

**IOWA DEPARTMENT OF TRANSPORTATION
COOPERATIVE AGREEMENT**

County	Polk
City	Johnston
Project No.	_____
Iowa DOT	_____
Agreement No.	_____
Staff Action No.	_____

This Agreement, is entered into by and between the Iowa Department of Transportation, hereinafter designated the "DOT", the Polk County Board of Supervisors (hereafter COUNTY), and the City of Johnston, Iowa, (hereafter CITY) in accordance with 761 Iowa Administrative Code Chapter 150 and Iowa Code sections 28E.12 and 306A;

WITNESSETH; that

WHEREAS, the COUNTY in joint cooperation with the DOT and the CITY proposes to establish a temporary detour for the Trestle to Trestle Trail due the collapse of a portion of the existing Trestle to Trestle Trail bridge over Beaver Creek north of I-35/80 and west of NW Beaver Drive, within Polk County and the City of Johnston, Iowa; and

WHEREAS, because the DOT had planned to use the Trestle to Trestle Trail as part of a marked detour for the temporary closure of the Neal Smith Trail as part of the Des Moines River bridge widening project on I-35/80 scheduled for the fall of 2019; and

WHEREAS, because the replacement of the Trestle to Trestle Trail bridge is not expected to be completed until the fall of 2020, it is in the best interest of the DOT, the County and the City to jointly participate in the construction of paved shoulders along NW Beaver Drive north of the I-35/80 overpass for use as bike lanes, and designate existing paved shoulders on NW Beaver Dr. south of the I-25/80 overpass to NW Lower Beaver Dr. and on NW Johnston Dr. as bike lanes with appropriate signing; and

WHEREAS, the DOT, COUNTY, and CITY are willing to jointly participate in said project, in the manner hereinafter provided; and

WHEREAS, this Agreement reflects the current concept of this project; and

NOW, THEREFORE, IT IS AGREED as follows:

The COUNTY will design the roadway modifications, and perform all contract administration and construction inspection of the following described project in accordance with the approved project plans, special provisions, and DOT standard specifications and as depicted on Exhibit A:

- Construct new six foot wide paved shoulders with six inch HMA pavement on NW Beaver Drive from the north end of the I-35/80 overpass approach pavement north to NW Johnston Drive, including appropriate pavement markings and Bike Lane signing.
- Establish four feet wide bike lanes on NW Beaver Drive south of the I-35/80 overpass approach pavement using the existing pavement and paved shoulders including appropriate pavement markings and Bike Lane signing.
- Install appropriate pavement markings and Bike Lane signing along NW Johnston Drive to utilize the existing six feet wide HMA paved shoulders as bike lanes for this proposed detour.

1. Upon completion of construction, the CITY and COUNTY agree to accept ownership of the road modifications which will be constructed as part of said project and which are located within the COUNTY and CITY JURISDICTION. The COUNTY and CITY shall also assume responsibility for all future maintenance operations associated with said road modifications all at no additional expense or obligation to the DOT. The Iowa DOT or their contractor will be responsible for any necessary Neal Smith Trail detour signing as part of their I-35/80 Des Moines River bridge widening project

Special Provisions

2. Funding for the this project shall be as shall be as follows:

DOT Funding Commitment (one third)	\$ 50,000
COUNTY Funding Commitment (one third)	\$ 50,000
<u>CITY Funding Commitment (one third)</u>	<u>\$ 50,000</u>
Total Estimated Project Cost	\$150,000

The COUNTY will complete the project utilizing a change order to their existing 2019 HMA Resurfacing Program contract that was publicly let for bids on March 21, 2019. The COUNTY shall provide all contract administration and construction inspection at no cost to the project.

3. One –lane closures will be utilized during construction during the construction period.
4. Following final acceptance of the project by all parties, and after final payment to the contractor is made by the COUNTY, the COUNTY will bill the DOT and the CITY for their respective cost shares of the project.

General Provisions

5. The cost of any changes specifically requested by one of the parties that are a modification of the project scope or plans shall be the sole responsibility of the party requesting the change.
6. In the event this project is financed with federal funds, the COUNTY will take whatever action may be necessary to comply with applicable federal laws and regulations which includes but is not limited to Title 23 CFR (Code of Federal Regulations).
7. Any costs incurred by the each party to this agreement in performing their obligations hereunder will be borne exclusively by the respective party without reimbursement by other parties to the agreement.
8. The COUNTY shall be responsible for obtaining any necessary permits from the DOT and the CITY, such as the Right to Occupy and/or Perform Work Within the Right-of-Way, Permit of Access, Utility Accommodation, Right to Install and Maintain Traffic Control Devices, 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 DOT or the CITY
9. The COUNTY 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.
10. Subject to the approval of and without expense to the DOT, the COUNTY and the CITY agree to perform or cause to be performed all relocations, alterations, adjustments or removals of existing utility facilities within their respective jurisdictions, including but are 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 DOT's Utility Accommodation Policy, as set forth in Chapter 761 Iowa Administrative Code, Chapter 115.
11. With the exception of service connections, no new or future utility occupancy of the DOT right of way, nor any future relocations of or alterations to existing utilities within said DOT right of way (except service connections), will be permitted or undertaken by the CITY or the COUNTY without the prior written approval of the DOT. All work will be performed in accordance with the Utility Accommodation Policy and other applicable requirements of the DOT.

