Appendix A

Pequot Lakes Memorandum of Agreement with Mn/DOT

Police
218-568-8111
Fax 218-568-5647
plpd@pequotlakes-mn.gov

City of Pequot Lakes

4638 County Road 11
Pequot Lakes, MN 56472
www.pequotlakes-mn.gov

City Hall
218-568-5222
Fax 218-568-5860
cityhall@pequotlakes-mn.gov

October 3, 2007

Minnesota Department of Transportation
Timothy V. Bray, PE, Project Manager
7694 Industrial Park Road
Baxter, MN 56425

Dear Tim:

Enclosed is the Memorandum of Agreement signed by the City of Pequot Lakes. At the October 2, 2007, Council meeting, the Council amended its previous motion regarding the agreement to approve the agreement with no changes.

Please sign the enclosed agreement and send us an executed copy. Feel free to call me with any questions.

Sincerely,

Sandy Peine
City Clerk

MEMORANDUM OF AGREEMENT

Between
City of Pequot Lakes
and
Minnesota Department of Transportation

Background

In the spring of 2002, the Minnesota Department of Transportation (Mn/DOT) began to officially study the four-lane expansion of Trunk Highway (TH) 371 from Nisswa to Pine River. This included the portion that now lies within the city limits of Pequot Lakes. At that time Mn/DOT embarked on the process of developing an Environmental Impact Statement (EIS) required by State and Federal Law.

The Draft EIS (DEIS) outlined five alternatives that were studied, three of which had direct impacts on the City of Pequot Lakes. Alternative 2 proposed that the future highway stay on or very near the present TH 371 alignment. Alternatives 3 and 4 proposed that the new TH 371 alignment be an easterly bypass of the business district of Pequot Lakes.

During development of the Final EIS (FEIS), the City of Pequot Lakes was heavily involved in the discussion and determination of the preferred alternative. This included a number of hearings and open houses intended to solicit public input related to the proposed alternatives.

On February 3, 2004 the Pequot Lakes City Council voted and passed a resolution to support the through-town option or Alternative 2 as defined by the DEIS. This action finalized the alignment preference with regard to Pequot Lakes and allowed Mn/DOT to move forward with the environmental documentation process including the development of a FEIS alignment.

On January 7, 2005, the FEIS was approved and on March 9, 2005 the Record of Decision (ROD) was signed by the Federal Highway Administration (FHWA). This established Alternative 2 as the preferred and accepted alternative for the TH 371 alignment. This action by the FHWA concluded the environmental documentation process required by State and Federal law.

Since the signing of the ROD, Mn/DOT and the City of Pequot Lakes have worked very closely to further develop the details of the through-town alignment to a point where it eventually would meet both the needs of the City and the standards required by Mn/DOT.

A final layout that met these criteria was being developed when, on June 6, 2006, the Pequot Lakes City Council voted and passed a resolution to change their position regarding the through-town alignment associated with the four-lane expansion of TH

371. The new resolution established a portion of Alternative 4 or an easterly bypass option as the City's new preference.

Since the time that the new resolution was passed, Mn/DOT has made an effort to determine the effects that this decision would have on the now completed EIS process as well as construction and right of way costs. It is anticipated that study and development of this proposal will cause a fair amount of rework and extra expenditure of State and Federal funding. The amount of this work will depend on how comparable the final alignment is to Alternative 4 as defined in the DEIS. (See Figures A9 and A10.)

Purpose

Mn/DOT and the City of Pequot Lakes concur that it is prudent to establish and agree upon these basic guidelines before the bypass alternative receives any further consideration.

The purpose of this document is to create a set of guidelines to follow if the reevaluation of Alternative 4 results in Mn/DOT agreeing to a formal change in the preferred alternative. These provisions will minimize the amount of rework, reduce possible project delays and maintain focus on achieving Municipal Consent.

This document is not intended to take the place of the existing Mn/DOT Cost Participation Policy or the formal Municipal Agreement, which will be negotiated during the final design phase.

Article I – Non-binding Memorandum of Agreement

1. Both parties acknowledge that this Memorandum of Agreement (MOA) is a non-binding statement of intent. Any binding agreements executed between the City of Pequot Lakes and Mn/DOT subsequent to this MOA will be made pursuant with written and properly executed and approved agreements.

Article II – Mutual Points of Agreement

1. <u>Waste Water Spray Irrigation Site</u>

a. The City of Pequot Lakes (City) will be responsible for all costs for the effects that the new TH 371 alternate alignment will have on the city-owned waste water spray irrigation site. This includes the relocation, reorientation or other mitigation measures required to maintain the function and capacity needed to serve the City of Pequot Lakes.

b. The City will dedicate the city-owned property that lies within the boundary of the spray irrigation site that is needed for the construction of mainline TH 371 or any service road system. This includes all permanent right of way and any temporary easements needed for construction. The City will deliver this property to Mn/DOT with fee title, free and clear of any covenants or restrictions.

2. **Trunk Highway (TH) 371 Alignment and Configuration**

a. The City will only pursue alternate routes that are easterly and are similar to those defined as Alternative 4 of the DEIS. (See Figures A9 and A10.)

b. Mn/DOT will allow a maximum of three at-grade intersections along the alternate route. No additional access will be allowed on the alternative route.

c. Associated with this project, Mn/DOT will acquire the property needed for a possible future grade separated interchange at the junction of TH 371 and Crow Wing State Aid Highway (CSAH) 11.

3. **General**

a. If the provisions of this agreement are maintained and Mn/DOT elects to accept the alternate route as the new preferred alternative, Mn/DOT will be responsible for the necessary changes to the completed environmental documents.

b. Before formally seeking municipal approval, Mn/DOT will provide the City a good faith cost estimate outlining the amount of project funding that will be the responsibility of the City.

AUTHORIZATIONS

City of Pequot Lakes

Cathy Malecha, Mayor, City of Pequot Lakes — 10-3-07 Date

Sandy Peine, Clerk, City of Pequot Lakes — 10-3-07 Date

Minnesota Department of Transportation

Robert Busch, Transportation District Engineer, District 3 — 10-5-07 Date