Del. Co. Aud.

DELAWARE COUNTY IOWA
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BOOK 2004 PAGE 3108
DEBORAH L. PRYTON
DELAWARE CO RECORDER
N/C

THIS DOCUMENT WAS PREPARED BY MARK NAHRA, DELAWARE COUNTY ENGINEER'S OFFICE, 2139 HIGHWAY 38., DELAWARE, IA 52036, 563-927-3505

28E Agreement Regarding
Maintenance of Farm to Market Extension(s) Within the City's Corporate Limits

THIS AGREEMENT is made and entered into by and between the city of Masonville, Iowa, herein after called CITY, and Delaware County, Iowa, herein after called COUNTY, in accordance with the provisions of Chapter 28E, 2003 Code of Iowa. The purpose of this AGREEMENT shall be to define the duties and responsibilities of the CITY and the COUNTY on farm to market road extensions lying wholly within the corporate limits of the CITY but transferred by state code provision to the COUNTY. This AGREEMENT is developed in regard to all maintenance and construction work on these routes.

BACKGROUND:
During the 2003 legislative session, SF451 was passed and signed by the governor. This bill transferred jurisdiction of farm to market extensions within towns with populations under 500 to counties effective July 1, 2004. The bill transferred to the county all rights and responsibility for the roads and rights of way within the towns. The bill also transferred a share of the CITY's road use tax fund distribution to the COUNTY to assist in paying the costs of future maintenance and construction work on the farm to market extensions. This AGREEMENT will define the responsibilities of the CITY and COUNTY in implementing the terms of SF451.

AGREEMENT:
In accord with Chapter 28E and other relevant sections of the Code of Iowa, the CITY and COUNTY enter into the following agreement in order to define the duties and responsibilities of each party regarding the maintenance, repair construction and major or minor reconstruction of the Farm to Market extensions located within the CITY's corporate limits ("F-M extensions").

1. The Farm to Market Road Extensions to be included within the scope of this AGREEMENT shall be shown on a map which shall be attached to and become a part of this AGREEMENT. Farm to market extension roads are defined in sections 306.4, 306.5, 306.6, 306.6A, and 306.8 of the Code of Iowa and Chapter 101 of the Iowa Administrative Code. Farm to market roads and farm to market extensions are established by the COUNTY Board of Supervisors with the approval of the State Farm to Market Review Board.

2. The COUNTY and the CITY mutually desire to reach an equitable decision as to functions to be performed and the financial responsibility of each party concerning construction and maintenance of F-M extension(s). As a general rule the COUNTY will be responsible for the center 24 feet of roadway and the CITY will be responsible for the right of way outside the center 24 feet of roadway.

3. Responsibilities for maintenance of F-M extension(s) under this agreement will be as follows:
   A. COUNTY responsibilities:
      1. Pavement: Maintain and repair the center 24 feet of the roadway.

2. Traffic Services: Provide regulatory and warning signing on F-M extension(s) as well as stop signs on appropriate streets that intersect the roadway. Provide pavement marking for traffic lanes, including stop lines, on the center 24 feet of roadway.
3. Drainage: Maintain clear surface drainage to and through drainage structures (except storm sewers) within the center 24 feet of the roadway.
4. Winter Maintenance: Plow and treat pavement and bridges within the center 24 feet of roadway pursuant to the COUNTY policy. Plowed snow will be deposited alongside the roadway and the COUNTY will not be responsible for the hauling of this snow.
5. Vehicular Bridges: Perform structural maintenance as necessary and inspection and posting according to National Bridge Inspection Standards.
6. Maintain and repair guardrail, pavement shoulders, roadside ditches, cross road culverts that are not part of a storm sewer system and edge rutting pursuant to the COUNTY Policy

B. CITY Responsibilities:
1. Pavement: Maintain and repair outside the center 24 feet of the roadway.
2. Traffic Services: Paint stop lines and crosswalks at streets intersecting the F-M extension(s) if required. Paint parking stalls and maintain any other traffic marking located outside the center 24 feet of the roadway. Maintain, repair and provide energy to traffic signals and street lighting.
3. Drainage: Maintain and repair storm sewers, manholes, intakes and catch basins used for collection and disposal of surface drainage.
4. Winter Maintenance: Clear from all areas outside the center 24 feet of the roadway as well as from sidewalks as per CITY policy. The CITY may plow the entire roadway at their own expense per CITY policy if CITY staff are operating before the commencement of COUNTY snow removal operations.
5. Maintain right of way outside center 24 feet of the roadway including sidewalks as per CITY policy.
6. Clean, sweep and wash streets when considered necessary by the CITY.
7. Remove trees as necessary.
8. The CITY will be responsible for emergency response within their corporate limits on the roads within this AGREEMENT. The COUNTY will not disrupt its normal sequence of operations to respond to emergencies, snow removal or otherwise, within the CITY's corporate limits on farm to market extensions.

