



## STAFF REPORT

DATE: December 4, 2018

**CONSENT**

ITEM #: 11

**AGENDA ITEM:** Lake Elmo Avenue (CSAH17) Phase 3 Pavement and Drainage Improvements – Approve Concurrence to Award a Construction Contract and Approve a Revised Cooperative Cost Share Agreement No. 11802

**SUBMITTED BY:** Jack Griffin, City Engineer

**REVIEWED BY:** Kristina Handt, City Administrator  
Rob Weldon, Public Works Director  
Chad Isakson, Assistance City Engineer

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**ISSUE BEFORE COUNCIL:** Should the City Council concur with Washington County to award a construction contract and approve a revised Cooperative Agreement No. 11802 with Washington County for the Design and Construction for the Lake Elmo Avenue (CSAH17) Phase 3 Pavement and Drainage Improvements?

**BACKGROUND:** The Lake Elmo Avenue (CSAH17) Phase 3 Pavement and Drainage Improvements includes a full-depth reclaim pavement rehabilitation from I-94 to 20th Street, including the construction of new turn lanes at 5th Street North (Hunters Crossing & Southwind developments), at 24th Street North (new entrance for Royal Golf), and along CSAH 10 at the new Royal Golf entrance. Between 20th Street North and 30th Street North, the improvements will also include a full-depth reclaim pavement rehabilitation, however new concrete curb and gutter will be installed to replace existing bituminous curb along the east side and to replace a rural section shoulder along the west side. Stormwater runoff will be captured and conveyed by the new concrete curb and gutter to various sump manholes to pretreat the storm water runoff prior to discharging to Lake Elmo.

At the April 3, 2018 council meeting the City Council approved Resolution No. 2018-035 providing City support for the preliminary design layout for the Lake Elmo Avenue (CSAH17) Phase 3 Pavement and Drainage Improvements. With this approval the County proceeded with the final project design and property acquisition, and received contractor bids with the intention to construct the improvements in 2018. However, bids received were deemed too high at the time and the bids were rejected.

**PROPOSAL DETAILS/ANALYSIS:** Washington County rebid the project on November 27, 2018 and is recommending an award of contract to the lowest responsible bidder in the amount of \$3,820,315.

On June 19, 2018 the City Council approved the Cost Share and Maintenance Cooperative Agreements with Washington County for the project and approved a Resolution establishing No On-Street Parking Zones to meet State Aid design requirements. The purpose for the Cooperative Agreements are to outline the cost participation requirements by the City and to address the respective ownership and maintenance responsibilities for the new improvements. Key elements of the agreements are as follows:

- The County shall be responsible for implementing the project including design and construction.
- The estimated cost share participation by Lake Elmo is \$672,230. These costs are based on estimated quantities. See cost breakdown below under Fiscal Impacts.

- The agreement includes a payment schedule with three City payments. 1) 10% of City cost share due upon the bid award (December 2018). 2) 50% of City cost share due August 1, 2019. 3) 50% of City cost share due February 1, 2020.
- There are no new maintenance responsibilities for the City. The City currently owns and operates a trunk watermain, gravity sanitary sewer main and sanitary sewer forcemain within County right-of-way. The Cooperative Maintenance Agreement specifies that the City shall own and maintain, under this project, the municipal utilities, including sanitary sewer, forcemain, and water main, and all permanent roadway signing on City roads.
- The County will be responsible for the maintenance for all other improvements including the storm sewer trunk line, catch basins and sump manholes.

The Cooperative Agreement has been revised to address an updated payment schedule due to the delayed construction from 2018 to 2019 and has been updated with the Post-Bid project costs.

**FISCAL IMPACT:** The estimated total project cost is \$4,487,200 with the City post-bid cost share participation estimated to be \$672,230. Because the agreement is based on estimated quantities, the actual cost share is determined once the project is complete and the final quantities and costs are known. The City estimated costs are shown below for the various related improvements.

