

Aitkin County Board of Commissioners  
Request for County Board Action/Agenda Item Cover Sheet



To: Chairperson, Aitkin County Board of Commissioners      Date: 3-20-13  
Via: Patrick Wussow, County Administrator  
From: John Welle  
Title of Item: Joint Powers Agreement – Mille Lacs County

Requested Meeting Date: 3-26-13      Estimated Presentation Time: 10 minutes  
Presenter: John Welle

**Type of Action Requested** (check all that apply)

- For info only, no action requested
- For discussion only with possible future action
- Let/Award Bid or Quote (attach copy of basic bid/quote specs or summary of complex specs, each bid/quote received & bid/quote comparison)
- Approve/adopt proposal by motion
- Authorize filling vacant staff position
- Request to schedule public hearing or sale
- Request by member of the public to be heard
- Item should be addressed in closed session under MN Statute \_\_\_\_\_
- Approve under Routine Business
- Adopt Ordinance Revision
- Approve/adopt proposal by resolution (attach draft resolution)
- Other (please list) \_\_\_\_\_

**Fiscal Impact** (check all that apply)

- Is this item in the current approved budget?  Yes  No (attach explanation)
- What type of expenditure is this?  Operating  Capital  Other (attach explanation)
- Revenue line account # that funds this item is: \_\_\_\_\_
- Expenditure line account # for this item is: \_\_\_\_\_

**Staffing Impact** (Any yes answer requires a review by Human Resources Manager before going to the board)

- Duties of a department employee(s) may be materially affected.  Yes  No
- Applicable job description(s) may require revision.  Yes  No
- Item may impact a bargaining unit agreement or county work policy.  Yes  No
- Item may change the department's authorized staffing level.  Yes  No



**Supporting Attachment(s)**

- Memorandum Summary of Item
- Copy of applicable county policy and/or ordinance (excerpts acceptable)
- Copy of applicable state/federal statute/regulation (excerpts acceptable)
- Copy of applicable contract and/or agreement
- Original bid spec or quote request (excluding complex construction projects)
- Bids/quotes received (excluding complex construction projects, provide comparison worksheet)
- Bid/quote comparison worksheet
- Draft County Board resolution
- Plat approval check-list and supporting documents
- Copy of previous minutes related to this issue
- Other supporting document(s) (please list) Joint Powers Agreement

## **AITKIN COUNTY COMMISSIONER'S MEMO**

**TO:** Aitkin County Commissioners  
Patrick Wussow, County Administrator

**FROM:** John Welle

**DATE:** March 20, 2013

**Regular Agenda Item:** Joint Powers Agreement – Mille Lacs County

**Summary:**

As discussed recently, we have been working with Mille Lacs County to jointly bid under a single contract our CR 60 bituminous paving project with their CR 132 bituminous paving project. This arrangement was offered by Mille Lacs County as a cost-saving measure for lower unit prices on these projects. The enclosed Joint Powers Agreement has been drafted by Mille Lacs County and reviewed/approved by the Aitkin County Attorney. Enclosed is a resolution authorizing Aitkin County to enter into this agreement.

**Resolution:**

WHEREAS, Aitkin County is planning to improve County Road 60 in Idun Township under C.P. 01-60-02, and

WHEREAS, Mille Lacs County is planning to improve a portion of County Road 132 in Eastside Township under SAP 048-596-009, and

WHEREAS, both referenced projects are in close proximity to each other, and

WHEREAS, the representatives of both Aitkin and Mille Lacs Counties believe that cost savings will be realized by combining the projects and letting them under a single construction contract, and

WHEREAS, a Joint Powers Agreement between Aitkin and Mille Lacs Counties has been drafted for this purpose.

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Aitkin County Board of Commissioners and the Aitkin County Administrator are hereby authorized to enter into the Joint Powers Agreement herein attached.

**State of Minnesota**  
**Joint Powers Agreement between Aitkin and Mille Lacs Counties**

**This Agreement is between Aitkin and Mille Lacs Counties,  
hereinafter referred to as AITKIN and MILLE LACS.**

**Recitals**

Under Minnesota Statutes § 471.59, Subd. 1 AITKIN and MILLE LACS are seeking to jointly and cooperatively exercise the road authority which each County independently possess pursuant to MN. Stat. § 163.02 and § 373.01, Subd. 1(5).

This Agreement memorializes a shared belief between Aitkin and Mille Lacs Counties that by working jointly and cooperatively the two counties will achieve actual savings related to the planned road improvements to Aitkin County Road 60 (CP 01-60-02) and Mille Lacs County Road 132 (SAP 048-596-009).

This Agreement has been developed to achieve economies of scale related to the production of road building materials and to achieve any other savings which may be available because the counties are working jointly and cooperatively.

**Agreement**

**1. Term of the Agreement**

1.1 Effective Date: The date of this Agreement shall commence is April 1, 2013, or the date the document is signed by either of the Aitkin or Mille Lacs County Board Chair and Administrator whichever is later. MN. Stat. § 373.02

1.2 Expiration Date: The date this Agreement shall expire is December 31, 2014, or until all obligations have been satisfactorily fulfilled, whichever occurs first.