4. The CITY shall not establish stop or yield signs on the farm to market extensions without approval of the COUNTY Board of Supervisors. The COUNTY shall be responsible for the legal establishment, installation, and maintenance of other traffic control devices and signs located on farm to market road extensions. Such devices and signs shall comply with the current "Manual on Uniform Traffic Control Devices" (MUTCD) as adopted by the Iowa Department of Transportation per 321.252 of the Code of Iowa. The COUNTY shall establish speed limits in consultation with the CITY and on the basis of an engineering and traffic investigation.

5. The COUNTY and CITY further agree:
A. To prevent erection or encroachment of any private fences or signs within or overhanging the right of way, that could obstruct the view of any traffic control devices or any portion of the roadway or as per Section 319.10 of the Code of Iowa.
B. To comply with all current statutes and regulations pertaining to over length and over weight vehicles using the COUNTY roads.
C. To comply with the COUNTY's utility policy by requiring a COUNTY permit for any construction or maintenance within the right of way by either the CITY or a private entity.

D. To comply with the COUNTY's access control policy by requiring a COUNTY permit for any change to an existing entrance or for the construction of a new entrance.
E. That any damage settlement for the roadway caused by Iowa DOT detours or haul Roads shall be negotiated with the Iowa DOT by the COUNTY and paid to the COUNTY.
F. That the COUNTY shall pay any Drainage District Assessments levied against the roadway within the CITY.
G. That any major construction initiated by either party shall be covered by a separate agreement when work outside of the defined traveled way is to be undertaken as part of the project. The COUNTY will notify the CITY three years in advance of planned construction. Major construction may include pavement resurfacing, rehabilitation or reconstruction as well as repair or replacement of vehicular bridges. The COUNTY will add work outside of the traveled way to construction plans at the CITY's request with a written agreement that the CITY will pay the full cost for work beyond the scope of normal construction or reconstruction work within the traveled way.
H. That each party shall provide, without reimbursement, any existing right of way within their respective jurisdiction that is necessary for construction or maintenance.
I. That the CITY retains ownership of any underground utilities that are currently within their jurisdiction. Sidewalks, storm and sanitary sewers, waterlines, and other utilities owned by the CITY are to be treated as utilities as defined in section 319.14. The CITY shall obtain a permit from the County Board of Supervisors for the installation and/or maintenance of CITY owned utilities within the COUNTY right of way on farm to market extension routes. For street and utility emergencies, the CITY need only obtain verbal permit from the County Engineer or his/her designee and said verbal permit shall be valid. The County Engineer or his/her designee are available on call 24 hours per day and can be reached through the E911 dispatcher. This verbal permit is only for emergency work and planned maintenance must still obtain a permit from the County Board of Supervisors.

6. Each party will entirely finance any obligation that is undertaken herein. No real or personal property acquired by either party will be subject to this agreement.

7. The County Engineer shall administer this agreement as per Section 28E.6 of the Code of Iowa and in consultation with the Board of Supervisors and the CITY Council.

8. This agreement shall not prohibit either party from employing a private contractor to perform work associated with this agreement.

9. This agreement shall be in effect for a period of one year, from July 1, 2004 and renew annually for a period of one year unless terminated sooner as provided in paragraph 10.

10. Either party may terminate this agreement upon written notice to the other party not later than January 10th of a given year. Said termination may occur no earlier than July 1st following the notice.

11. Each party is responsible for liability occurring as a result of the acts or omissions in performing its obligations under this agreement. The CITY shall protect, indemnify, defend, and hold harmless the COUNTY for acts or omissions of the CITY, its officers, employees, agents, and assigns with respect to the obligations of the CITY under this agreement. The COUNTY shall protect, indemnify, defend, and hold harmless the CITY for acts or omissions of the COUNTY, its officers, employees, agents, and assigns with respect to the obligations of the COUNTY under this agreement.

12. This agreement shall not prohibit the CITY from employing a private contractor to perform work associated with this AGREEMENT. Nothing in this AGREEMENT shall be construed as to prohibit either party from hiring a third party to perform any work associated with this AGREEMENT.