12. The CITY and the COUNTY shall be responsible for providing, without cost to the either party, or DOT, any right of way for the project which involves dedicated streets or alleys, and any other city-owned lands, except park land, which are required for the project. The CITY and COUNTY have appraised themselves of the value of these lands, and as a portion of their participation in the project, voluntarily agree to make such lands available without further compensation. If necessary, the COUNTY shall be responsible for acquisition of all right of way needed to complete the project.
13. In connection with this project any real estate and rights to real estate necessary for right of way at the connection of any CITY street or alley and a primary highway relocation or reconstruction project, any access road or frontage road right of way if any, and any permanent utility easements which are or which will be under the jurisdiction of the CITY may be acquired by the COUNTY, for and in the name of the CITY or DOT. Where acquired by contract, the CITY and DOT will receive title from the contract seller and the CITY and DOT will accept title thereto. Where acquired by condemnation, a single joint condemnation proceeding will be instituted by the COUNTY to acquire real estate or rights in real estate needed by the COUNTY for the COUNTY and to acquire real estate or rights in real estate needed by the DOT for the DOT.
14. Access rights may be acquired by the COUNTY along all city and county street intersections within the project limits. The CITY and COUNTY agree that access to county or city side streets will not be permitted within 150 feet of the traveled way of the primary highway. Access rights, if acquired, will be in the name of the State of Iowa. The acquisition of access rights will be in accordance with 761 Iowa Administrative Code Chapter 112.11(8) and current DOT Access Control regulations.

If the CITY or COUNTY feel that it is in the best interest of the parties involved to modify the access rights in any way, they may petition the DOT District 1 Engineer to do so.

15. In accordance with Iowa Code Chapter 216, the CITY 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.
16. To the extent allowed by Iowa law, the COUNTY agrees to indemnify, defend and hold the DOT 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 DOT's application review and approval process, plan and construction reviews, and funding participation.

Miscellaneous Provisions

17. The COUNTY 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 DOT and / or the Federal Highway Administration (FHWA), or their designees at all reasonable times. The COUNTY shall provide copies of said records and documents to the DOT upon request. The COUNTY shall also require its contractors to permit authorized representatives of the DOT and / or the FHWA 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 FHWA approval of the final amendment / modification to the project in the FHWA's Fiscal Management Information System (FMIS). Upon receipt of such approval by FHWA, the DOT will notify the COUNTY of the record retention date.
18. It is the intent of both (all) parties that no third party beneficiaries be created by this Agreement.
19. If any section, provision, or part of this Agreement shall be found to be invalid or unconstitutional, such finding shall not affect the validity of the Agreement as a whole or any section, provision, or part thereof not found to be invalid or unconstitutional, except to the extent that the original intent of the Agreement cannot be fulfilled.
20. 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 DOT, COUNTY and CITY 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.
21. This Agreement may be executed in three counterparts, each of which so executed will be deemed to be an original.
22. This document; as well as the unaffected provisions of any previous agreement(s), addendum(s), and/or amendment(s); represents the entire Agreement between the CITY, COUNTY and DOT regarding this project. Any subsequent change or modification to the terms of this Agreement will be in the form of a duly executed amendment to this document.

IN WITNESS WHEREOF, each of the parties hereto has executed Cooperative Agreement No. _____ as of the date shown opposite its signature below.

This Agreement was executed by the Board this ____ day of _____, 20__.

BOARD OF SUPERVISORS OF POLK COUNTY:

BY: _____ Date _____, 20__.
Chairperson

ATTEST:

BY: _____
Polk County Auditor

CITY OF JOHNSTON:

By: _____ Date _____, 20 ____.
Title: Mayor

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 on the ____ day of _____, 20 ____.

Signed _____

City Clerk of Johnston, Iowa.

IOWA DEPARTMENT OF TRANSPORTATION:

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

EXHIBIT A
PROPOSED TRESTLE TO TRESTLE
TRAIL DETOUR