CSAH 10 Turn Lane (Royal Golf Club):	\$342,200	To be reimbursed by Royal Golf.
CSAH 17 Turn Lane (Royal Golf Club):	\$208,100	To be reimbursed by Royal Golf.
CSAH 17 Turn Lane at 5 <sup>th</sup> Street:	\$ 50,000	\$50,000 received Southwind/Hunters Crossing.
CSAH 17 Street & Drainage Cost Share:	\$ 56,800	Includes 10% VBWD grant contribution.
City Utilities Cost Share:	\$ 15,130	Watermain/Sewer Forcemain Adjustments

City cost participation is based on 50% cost share for the west side concrete curb and gutter between 20th Street and 30th Street, miscellaneous project overhead costs, and 55% cost share for right-of-way costs. In addition, the County will require cost reimbursement from the City for turn lanes at 5th Street North (Hunters Crossing/Southwind), 24th Street North (Royal Golf), and along CSAH 10 (Royal Golf). The City has included language in the respective development agreements to obtain turn lane cost reimbursement.

**RECOMMENDATION:** Staff is recommending that the City Council, *as part of the Consent Agenda*, concur with Washington County to award a construction contract and approve the revised Cooperative Agreement No. 11802 with Washington County for Design and Construction for the Lake Elmo Avenue (CSAH17) Phase 3 Pavement and Drainage Improvements. If removed from the consent agenda, the recommended motion for the action is as follows:

***“Move to approve Resolution No. 2018-133 concurring with Washington County to award a construction contract and approving the revised Cooperative Agreement 11802 with Washington County for the Design and Construction for the Lake Elmo Avenue (CSAH17) Phase 3 Pavement and Drainage Improvements.”***

**ATTACHMENTS:**

1. Resolution Concurring with Washington County to Award a Construction Contract and Approving a Revised Cooperative Agreement 11802.
2. Revised Cooperative Agreement 11802 for Cost Sharing.

**CITY OF LAKE ELMO  
WASHINGTON COUNTY  
STATE OF MINNESOTA**

**RESOLUTION NO. 2018-133**

**A RESOLUTION CONCURRING WITH WASHINGTON COUNTY TO  
AWARD A CONSTRUCTION CONTRACT AND APPROVING  
COOPERATIVE AGREEMENT 11802 FOR THE LAKE ELMO AVENUE  
(CSAH 17) PHASE 3 PAVEMENT AND DRAINAGE IMPROVEMENTS**

**WHEREAS**, the County intends to construct County State Aid Highway (CSAH) 17 from I-94 to 300' south of 30th Street in the City of Lake Elmo; and

**WHEREAS**, the County intends to construct County State Aid Highway (CSAH) 10 from 2200' east of County State Aid Highway (CSAH) 15 to 700' east of County State Aid Highway (CSAH) 15 in the City of Lake Elmo; and

**WHEREAS**, items included in the project require City cost participation in accordance with "Washington County Cost Participation Policy #8001 for Cooperative Highway Improvement Projects"; and

**WHEREAS**, the County desires to use local funds and State Aid funds for these improvements; and

**WHEREAS**, Washington County received, opened, and tabulated bids, and is recommending the award of a construction contract; and

**WHEREAS**, a cooperative effort between the City and County is the appropriate method to facilitate the construction of these transportation improvements; and

**WHEREAS**, this Agreement is made pursuant to statutory authority contained in Minnesota Statute 162.17 sub.1 and Minnesota Statute 471.59.

**NOW, THEREFORE, BE IT RESOLVED,**

1. The City Council hereby concurs with Washington County to award a construction contract.
2. That the revised Cooperative Agreement 11802 between the City of Lake Elmo and Washington County is hereby approved, and the Mayor and City Administrator are hereby authorized to execute the revised agreement on behalf of the City of Lake Elmo.

**ADOPTED BY THE LAKE ELMO CITY COUNCIL ON THE FOURTH DAY OF DECEMBER, 2018.**

**CITY OF LAKE ELMO**

By: \_\_\_\_\_  
Mike Pearson  
Mayor

(Seal)  
ATTEST:

\_\_\_\_\_  
Julie Johnson, City Clerk

**COOPERATIVE AGREEMENT BETWEEN THE CITY OF  
LAKE ELMO AND WASHINGTON COUNTY FOR  
CONSTRUCTION COST OF COUNTY STATE AID HIGHWAY  
(CSAH) 17 FROM I-94 TO 300' SOUTH OF 30<sup>TH</sup> STREET AND  
COUNTY STATE AID HIGHWAY (CSAH) 10 FROM TO 2200'  
EAST OF CSAH 15 TO 700' EAST OF CSAH 15**

WASHINGTON COUNTY	
CONTRACT NO.	11802
DEPT.	PUBLIC WORKS
DIVISION	TRANSPORTATION
TERM	SIGNATURE - END OF PROJECT

**THIS AGREEMENT**, by and between the City of Lake Elmo, a municipal corporation, herein after referred to as the "City", and Washington County, a political subdivision of the State of Minnesota, hereinafter referred to as the "County."

**WITNESSETH:**

WHEREAS, the County intends to construct County State Aid Highway (CSAH) 17 from I-94 to 300' south of 30<sup>th</sup> Street; and

WHEREAS, the County intends to construct County State Aid Highway (CSAH) 10 from 2200' east of County State Aid Highway (CSAH) 15 to 700' east of County State Aid Highway (CSAH) 15; and

WHEREAS, items included in the project require City cost participation in accordance with "Washington County Cost Participation Policy #8001 for Cooperative Highway Improvement Projects"; and

WHEREAS, the County desires to use local funds and State Aid for these improvements; and

WHEREAS, a cooperative effort between the City and County is the appropriate method to facilitate the construction of these transportation improvements; and

WHEREAS, this Agreement is made pursuant to statutory authority contained in Minnesota Statute 162.17 sub.1 and Minnesota Statute 471.59.

**NOW THEREFORE, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:**

**A. PURPOSE**

The purpose of this agreement is set forth in the above whereas clauses which are all incorporated by reference as if fully set forth herein and shall consist of this agreement, Exhibit A (Location Map) and Exhibit B (Estimated Construction Cost and Cost Splits).

**B. PLANS AND SPECIFICATION PREPARATION**

1. The County shall be responsible for the preparation of all the plans and specifications for the project, including but not limited to, compliance with all applicable standards and policies and obtaining all approvals required in formulating the bid specifications for all County and City components of this project.
2. The following County project numbers have been assigned to the project: SAP 082-617-011 (CSAH 17) AND 082-610-016 (CSAH 10).

**C. RIGHT OF WAY AND EASEMENTS**

1. The County shall acquire all permanent rights of way, permanent easements, and temporary slope easements, which will be acquired in the name of the County.

**D. ADVERTISEMENT AND AWARD OF CONTRACT**

After plans and specifications have been approved by the County, all permits and approvals obtained, and acquisition of necessary rights-of-way and easements, the County shall advertise for construction bids

Once bids are received, the City will be given the opportunity to review and evaluate the bid and provide City Council concurrence on the approval of the bids. Once City concurrence is provided, the County shall award the contract to the lowest responsible bidder.

**E. CONSTRUCTION ADMINISTRATION, OBSERVATION, AND TESTING**

The County shall be responsible for the construction administration, inspection, and for the observation and testing for all construction items.

**F. COST PARTICIPATION ITEMS AND ESTIMATED COSTS**

The City's cost participation is set forth in Table 1 and is broken down into four categories which are: 1) Construction; 2) Design Engineering; 3) Construction Engineering/Contract Administration; 4) Right of Way. The cost participation breakdown is based on "Washington County Cost Participation Policy #8001 for Cooperative Highway Improvement Projects".

1. Construction

Construction costs shall be the cost to construct the project. The County has prepared a statement of estimated quantities and cost splits hereto attached as Exhibit B. The City shall pay to the County its share of the total cost as shown in Exhibit B and set forth in Table 1. After the County has awarded the construction contract, Exhibit B will be updated to reflect the actual contractor's unit prices.

2. Design Engineering

Design engineering costs shall be professional design engineering services, project coordination, preparation of plans and specification, stakeholder engagement, geotechnical studies, and other administrative functions necessary for the project. Based on the City's share of the construction cost, the City shall pay the prorated cost of design engineering for the entire project as set forth in Table 1.

3. Construction Engineering/Contract Administration

Construction engineering/contract administration costs shall be construction observation, construction testing, construction administration, staking, conducting and recording the pre-bid, pre-construction and weekly construction meetings, reviewing monthly pay estimates, labor compliance, and other administrative functions necessary for the project. Construction engineering/contract administration is 8% of the construction cost. Based on the City's share of the construction cost, the City shall pay the prorated cost of construction engineering/contract administration as set forth in Table 1.

4. Right of Way

Right of Way costs shall be permanent right-of-way, permanent utility and/or drainage easements, temporary easements, title work costs, appraisal costs, relocation specialist costs, relocation costs, and condemnation commissioner costs. If applicable, the City shall pay their share of the final right of way cost. The estimated amount is set forth in Table 1.

