



# Board of County Commissioners Agenda Request



**Requested Meeting Date:** 2-13-24

**Title of Item:** Detour Agreement No. 1055754

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	<b>Action Requested:</b> <input type="checkbox"/> Approve/Deny Motion <input checked="" type="checkbox"/> Adopt Resolution (attach draft) <i>*provide copy of hearing notice that was published</i>	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing*
<b>Submitted by:</b> John Welle		<b>Department:</b> Highway
<b>Presenter (Name and Title):</b> John Welle, Aitkin County Engineer		<b>Estimated Time Needed:</b> 5 minutes
<b>Summary of Issue:</b> <p>The attached Agreement No. 1055754 is proposed by MnDOT for utilization of Aitkin County highways during the 2024 construction season to accommodate the resurfacing of Trunk Hwy 18 from State Highway 47 in Malmo to State Highway 169. The proposed detour route includes County Highway 12 from State Highway 47 in Glen to County Highway 28, and County Highway 28 from County Highway 12 to State Highway 169. For use of these routes, an estimated payment of \$4,421.85 will be paid to Aitkin County.</p> <p>The Aitkin County Attorney has been asked to review this agreement prior to the meeting.</p>		
<b>Alternatives, Options, Effects on Others/Comments:</b>  		
<b>Recommended Action/Motion:</b> Approve attached resolution.		
<b>Financial Impact:</b> Is there a cost associated with this request? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No What is the total cost, with tax and shipping? \$ Is this budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Please Explain:</i>		

Legally binding agreements must have County Attorney approval prior to submission.

**CERTIFIED COPY OF RESOLUTION OF COUNTY BOARD OF AITKIN COUNTY, MINNESOTA**

**ADOPTED February 13, 2024**

By Commissioner: xxx

**20240213-xxx**

**Detour Agreement No. 1055754**

**IT IS RESOLVED THAT**, Aitkin County enter into MnDOT Agreement No. 1055754 with the State of Minnesota, Department of Transportation for the follow purposes:

To provide for payment by the State to the County for the use of County State-Aid Highway No. 28 and County State-Aid Highway No. 12 as a detour route during the construction to be performed upon, along, and adjacent to Trunk Highway No. 18 from Truck Highway No. 169 to Trunk Highway No. 47 in Malmo under State Project No. 0102-28 (T.H. 18 =157).

**BE IT FURTHER RESOLVED**, that the Aitkin County Engineer is hereby authorized to execute the Agreement and any amendments to the Agreement.

Commissioner xxx seconded the adoption of the resolution and it was declared adopted upon the following vote

xxx MEMBERS PRESENT

All Members Voting xxx

**STATE OF MINNESOTA}  
COUNTY OF AITKIN}**

I, Jessica Seibert, County Administrator, Aitkin County, Minnesota do hereby certify that I have compared the foregoing with the original resolution filed in the Administration Office of Aitkin County in Aitkin, Minnesota as stated in the minutes of the proceedings of said Board on the 13<sup>th</sup> day of February 2024, and that the same is a true and correct copy of the whole thereof.

**Witness my hand and seal this 13<sup>th</sup> day of February 2024**

\_\_\_\_\_  
Jessica Seibert  
County Administrator

**STATE OF MINNESOTA  
DEPARTMENT OF TRANSPORTATION  
And  
AITKIN COUNTY  
DETOUR AGREEMENT  
For Trunk Highway No. 18 Detour**

State Project Number (S.P.): 0102-28 Original Amount Encumbered  
Trunk Highway Number (T.H.): 18 = 157 \$4,421.85

This Agreement is between the State of Minnesota, acting through its Commissioner of Transportation ("State") and Aitkin County acting through its Board of Commissioners ("County").

**Recitals**

- 1. The State is about to perform Cold Inplace Recycling and culvert replacement construction upon, along, and adjacent to Trunk Highway No. 18 from T.H. 169 to T.H. 47 in Malmo under State Project No. 0102-28 (T.H. 18 = 157); and
- 2. The State requires a detour to carry T.H. 18 traffic on County State Aid Highway (C.S.A.H.) No. 28 and County State Aid Highway No. 12 during the construction; and
- 3. The State is willing to reimburse the County for the road life consumed by the detour as hereinafter set forth; and
- 4. Minnesota Statutes § 471.59, subdivision 10, § 161.25, and § 161.20, subdivision 2(b), authorize the parties to enter into this Agreement.