13. If any section, provision, or part of this AGREEMENT shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the AGREEMENT as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

14. This agreement is effective upon filing and recording as required by law.

IN WITNESS WHEREOF, the CITY and COUNTY have set their hands, for the purposes herein expressed, on the dates indicated below.

For DELAWARE COUNTY

By Steven L. Sveneke
Chair, Board of Supervisors

Date 8-2-04

Attest Sharon McCarthy
County Auditor

For the CITY OF MASONVILLE

By Bill Falda
Mayor

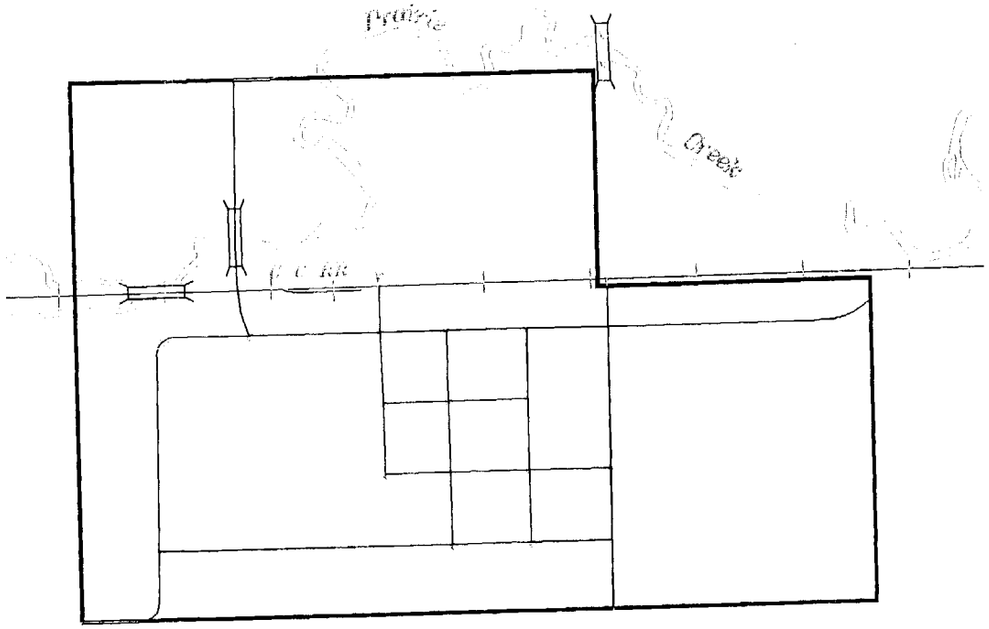
Date 7-12-04

Attest Christine A King
City Clerk

Filed with the Delaware County, Iowa Recorder
this _____ day of _____, 2004.
Book ____ Page ____
By _____
Title _____

Filed with the Secretary of the State of Iowa
this _____ day of _____, 2004.
By _____
Title _____

W63



W63

On this 2nd day of August, 2004, before me Mark J. Nahra a notary public in and for the State of Iowa appeared Steven Koeneke, and Sharon McCrabb, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the County Board of Supervisors and County Auditor, respectively, of the County of Delaware, Iowa; that the seal affixed to the foregoing instrument is the county seal of the county, and that the instrument was signed and sealed on behalf of the county, by authority of its Board of Supervisors, as contained in the Supervisors Minute Book X, as passed by the Board of Supervisors on the 2nd day of August, 2004 and Steve Koeneke and Sharon McCrabb acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of the county, by it voluntarily executed.

Mark J. Nahra
Notary Public
My Commission Expires: July 2, 2007

Seal:

Mark J. Nahra
COMMISSION NUMBER 165627
MY COMMISSION EXPIRES
7-2-2007

On this 12th day of July, 2004, before me Christine A. King, a notary public in and for the State of Iowa appeared Bill J. Alden, Mayor, to me personally known, and who, being by me duly sworn, did say that he is the Mayor of the City of Masonville, in the County of Delaware, Iowa; that the seal affixed to the foregoing instrument is the official seal of the city (if applicable), and that the instrument was signed and sealed on behalf of the city, by authority of its City Council, as contained in the City Minute Book, as passed by the City Council on the 12th day of July, 2004 and, Bill J. Alden acknowledged the execution of said instrument to be his voluntary act and deed and the voluntary act and deed of the city, by it voluntarily executed.

Christine A King
Notary Public
My Commission Expires: 10-20-2006

Seal:

