

**IOWA DEPARTMENT OF TRANSPORTATION
Agreement for a Primary Highway Improvement Project**

Recipient: Ankeny, Iowa

County: Polk

Project Number: NHSN-069-4(113)--2R-77
UST-069-4(114)--4A-77

Agreement Number: 2018-16-187

Staff Action Number: S-2018-0335

CFDA No. and Title: 20.205 Highway Planning and Construction

This agreement is entered into by and between the city of Ankeny, Iowa (hereinafter referred to as Recipient) and the Iowa Department of Transportation (hereinafter referred to as the Department) in accordance with Iowa Code Sections 28E.12 and 306A.7 or 307.44.

Witnesseth; that

Whereas, the Recipient in joint cooperation with the Department, proposes to establish or make improvements to a primary highway; and

The Department provides funds through the Urban-State Traffic Engineering Program (U-STEP), a cooperative program for safety or operational improvements on primary road extensions. The Department has made these funds available for reimbursement and will share eligible construction and right-of-way costs in the ratio of 55% Department funds to 45% local funds, up to a maximum amount in Department funds of \$200,000 for a "spot improvement" or \$400,000 for a "linear improvement".

For USTEP projects a "spot improvement" shall mean a limited improvement project such as intersection reconstruction or signalization; and a "linear improvement" shall mean an improvement project such as street or highway widening or reconstruction which spans two or more intersections. The DOT agrees to provide U-STEP funding to the LPA for the authorized and approved costs for eligible items associated with the linear improvements.

Now, therefore, in accordance with the terms of this agreement, applicable statutes, and administrative rules, the Department agrees to provide funding named above to the Recipient for the primary highway improvement project described below. The parties further agree as follows:

1. Project Information

- a. The Recipient shall be the lead local governmental agency for carrying out the provisions of this agreement.
- b. All notices required under this agreement shall be made in writing to the Department's and/or the Recipient's contact person. The Department's contact person shall be the District 1 Local Systems Engineer. The Recipient's contact person shall be the City Engineer.
- c. The Recipient shall be responsible for the development and completion of the following described primary highway improvement project:

U.S. 69/Ankeny Boulevard at proposed High Trestle Trail Crossing. The project includes Portland Cement Concrete (PCC) pavement replacement and installation of a new Reinforced Concrete Box (RCB) culvert - single box.

2. Funding Sources

- a. The Department will contribute \$100,000 from 3R Primary Road Funds toward the project for pavement replacement on U.S. 69.
- b. The following funding sources have been identified for the project.

REAP	\$200,000 (Local Match - Iowa Department of Natural Resources Funds)
USTEP	\$200,000
DOT 3R	\$100,000
Local	remainder

- c. The Recipient shall be responsible for all other project costs which are not reimbursed with or paid for by the funds specified above.

3. Environmental, Right-of-Way, Permits, and Other Requirements

- a. The Recipient shall be responsible for obtaining any necessary permits from the Department, such as the Work Within the Right-of-Way Permit, Access Connection/Entrance Permit, Utility Accommodation Permit, Application for Approval of a Traffic Control Device, or other construction permits required for the project prior to the start of construction. Neither the approval of funding nor the signing of this agreement shall be construed as approval of any required permit from the Department.
- b. The Recipient shall obtain all project permits and / or approvals, when necessary, from the Iowa Department of Cultural Affairs (State Historical Society of Iowa; State Historic Preservation Officer), Iowa Department of Natural Resources, U.S. Coast Guard, U.S. Army Corps of Engineers, or other State or Federal agencies as may be required.
- c. If right-of-way is required for the project, the Recipient shall acquire the necessary right-of-way in accordance with 761 Iowa Administrative Code Chapter 111, Real Property Acquisition and Relocation Assistance. The Recipient shall submit preliminary right-of-way plans to the Department's Office of Right-of-way for review and approval prior to the commencement of any acquisition.
- d. Additionally, the portions of right-of-way acquired for improvements to the Primary Road System shall be acquired in the name of the State of Iowa. The Recipient will properly close the sale of each parcel and shall furnish the Department copies of all completed contracts, deeds, conveyances and condemnation documents (for state right of way).
- e. If there is a railroad crossing within or near the project work area, the Recipient shall obtain the necessary approvals or agreements from the railroad to allow the proposed work to be completed on or around the railroad crossing and / or right-of-way.
- f. If the project requires utility relocations, subject to the approval of and without expense to the Department, the Recipient agrees to perform or cause to be performed all relocations, alterations, adjustments or removals of existing utility facilities, including but not limited to power, telephone lines, fiber optics lines, natural gas pipelines, water mains and hydrants, curb boxes, utility accesses, storm water intakes, sanitary sewers, and related poles, installations and appurtenances, whether privately or publicly owned, and all parking meters, traffic signals and other facilities or obstructions which are located within the limits of an established street or alley and which will interfere with construction of the project and the clear zone. All utility relocations shall be accomplished in accordance with the Department's Utility Accommodation Policy, as set forth in 761 Iowa Administrative Code, Chapter 115.