**Agreement**

**1. Term of Agreement; Incorporation of Exhibits**

- 1.1. **Effective Date.** This Agreement will be effective on the date the State obtains all signatures required by Minnesota Statutes § 16C.05, subdivision 2.
- 1.2. **Expiration Date.** This Agreement will expire when the State removes all detour signs, returns the temporary Trunk Highway detour to the County, and pays for the detour compensation.

**2. Agreement Between the Parties**

**2.1. Detour.**

- A. **Location.** The State will establish the T.H. 18 detour route on the following County road(s) as detailed in the project plans or Special Provisions:  
C.S.A.H. 28 and C.S.A.H. 12 for a total distance of 11.43 miles.
- B. **Modification of the Detour Route.** The State may modify the detour route or may add additional roadways to the official detour during construction. The State will request concurrence from the County for changes to the detour route. If such change increases the States total payment amount over the maximum obligation in Article 3.2, the Agreement will be amended.

- C. **Axle Loads and Over-Dimension Loads.** The County will permit 10-ton axle loads on the detour route. Over-dimension loads will not be permitted except in cases of extreme emergency.
- D. **Traffic Control Devices.** The State may install, maintain, and remove any traffic control devices it considers necessary to properly control the detoured traffic. The State may paint roadway markings, such as the centerline, edge lines, and necessary messages.
- E. **Detour Maintenance.** The State will perform any necessary bituminous patching and ordinary maintenance on the roadway or shoulder of the County roads used for the detour, at no cost or expense to the County. Bituminous patching is defined as any work, including continuous full width overlays, less than 100 feet in length. All State expenditures beyond those required for bituminous patching and ordinary maintenance will be credited against the road life consumed reimbursement due the County.
- F. **Duration.** The State will provide the County with advance notice identifying the dates the State intends to place and remove the detour signing.

2.2. **Basis of State Cost (Road Life Consumed).** The State will reimburse the County for the road life consumed by the detour using the following methods, as set forth in the Detour Management Study Final Report dated January 1991, and updated by MnDOT's Policy on Cost Participation for Cooperative Construction Projects and Maintenance Responsibilities between MnDOT and Local Units of Government.

- A. The "Gas Tax Method" formula, multiplies the Combined Tax Factor per mile times the Average Daily Traffic ("ADT") count of vehicles diverted from the Trunk Highway times the county road length in miles times the duration of the detour in days to determine the State's cost for the road life consumed by the detour. If an ADT changes, the parties will amend the Agreement.
- B. The County may, at its option, perform an "Equivalent Overlay Method" analysis. A State-approved firm, at no cost or expense to the State, must perform the testing and analysis. The County will keep records and accounts to verify any claim it might bring against the State for additional costs using the "Equivalent Overlay Method".

3. **Payment**

3.1. **For Road Life Consumed.** \$4,421.85 is the State's estimated cost for the road life consumed by the detour based on the data below:

<u>Stage 1</u>	<u>Tax Factor</u>	<u>ADT</u>	<u>Road Length (Miles)</u>	<u>Duration (Days)</u>	<u>Cost</u>
C.S.A.H. 28 and C.S.A.H. 12	0.00513	1,109	11.43	68	<u>\$4,421.85</u>

Road Life Consumed Amount: \$4,421.85

The State's total payment for the road life consumed by the detour is equal to the amount computed by using the "Gas Tax Method" formula plus any amount determined by using the "Equivalent Overlay Method" analysis that is in excess of twice the "Gas Tax Method" amount.

- 3.2. **Maximum Obligation.** \$11,000.00 is the maximum obligation of the State under this Agreement and must not be exceeded unless the maximum obligation is increased by execution of an amendment to this Agreement.
- 3.3. **Conditions of Payment.** The State will pay the County the State's total road life consumed payment amount after performing the following conditions.

- A. Execution of this Agreement and the County's receipt of the executed Agreement.
- B. State's encumbrance of the State's total payment amount.
- C. State's removal of all detour signs.
- D. State notifies the County of the removal of the detour signs, and the number of days the detour was in effect.
- E. State's receipt of a written request from the County for payment.

**4. Release of Road Restoration Obligations**

By accepting the State's road life consumed payment plan and total payment amount, the County releases the State of its obligation, under Minnesota Statutes § 161.25, to restore the county roads used as a T.H. 18 detour to as good of condition as they were before designation as temporary trunk highways.

