

WITNESSETH:

WHEREAS, the City is proposing to construct a new sidewalk along the north side of County State Aid Highway No. (CSAH) 158 (Vernon Avenue) from Doncaster Way to Ayrshire Boulevard, as shown on the plans the City Project Number _____ (County Project Number 1337), hereinafter referred to as the "Project"; and

WHEREAS, the above described Project lies within the corporate limits of the City; and

WHEREAS, the City or its agents shall be responsible to develop the plans and specifications for the Project; and

WHEREAS, the City has requested that the County approve said plans and specifications, and the County has indicated its willingness to approve said plans and specifications; and

WHEREAS, the City or its agents shall be responsible for administering construction of the Project and has adequate personnel available to perform the construction staking, testing, inspection and development of as-built plans required on the Project; and

WHEREAS, the County will participate in its share of the costs to construct the sidewalk along CSAH 158 as set forth herein; and

WHEREAS, it is contemplated that said work be carried out by the parties hereto under the provisions of Minnesota Statutes, Section 162.17, Subdivision 1 and Section 471.59.

NOW THEREFORE, IT IS HEREBY AGREED:

I

The City or its agents shall prepare the necessary plans, specifications, and proposal; obtain approval of said plans and specifications from the County; advertise for bids for the work and construction; receive and open bids pursuant to said advertisement; enter into a contract with the successful bidder at the unit prices specified in the bid of such bidder; administer the contract; and, perform the required engineering and inspection; all in accordance with said plans and specifications.

The contract shall include the plans and specifications prepared by the City or its agents and approved by the County. Said plans and specifications shall conform to Minnesota Department of Transportation (Mn/DOT) Design Standards applicable to County State Aid Highways and to the requirements of the American with Disabilities Act (ADA). Attached is a copy of the Mn/DOT ADA Compliance Checklist (Curb Ramp) form. The City or its agents shall complete said form for each curb ramp constructed as part of the Project and return to the County. The City understands and agrees that payment will not be made by the County until all required ADA certification forms have been received and verified by the County.

II

Prior to beginning construction, the City shall furnish the County with two (2) complete sets of County approved plans and specifications for said Project. Upon completion of the Project, the City or its agents shall furnish the County with a complete set of as-built plans certified as to their accuracy by the City's Project Engineer. Said as-designed plans, specifications and as-built plans for the Project shall be furnished by the City at no cost to the County.

III

The City or its agents shall administer the construction contract and perform all required engineering, inspection and testing. All construction and materials sampling and testing for the Project shall be accomplished in accordance with all applicable standards and requirements of the Minnesota Department of Transportation's (Mn/DOT) State Aid for Local Transportation Division in effect at the time of Contract award.

The City shall also obtain, and comply with, any and all permits and approvals required from other governmental or regulatory agencies to accomplish the Project. Said permits and approvals shall be obtained prior to the start of any construction and made available to the County upon request.

It is understood and agreed by the City that construction of the Project shall be completed to the satisfaction of the County within three years of the date this agreement has been signed by the parties hereto.

IV

The construction of this Project shall be under the supervision and direction of the City Engineer or designated representative. All work for the Project shall be completed in compliance with the County approved plans and specifications. The County Engineer and representative staff shall have the right, as the work progresses, to enter upon the premises to make any inspections deemed necessary and shall cooperate with the City Engineer and staff at their request to the extent necessary.

The County agrees that the City may make changes in the above referenced approved plans or in the character of said contract construction which are reasonably necessary to cause said construction to be in all things performed and completed in a satisfactory manner. It is further agreed by the County that the City may enter into any change orders or supplemental agreements with the City's contractor for the performance of any additional construction or construction occasioned by any necessary, advantageous or desirable changes in plans, within the original scope of the Project. The City shall obtain the approval of the County Engineer or designated representative on said change orders or supplemental agreements. The County will respond to the City's request for approvals within seven (7) calendar days.

V

The City or its agents shall acquire all additional right of way, permits and/or easements required for the construction of said Project, at no cost to the County.

Upon completion of this Project, all permanent right of way acquired for CSAH 158 as provided herein shall be conveyed to the County by the City with no consideration required.

VI

The County will participate in the construction costs for the sidewalk as provided herein.

