

TRAIL CONSTRUCTION AND MAINTENANCE AGREEMENT

CITY OF DELANO AND INDEPENDENT SCHOOL DISTRICT #879

WHEREAS, the City of Delano ("City") and Independent School District #879 ("School") seek to cooperate and collaborate in regards to the construction and maintenance of public trails within the City; and,

WHEREAS, the entities jointly applied and received a federal Safe Routes to School grant; and,

WHEREAS, the construction of "Tiger Trail" has been approved and will be completed in the Summer of 2014; and,

WHEREAS, both entities strive to provide efficient services in order to ensure that all monetary funds are used in a responsible manner; and,

WHEREAS, public trails within the City and School property are a benefit to the community, enhance safety, and ensure a higher quality of life for residents of all ages; and,

WHEREAS, both entities wish to construct and maintain trail connections that serve as viable means of transportation to areas of interest within the City and also serve as recreational outlets.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE TO THE FOLLOWING:

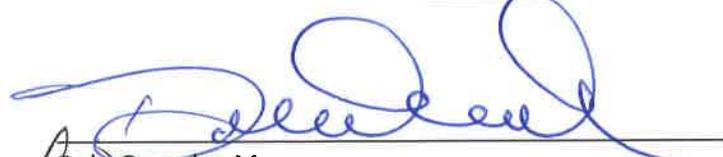
1. The City and School agree that each entity is responsible for all elements of trail construction and maintenance on property owned or Right-of-Way managed by each respective entity unless otherwise stated within this agreement.
2. The City agrees to provide occasional crack-sealing of bituminous trails on School property in a manner similar to that in which the City conducts the same activities on trails on its property or Right-of-Way. The purpose of crack-sealing is to maintain and extend the lifespan of bituminous trails. Pavement maintenance does not include sealcoating, overlays or reconstruction.
3. The School agrees to provide reasonable snow and ice clearing to allow for winter use of trails on City property and Right-of-Way that connect trails on School property to the nearest public streets.
4. With respect to the 2014 Tiger Trail Construction project, the entities agree as follows:
 - a. As required by the Minnesota Department of Transportation, the City shall be the administrator of the grant. The City shall be responsible for engineering and construction administration activities.
 - b. The School shall provide all necessary property in order to construct the trail as designed and approved by the City. The City shall allow the School participation in

the design process and allow the School the ability to review and approve the trail alignment and location prior to seeking bids for the project.

- c. The City and School agree to share responsibility for any additional construction costs of the project that exceed the grant funding equally. In the event of additional construction costs exceeding grant funding, each entity shall be allowed to include costs of its activities directly related to this project (i.e., engineering, property acquisition, etc.) as contributions towards the cost sharing.
5. The City and School agree to mutually indemnify, release and hold harmless each other, including their elected and appointed officials, officers, employees, planners, engineers, attorneys and agents ("the Indemnitees") from all claims, lawsuits, administrative and regulatory actions, judgments, settlements injunctions, restraining orders, fines penalties, attorneys and expert costs and expenses, as a result of or arising from the execution of this agreement. Notwithstanding the foregoing, this indemnification shall not apply to willful misconduct by the Indemnitees.
6. The terms and conditions of this agreement shall begin on the date in which the City Council of Delano and the Board of Directors of the Independent School District #879 adopt and approve this agreement. This agreement may be terminated by official action of either entity and with 90 days written notice to the other entity. In no case shall termination change or cancel the terms of the agreement related to the construction of the 2014 Tiger Trail project.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DELANO THIS 18 DAY OF MARCH, 2014.


Attest: Marlene E. Kittock, Clerk


Dale Graunke, Mayor

ADOPTED AND APPROVED BY THE BOARD OF DIRECTORS OF THE DELANO INDEPENDENT SCHOOL DISTRICT #879 THIS _____ DAY OF _____, 2014.