**2. Agreement between the Parties**

2.1 Related to Aitkin County Project CP 01-60-02 AITKIN agrees to:

2.1.1 Delegate authority to MILLE LACS authority to enter into a construction contract on behalf of AITKIN;

2.1.2 Provide MILLE LACS with approved construction plans and special provisions:

2.1.3 Inspect, manage and pay for all construction items;

2.1.4 Process construction documents such as work orders, change orders and pay requests;

2.1.5 Not release final payment for AITKIN CP 01-60-02 to the construction contractor until MILLE LACS is satisfied contractual obligations have been satisfied.

2.2 Related to Mille Lacs County Project SAP 048-596-009 MILLE LACS agrees to:

2.2.1 Serve as coordinator and contract administrator for planned Aitkin County CP 01-60-02;

2.2.2 Provide AITKIN with abstract of bids;

2.2.3 Provide AITKIN with a recommendation of award to a construction contractor;

2.2.4 Require the construction contractor to name AITKIN on construction bonds and insurance certificate

2.2.5 Not release final payment for MILLE LACS SAP 048-596-009 to the construction contractor until AITKIN is satisfied contractual obligations have been met;

2.2.6 Provide AITKIN with relevant construction related documents/records as requested;

2.2.7 Provide a copy of any final data to AITKIN through the most efficient and effective method for MILLE LACS of conveyance available at such time as the data is available to MILLE LACS with the understanding that those data become the property of AITKIN and, as such are provided without restriction to use or redistribution and for the purposes of this agreement unless otherwise restricted by law;

2.2.8 Inspect, manage and pay for construction items specific to the planned improvements for MILLE LACAS SAP 048-596-009.

### 3. Authorized Representatives

The MILLE LACS Authorized Representative is Bruce Cochran, Mille Lacs County Engineer, 565 8<sup>th</sup> Street Northeast, Milaca, MN 56353 or his designee.

The AITKIN Authorized Representative is John Welle, Aitkin County Engineer, 1211 Air Park Drive, Aitkin, MN 56431

### 4. Assignment, Amendments, Waiver, and Contract Complete

4.1 Assignment. Neither AITKIN nor MILLE LACS may assign or transfer any rights or obligations under this Agreement without the prior consent of other party and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this agreement, or their successors in office.

4.2 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.

4.3 Waiver. If AITKIN or MILLE LACS fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.

4.4 Contract Complete. This Agreement contains all negotiations and agreements between AITKIN and MILLE LACS. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

### 5. Indemnification

In the performance of this Agreement by the AITKIN or MILLE LACS, or either counties agents or employees, AITKIN must indemnify, save and hold harmless MILLE LACS, its agents and employees, from any claims or causes of action including attorney's fees incurred by MILLE LACS to the extent caused by AITKIN'S: intentional, willful, or negligent acts or omissions; or, actions that give rise to strict liability; or, breach of contract or warranty and MILLE LACS must indemnify, save and hold harmless AITKIN,

its agents and employees, from any claims or causes of action including attorney's fees incurred by AITKIN to the extent caused by MILLE LACS'S: intentional, willful, or negligent acts or omissions; or, actions that give rise to strict liability; or, breach of contract or warranty.

This indemnification obligation of this section does not apply in the event the claim or cause of action is the result of AITKIN or MILLE LACS'S sole negligence. This clause will not be construed to bar any legal remedies AITKIN or MILLE LACS may have for the other party's failure to fulfill its obligation under this agreement.

## 6. State Audits

Parties to this agreement agree to keep any books, records, documents and accounting procedures and practices relevant to this Agreement and make them available for audit and review as required by law.

## 7. Government Data Practices

AITKIN and MILLE LACS must comply with the Minnesota Government Data Practices Act, Minnesota Statute Chapter 13, to the extent it applies to any data provided, created, collected received, stored, used, maintained or disseminated by AITKIN or MILLE LACS under this Agreement. The civil remedies of Minnesota Statute § 13.08 apply to the release of the data referred to in this clause by either AITKIN or MILLE LACS.

## 8. Venue

Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in the State of Minnesota.

## 9. Termination

9.1 Termination. MILLE LACS or AITKIN may terminate this Agreement at any time, with or without cause, upon 30 days written notice to the other party. Either party shall be paid for any services, determined on a pro rata basis, for services satisfactorily performed prior to termination. Unless unavoidable, such as in the case of public

safety, neither party shall be obligated to pay for any services that are provided after notice and effective date of termination.

9.2 Termination for Insufficient Funding. MILLE LACS 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 AITKIN. MILLE LACS is not obligated to pay for any services that are provided after notice and effective date of termination. However, AITKIN will be entitled to payment as determined on a pro rata basis for services satisfactorily performed to the extent that funds are available. MILLE LACS will not be assessed any penalty if the Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. MILLE LACS will provide to AITKIN notice of the lack of funding within a reasonable time of MILLE LACS receiving that notice.

#### 10. Agreement Approval

This Agreement shall become binding upon signature of the Chairperson of the Mille Lacs County and Aitkin County Boards and the Mille Lacs County and Aitkin County Administrators. Both Mille Lacs County and Aitkin County shall independently adopt resolutions authorizing the Board Chairpersons and County Administrators to sign as required by law.

#### **AITKIN COUNTY**

#### **MILLE LACS COUNTY**

\_\_\_\_\_  
J. Mark Wedel, Board Chairman

\_\_\_\_\_  
Phil Peterson, Board Chairman

Date \_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Patrick Wussow, County Administrator

\_\_\_\_\_  
Roxy Traxler, County Administrator

Date \_\_\_\_\_

Date \_\_\_\_\_