- g. If the Recipient has completed a Flood Insurance Study (FIS) for an area which is affected by the proposed primary highway project and the FIS is modified, amended or revised in an area affected by the project after the date of this agreement, the Recipient shall promptly provide notice of the modification, amendment or revision to the Department. If the Recipient does not have a detailed FIS for an area which is affected by the proposed primary highway project and the Recipient does adopt an FIS in an area affected by the project after the date of this agreement, the Recipient shall promptly provide notice of the FIS to the Department.

4. Project Design

- a. The Recipient shall be responsible for the design of all proposed improvements.
- b. The project plans, specifications and engineer's cost estimate shall be prepared and certified by a Professional Engineer licensed to practice in the State of Iowa.
- c. All proposed highway or street improvements shall be designed using good engineering judgment and the American Association of State Highway and Transportation Officials (AASHTO) "Policy on Geometric Design of Highways and Streets", (latest edition).
- d. The project design shall comply with the "Manual on Uniform Traffic Control Devices for Streets and Highways", by the Federal Highway Administration, as adopted by Department, as per 761 Iowa Administrative Code, Chapter 130.
- e. The portion of the project within the primary highway right-of-way shall be designed and constructed using the Department's Standard Specifications for Highway and Bridge Construction (most current edition). Prior to their use in the bidding documents, any Special Provisions or other modifications to the Standard Specifications shall be approved by the Department.
- f. The Recipient, in cooperation with the Department, shall take whatever steps may be required to legally establish the grade lines of the new highway facilities constructed under the project in accordance with Iowa Code Section 313.21 and 364.15.

5. Bid Letting

- a. The Recipient shall submit the plans, specifications, and all other contract documents for review and approval prior to letting by the Recipient. The project may be submitted for letting in phases, in the order of preference as determined by the Recipient. The Department shall review said submittal(s) recognizing the Recipient's development schedule and shall, after satisfactory review, authorize in writing the Recipient to proceed with implementation of the project.
- b. For portions of the project let to bid, the Recipient shall conduct the project bid letting in compliance with applicable laws, ordinances, and administrative rules. The Recipient shall advertise for bidders, make a good faith effort to get at least three (3) bidders, hold a public letting and award contracts for the project work. Department concurrence in the award must be obtained prior to the award. The Recipient shall provide the Department file copies of project letting documents within five (5) days after letting.
- c. The Recipient shall include in their Notice to Bidders that Sales Tax Exemption Certificates will be issued, as provided for by Iowa Code section 423.3, subsection 80. The Recipient shall be responsible for obtaining the sales tax exemption certificates through the Iowa Department of Revenue and Finance. The Recipient shall issue these certificates to the successful bidder and any subcontractors to enable them to purchase qualifying materials for the project free of sales tax.

6. Construction and Maintenance

- a. The Recipient shall be responsible for the daily inspection of the project, including the compilation of a daily log of materials, equipment, and labor used on the project.
- b. The work on this project shall be in accordance with the approved plans and specifications. Any substantial modification of these plans and specifications must be approved by the Department prior to the modification being put into effect.
- c. The Recipient shall comply with the procedures and responsibilities for materials testing and construction inspection according to Department's Materials Instructional Memorandums (I.M.'s) and the Construction Manual. If requested, the Department may be able to perform some testing services. If performed, the Department will bill the Recipient for testing services according to its normal policy.
- d. Primary highway through traffic will be maintained during the construction of the project.
- e. Structures over or under a primary road extension will be maintained structurally sound by the Department, including repairs to floors and railing and painting. For structures serving roadways which are not on the primary road extension system, the cleaning and removal of snow, debris and foreign objects from city side street traffic lanes, sidewalks or walkways within the project limits including pedestrian overpasses or underpasses and those associated with bridges both overpasses and underpasses will be the responsibility of the Recipient.
- f. Traffic control devices, signing, or pavement markings installed within the limits of this project shall conform to the "Manual on Uniform Traffic Control Devices for Streets and Highways" as per 761 Iowa Administrative Code, Chapter 130. The safety of the general public shall be assured through the use of proper protective measures and devices such as fences, barricades, signs, flood lighting, and warning lights as necessary.
- g. Subject to the provisions hereof, the Recipient in accordance with 761 Iowa Administrative Code sections 150.3(1)c and 150.4(2) will remove or cause to be removed all encroachments or obstructions in the existing primary highway right of way. The Recipient will also prevent the erection and/or placement of any structure or obstruction on said right of way or any additional right of way which is acquired for this project including but not limited to private signs, buildings, pumps, and parking areas.
- h. With the exception of service connections no new or future utility occupancy of project right-of-way, nor any future relocations of or alterations to existing utilities within said right-of-way (except service connections), will be permitted or undertaken by the Recipient without the prior written approval of the Department. All work will be performed in accordance with the Utility Accommodation Policy and other applicable requirements of the Department.
- i. Future maintenance of the proposed improvements shall be in accordance with 761 Iowa Administrative Code, Chapter 150.
- j. Upon completion of the project, no changes in the physical features thereof will be undertaken or permitted without prior written approval of the Department.
- k. After the project construction is complete and prior to final acceptance of the project by the Department, the Recipient shall furnish three sets of "as-built" plans to the Department's contact person.

7. Payments and Reimbursements

- a. The Recipient shall be responsible for making initial payments for all project costs incurred in the development and construction of the project. After payments have been made, the Recipient may submit to the Department periodic itemized claims for reimbursement for eligible project activities. Reimbursement claims shall include certification by a Professional Engineer licensed to practice in the State of Iowa that all eligible project activities for which reimbursement is requested have been paid in full and completed in substantial compliance with the terms of this agreement.
- b. The Department will reimburse the Recipient for properly documented and certified claims for eligible project costs. The Department may withhold up to 5% of the Federal or State share of construction costs or 5% of the total Federal or State funds available for the project, whichever is less. Reimbursement will be made either by state warrant or by crediting other accounts from which payment may have been initially made. If upon final audit, the Department determines the Recipient has been overpaid, the Recipient shall reimburse the overpaid amount to the Department. After the final audit or review is complete and after the Recipient has provided all required paperwork, the Department will release the Federal or State funds withheld.
- c. Upon completion of the project, a Professional Engineer licensed to practice in the State of Iowa shall certify in writing to the Department that the project activities were completed in substantial compliance with the plans and specifications set out in this agreement. Final reimbursement of State and / or Federal funds shall be made only after the Department accepts the project as complete.

8. General Provisions

- a. The Recipient shall maintain records, documents, and other evidence in support of the work performed under the terms of this agreement. All accounting practices applied and all records maintained will be in accordance with generally accepted accounting principles and procedures. Documentation shall be made available for inspection and audit by authorized representatives of the Department at all reasonable times. The Recipient shall provide copies of said records and documents to the Department upon request. The Recipient shall also require its contractors to permit authorized representatives of the Department to inspect all work materials, records, and any other data with regard to agreement related costs, revenues and operating sources. Such documents shall be retained for at least 3 years from the date of approval of the final amendment / modification to the project. The Department will notify the Recipient of the record retention date.
- b. In accordance with Iowa Code Chapter 216, the Recipient shall not discriminate against any person on the basis of race, color, creed, age, sex, sexual orientation, gender identity, national origin, religion, pregnancy, or disability.
- c. The Recipient agrees to indemnify, defend and hold the Department harmless from any action or liability arising out of the design, construction, maintenance, placement of traffic control devices, inspection, or use of this project. This agreement to indemnify, defend and hold harmless applies to all aspects of the Department's application review and approval process, plan and construction reviews, and funding participation.
- d. If any part of this agreement is found to be void and unenforceable then the remaining provisions of this agreement shall remain in effect.
- e. This agreement is not assignable without the prior written consent of the Department.
- f. It is the intent of both parties that no third party beneficiaries be created by this agreement.
- g. In case of dispute concerning the terms of this agreement, the parties shall submit the matter to arbitration pursuant to Iowa Code Chapter 679A. Either party has the right to submit the matter to

arbitration after ten (10) days notice to the other party of their intent to seek arbitration. The written notice must include a precise statement of the disputed question. The Department and the Recipient agree to be bound by the decision of the appointed arbitrator. Neither party may seek any remedy with the State or Federal courts absent exhaustion of the provisions of this paragraph for arbitration.

- h. This agreement shall be executed and delivered in two or more copies, each of which so executed and delivered shall be deemed to be an original and shall constitute but one and the same instrument.
- i. This agreement, as set forth in the paragraphs above and the referenced exhibits, constitutes the entire agreement between the Department and the Recipient concerning this project. Representations made before the signing of this agreement are not binding, and neither party has relied upon conflicting representations in entering into this agreement. Any change or alteration to the terms of this agreement must be made in the form of an addendum to this agreement. Said addendum shall become effective only upon written approval of the Department and Recipient.

In witness whereof, each of the parties hereto has executed this agreement as of the date shown opposite its signature below.

City of Ankeny, Iowa:

By: _____ Date _____, 20____.

Title: _____

I, _____, certify that I am the Clerk of the City, and that
_____, who signed said Agreement for and on behalf of the City was duly
authorized to execute the same by virtue of a formal Resolution duly passed and adopted by the City,
on the ____ day of _____, 20____.

Signed _____ Date _____, 20____.
City Clerk of Ankeny, Iowa

Iowa Department of Transportation:

By: _____ Date _____, 20____.
Scott A. Dockstader
District 1 Engineer