<b>TABLE 1 – ESTIMATED COSTS City of Lake Elmo Cost Summary</b>			
<b>ITEM</b>	<b>TOTAL COST</b>	<b>CITY SHARE</b>	<b>CITY COST</b>
Construction	\$3,870,315	14.66%	\$567,491
Design Engineering	\$357,500	17.95%	\$64,158
Construction Engineering/Contract Administration	\$305,625	13.47%	\$41,399
Right of Way	\$10,000	55%	\$5,500
VBWD Grant	(\$6,240)	100%	(\$6,318)
<b>TOTAL ESTIMATED COST</b>	<b>\$4,537,200</b>		<b>\$672,230</b>

5. The costs and shares attributable to the City and payable to the County as shown in Table 1 are merely estimated and a final reconciliation of costs as set forth in Section G below shall be done at the end of the project. Actual City costs and shares are based on the following:
  - a. Construction shall be based on the contractor's unit prices and final quantities at project completion including all contract changes.
  - b. Design engineering shall be based on the contractor's unit prices at the time of contract award.
  - c. Construction engineering/contract administration shall be based on the contractor's unit prices at the time of contract award.
  - d. Right of way shall be based on the final costs to acquire right of way.

**G. PAYMENT**

1. Right of way, preliminary design, final design, construction inspection/administration and construction costs for the City's cost share shall be invoiced by the County to the City with no interest. The payment due dates are presented on Table 2.

<b>TABLE 2 – PAYMENT DUE DATES</b>		
<b>Date</b>	<b>Percentage</b>	<b>Estimated Payment</b>
Bid Award	<b>10%</b> of Estimated Total City Cost	\$67,223
August 1, 2019	<b>50%</b> of Estimated Total City Cost	\$336,115
February 1, 2020	<b>Remaining</b> Estimated Total City Cost	\$268,892

2. In the event that the City paid more in advance than the actual cost of the City's portion of the project, the County shall refund without interest the amount to the City.
3. The City shall pay 100 percent of an undisputed invoice amount within thirty (30) days of receipt.

**H. CONTRACT CHANGES**

Any modifications or additions to the final approved plans and/or specifications of the project shall be made part of the construction contract through a written amendment to the construction contract and the cost for such changes shall be appropriated as set forth in Section F. of this Agreement.

**I. LIQUIDATED DAMAGES**

Any liquidated damages assessed the contractor in connection with the work performed on the project shall be shared by the City and the County in the following proportion: The respective total share of construction work to the total construction cost without any deduction for liquidated damages.

**J. CONDITIONS**

The City shall not assess or otherwise recover any portion of its cost for this project through special assessment of County property on County-owned property.

**K. CIVIL RIGHTS AND NON-DISCRIMINATION**

The provisions of Minn. Stat. 181.59 and of any applicable ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set further herein, and shall be part of any Agreement entered into by the parties with any contractor subcontractor, or material suppliers.

**L. WORKERS COMPENSATION**

It is hereby understood and agreed that any and all employees of the City and all other persons employed by the City in the performance of construction and/or construction engineering work or services required or provided for under this agreement shall not be considered employees of the County and that any and all claims that may or might arise under the Worker's 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 City employees while so engaged on any of the construction and/or construction engineering work or services to be rendered herein shall in no way be the obligation or responsibility of the County.

**M. INDEMNIFICATION**

1. The City agrees that it will defend, indemnify and hold harmless the County against any and all liability, loss, damages, costs and expenses which the County may hereafter sustain, incur or be required to pay by reason of any negligent act by the City, its agents, officers or employees during the performance of this agreement.
2. The County agrees that it will defend, indemnify and hold harmless the City against any and all liability, loss, damages, costs and expenses which the City may hereafter sustain, incur or be required to pay by reason of any negligent act by the County, its agents, officers or employees during the performance of this agreement.
3. To the fullest extent permitted by law, actions by the parties to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the parties that they shall be deemed a "single governmental unit" for the purposes of liability, as set forth in Minnesota Statutes, Section 471.59, subd. 1a.(b). The parties to this Agreement are not liable for the acts or omissions of another party to this Agreement except to the extent they have agreed in writing to be responsible for the acts or omissions of the other parties as provided for in Section 471.59, subd. 1a.
4. Each party's liability shall be governed by the provisions of Minnesota Statutes, Chapter 466 and other applicable law. The parties agree that liability under this Agreement is controlled by Minnesota Statute 471.59, subdivision 1a. and that the total liability for the parties shall not exceed the limits on governmental liability for a single unit of government as specified in 466.04, subdivision 1(a).