**5. Authorized Representatives**

Each party's Authorized Representative is responsible for administering this Agreement and is authorized to give and receive any notice or demand required or permitted by this Agreement.

**5.1. The State's Authorized Representative will be:**

Name, Title: Scott Zeidler – Engineering Specialist Senior (or successor)  
Address: 7694 Industrial Park Rd., Baster, MN 56425  
Telephone: 218-828-5800  
E-Mail: scott.zeidler@state.mn.us

**5.2. The County's Authorized Representative will be:**

Name, Title: John Welle – Aitkin County Engineer (or successor)  
Address: 1211 Air Park Dr., Aitkin, MN 56431  
Telephone: 218-927-3741  
E-Mail: jwelle@co.aitkin.mn.us

**6. Assignment; Amendments; Waiver; Contract Complete**

- 6.1. Assignment.** No party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other party and a written assignment agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.
- 6.2. 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.
- 6.3. Waiver.** If a party fails to enforce any provision of this Agreement, that failure does not waive the provision or the party's right to subsequently enforce it.
- 6.4. Contract Complete.** This Agreement contains all prior negotiations and agreements between the State and the County. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

**7. Liability**

The County and State will be responsible for their own acts and omissions, to the extent authorized by law. Minnesota Statutes § 3.736 governs the State's liability. Minnesota Statutes, Chapter 466 governs the liability of the County.

**8. State Audits**

Under Minnesota Statutes § 16C.05, subdivision 5, the County's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the State and the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement.

**9. Government Data Practices**

The County and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the County under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause by either the County or the State.

**10. Governing Law; Jurisdiction; Venue**

Minnesota law governs the validity, interpretation, and enforcement of this Agreement. Venue for all legal proceedings arising out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**11. Termination; Suspension**

**11.1. *By Mutual Agreement.*** This Agreement may be terminated by mutual agreement of the parties or by the State for insufficient funding as described below.

**11.2. *Termination for Insufficient Funding.*** The State 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 the County. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the County will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if this Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds.

**11.3. *Suspension.*** In the event of a total or partial government shutdown, the State may suspend this Agreement and all work, activities, performance, and payments authorized through this Agreement. Any work performed during a period of suspension will be considered unauthorized work and will be undertaken at the risk of non-payment.

**12. Force Majeure**

No party will be responsible to the other for a failure to perform under this Agreement (or a delay in performance), if such failure or delay is due to a force majeure event. A force majeure event is an event beyond a party's reasonable control, including but not limited to, unusually severe weather, fire, floods, other acts of God, labor disputes, acts of war or terrorism, or public health emergencies.

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**STATE ENCUMBRANCE VERIFICATION**

Individual certifies that funds have been encumbered as required by Minnesota Statutes § 16A.15 and 16C.05.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

SWIFT Purchase Order: FY25

**AITKIN COUNTY**

The undersigned certify that they have lawfully executed this contract on behalf of the Governmental Unit as required by applicable charter provisions, resolutions, or ordinances.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**DEPARTMENT OF TRANSPORTATION**

Approved:

By: \_\_\_\_\_  
(District Engineer)

Date: \_\_\_\_\_

**COMMISSIONER OF ADMINISTRATION**

By: \_\_\_\_\_  
(With Delegated Authority)

Date: \_\_\_\_\_

**INCLUDE COPY OF THE RESOLUTION APPROVING THE AGREEMENT AND AUTHORIZING ITS EXECUTION.**

**AITKIN COUNTY**

**RESOLUTION**

IT IS RESOLVED that Aitkin County enter into MnDOT Agreement No. 1055754 with the State of Minnesota, Department of Transportation for the following purposes:

To provide for payment by the State to the County for the use of County State Aid Highway No. 28 and County State Aid Highway No. 12 as a detour route during the construction to be performed upon, along, and adjacent to Trunk Highway No. 18 from Trunk Highway No. 169 to Trunk Highway No. 47 in Malmo under State Project No. 0102-28 (T.H. 18 = 157).

IT IS FURTHER RESOLVED that the \_\_\_\_\_  
(Title)  
and the \_\_\_\_\_  
(Title)  
are authorized to execute the Agreement and any amendments to the Agreement.

**CERTIFICATION**

I certify that the above Resolution is an accurate copy of the Resolution adopted by the Board of Commissioners of Aitkin County at an authorized meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, as shown by the minutes of the meeting in my possession.

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 2024

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Title)