Upon completion of the Project (anticipated in 2015) the City shall notify the County and submit an invoice for one hundred percent (100%) of the County's share of the costs for the Project. Upon approval of the completed Project by the County Highway Engineer or designated representative, the County shall reimburse the City the lump sum amount of Fifty Thousand Dollars and No Cents (\$50,000.00) as its share of the costs for the Project.

The City understands and agrees that the County's total cost participation for the Project shall not exceed Fifty Thousand Dollars and No Cents (\$50,000.00) without an amendment to this Agreement.

The City shall submit invoices to Mr. Robert Byers, Senior Professional Engineer or his successor at the Hennepin County Transportation Department, 1600 Prairie Drive, Medina, MN, 55340-5421.

VIII

It is understood and agreed by the parties hereto that upon completion of the Project, the sidewalk included in the Project shall be maintained by the City and all maintenance, restoration or repair required thereafter shall be performed by the City at no expense to the County.

IX

All records kept by the City and the County with respect to the Project shall be subject to examination by the representatives of each party hereto.

X

Each party agrees that it will be responsible for its own acts and the results thereof, to the extent authorized by the law, and shall not be responsible for the acts of the other party and the results thereof. The County's and the City's liability is governed by the provisions of Minnesota Statutes, Chapter 466.

The County and the City each warrant that they are able to comply with the aforementioned indemnity requirements through an insurance or self-insurance program.

XI

The City agrees to defend, indemnify and hold harmless the County, its officials, officers, agents, volunteers and employees, from any liabilities, claims, causes of action, judgments, damages, losses, costs or expenses, including, reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the City, its contractors, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable for related to the ownership, maintenance, existence, restoration, repair or replacement of the improvements constructed as part of the Project. The City's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

The County agrees to defend, indemnify, and hold harmless the City, its officials, officers, agents, volunteers, and employees from any liability, claims, causes of action, judgments, damages, losses, costs, or expenses, including reasonable attorneys' fees, resulting directly or indirectly from any act or omission of the County, its contractors, anyone directly or indirectly employed by them, and/or anyone for whose acts and/or omissions they may be liable related to the ownership, maintenance, existence, restoration, repair or replacement of the improvements constructed as part of the Project. The County's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 or other applicable law.

XII

The City also agrees that any contract let by the City or its agents for the performance of the work on County State Aid Highway No. 158 as provided herein shall include clauses that will: 1) Require the Contractor to defend, indemnify, and hold the County, its officials, officers, agents and employees harmless from any liability, causes of action, judgments, damages, losses, costs or expenses including, without limitation, reasonable attorneys' fees, arising out of or by reason of the acts and/or omissions of the said Contractor, its officers, employees, agents or subcontractors; 2) Require the Contractor to be an independent contractor for the purposes of completing the work provided for in this Agreement; and 3) Require the Contractor to provide and maintain insurance in accordance with the following:

1. Commercial General Liability on an occurrence basis with Contractual Liability and Explosion, Collapse and Underground Property Damage (XCU) Liability coverages:

| | <u>Limits</u> |
|--|---------------|
| General Aggregate | \$2,000,000 |
| Products--Completed Operations Aggregate | \$2,000,000 |
| Personal and Advertising Injury | \$1,500,000 |
| Each Occurrence - Combined Bodily Injury and Property Damage | \$1,500,000 |

Hennepin County shall be named as an additional insured for the Commercial General Liability coverage with respect to operations covered under this Agreement.

2. Automobile Liability:

Combined Single limit each occurrence coverage or the equivalent covering owned, non-owned, and hired automobiles: \$1,000,000

3. Workers' Compensation and Employer's Liability:

A. Workers' Compensation Statutory

If the Contractor is based outside the State of Minnesota, coverages must apply to Minnesota laws.

B. Employer's Liability - Bodily injury by:

| | |
|--------------------------|-----------|
| Accident - Each Accident | \$500,000 |
| Disease - Policy Limit | \$500,000 |
| Disease - Each Employee | \$500,000 |

| | |
|---------------------------------------|-------------|
| 4. Professional Liability – Per Claim | \$1,500,000 |
| Aggregate | \$2,000,000 |

It understood and agreed by the parties hereto that the above listed Professional Liability insurance will not be required in any construction contract let by City if the City's Contractor is not required to perform design engineering as part of said construction contract.

An umbrella or excess policy over primary liability coverages is an acceptable method to provide the required insurance limits.

The above subparagraphs establish minimum insurance requirements. It is the sole responsibility of the City's Contractor to determine the need for and to procure additional insurance which may be needed in connection with said Project.