**N. DATA PRACTICES**

All data collected, created, received, maintained, disseminated, or used for any purposes in the course of this Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes 1984, Section 13.01, et seq. or any other applicable state statutes and state rules adopted to implement the Act, as well as state statutes and federal regulations on data privacy.

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

**WASHINGTON COUNTY**

\_\_\_\_\_  
Chair Date  
Board of Commissioners

\_\_\_\_\_  
Molly O'Rourke Date  
County Administrator

Approved as to form:

\_\_\_\_\_  
Assistant County Attorney Date

**CITY OF LAKE ELMO**

\_\_\_\_\_  
Mayor Date

\_\_\_\_\_  
City Administrator Date

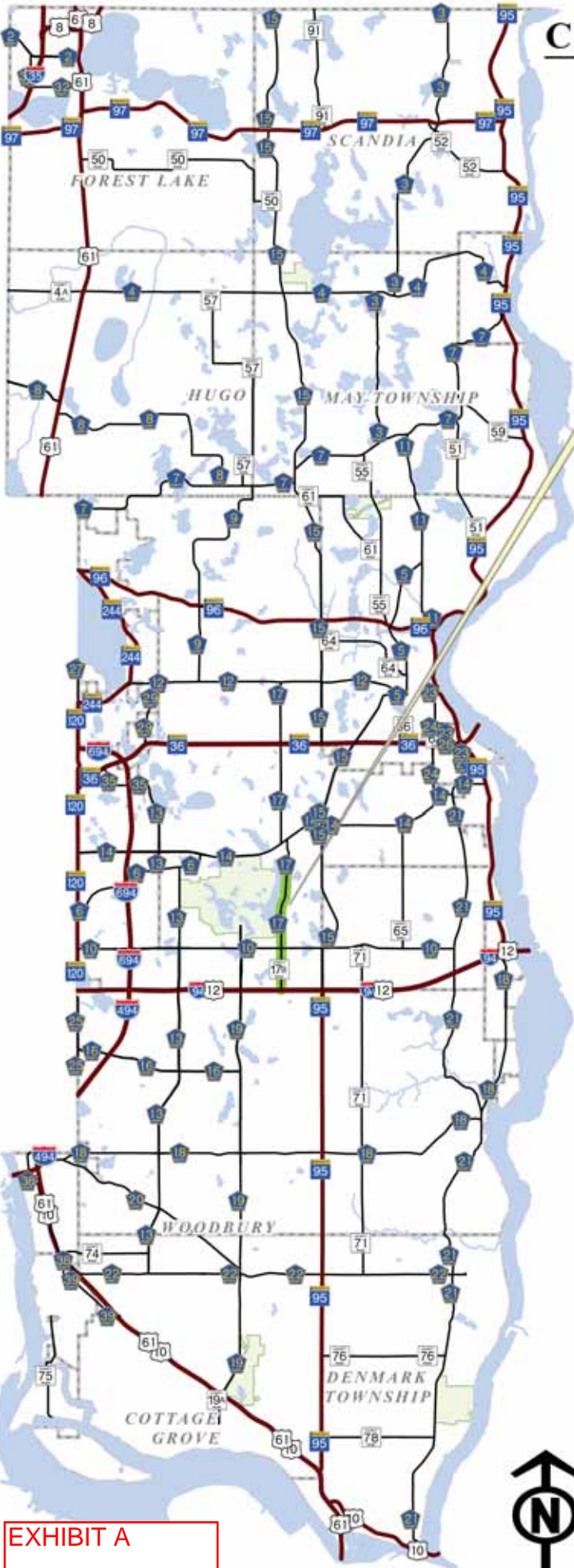
Approved as to form:

\_\_\_\_\_  
City Attorney Date



# CSAH 17 (LAKE ELMO AVE N) PROJECT LOCATION

CSAH 17 (Lake Elmo Ave N)  
I- 94 to 600' south of 30th St N



Project Location

Proposed Turn Lanes  
into  
Royal Golf Development

New Turn Lanes  
into 5th Street/  
Hunters Crossing



EXHIBIT A



THIS MAP IS THE RESULT OF A COMPILATION AND REPRODUCTION OF LAND RECORDS AS THEY APPEAR IN VARIOUS WASHINGTON COUNTY OFFICES. THIS MAP SHOULD BE USED FOR REFERENCE PURPOSES ONLY. WASHINGTON COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES.