All insurance policies shall be open to inspection by the County and copies of policies shall be submitted to the County upon written request.

XIII

It is further agreed that any and all employees of the City and all other persons engaged by the City in the performance of any work or services required or provided for herein to be performed by the City shall not be considered employees of the County, and that any and all claims that may or might arise under the Minnesota Economic Security Law or the Workers' Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the County.

Also, any and all employees of the County and all other persons engaged by the County in the performance of any work or services required or provided for herein to be performed by the County shall not be considered employees of the City, and that any and all claims that may or might arise under the Minnesota Economic Security Law or the Workers' Compensation Act of the State of Minnesota on behalf of said employees while so engaged and any and all claims made by any third parties as a consequence of any act or omission on the part of said employees while so engaged on any of the work or services provided to be rendered herein shall in no way be the obligation or responsibility of the City.

XIV

In order to coordinate the services of the County with the activities of the City so as to accomplish the purposes of this Agreement, the Hennepin County Highway Engineer or designated

representative shall manage this Agreement on behalf of the County and serve as liaison between the County and the City.

In order to coordinate the services of the City with the activities of the County so as to accomplish the purposes of this Agreement, the City Engineer or designated representative shall manage this Agreement on behalf of the City and serve as liaison between the City and the County.

XV

It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement signed by the parties hereto.

XVI

The whereas clauses are incorporated herein and are hereby made a part of this Agreement.

XVII

The provisions of Minnesota Statutes 181.59 and of any applicable local ordinance relating to civil rights and discrimination and the Affirmative Action Policy statement of Hennepin County shall be considered a part of this Agreement as though fully set forth herein.

(this space left intentionally blank)

IN TESTIMONY WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF EDINA

(Seal)

By: _____
Mayor

Date: _____

And: _____
Manager

Date: _____

COUNTY OF HENNEPIN

ATTEST:

By: _____
Deputy/Clerk of the County Board

By: _____
Chair of its County Board

Date: _____

Date: _____

APPROVED AS TO FORM:

And: _____
County Administrator

By: Quick Sumner
Assistant County Attorney

Date: _____

Date: 8/28/14

And: _____
Assistant County Administrator, Public Works

Date: _____

APPROVED AS TO EXECUTION:

RECOMMENDED FOR APPROVAL

By: _____
Assistant County Attorney

By: _____
Director, Transportation Department
and County Highway Engineer

Date: _____

Date: _____

WL



MnDOT ADA Compliance Checklist (Curb Ramp)

SP: City: District:

Intersection: Quadrant:

Ramp Type: Const. Year:

Compile all relevant document (photos, notes, etc) of the completed quadrant and send to ADAComplianceChecklists.dot@state.mn.us

(1) Minimum 4' wide pedestrian access route (PAR) maintained? Yes No

(2) Landing meets min. 4'x4' and perpendicular grade break(s)? Yes No

(3) Are landing(s) located at the top of each ramp and at change(s) in direction and at inverse grades? Yes No

(4) Landing slopes (%):
(TH) (TH) (SS) (SS)

(5) Ramp's running slope (%): TH TH SS SS
Initial Secondary Initial Secondary

(6) Ramp's cross slope (%): TH TH SS SS
Initial Secondary Initial Secondary

(7) Gutter flow line slope (%): TH SS

(8) Gutter inslope (%): TH SS

(9) Roadway cross slope (%): TH SS

TH = Trunk Highway
SS = Side Street

(10) Do truncated domes cover the entire curb opening and are they properly oriented? Yes No

(11) Are gutter line and ramps draining properly? Yes No

(12) Are there any vertical discontinuities greater than 1/4"? Yes No

(13) Do ramps comply with Spec 2521.3? Yes No

(14) Are ramps fully compliant? Yes No

If **NO**, check the reason(s) below. Explain why the ramp didn't meet compliance and how the ramp has been improved from the pre-construction condition (see ADA Compliance Checklist Guidance for more info and attach pages if needed).

- Topography Structure(s) Utilities Contractor MnDOT

(15) Was the curb ramp able to be built according to the plan details? Yes No

If **NO**, please explain:

Printed Name: Date (mm/dd/yyyy):

I certify that the information entered on this form is accurate to the best of my knowledge and that I fully understand the checklist standards and am qualified to carry out the inspection.

W