

SPECIAL EXPERIMENTAL PROJECT NO. 14: LOCAL HIRING PILOT PROGRAM

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Special Experimental Project No. 14 (SEP-14) Workplan To Evaluate the Use of Local Labor Hiring Preferences

Minnesota Department of Transportation (MnDOT)

Location: Series of three projects in Hennepin County

1. CSAH 81 Reconstruct Bottineau Blvd. from 63rd to CSAH 8 SP 027-681-034
2. CSAH 53 Reconstruct 66th St. from W of Washburn Ave to 16th Ave S Xerxes to Cedar SP 027-653-021
3. Hwy 169 between Hwy 55 and just north of Hwy 62, SP 2772-113

Federal-aid Project Numbers:

1. CSAH 81 (Bottineau Boulevard) – STPM 2716(145)
2. CSAH 53 (66th Street) – STPM 2716(123)
3. Hwy 169- NHPP 0169(340)

Local Project Numbers:

1. CSAH 81 (Bottineau Boulevard) – CP 0203
2. CSAH 53 (66th Street) – CP 1011
3. Hwy 169- not applicable

A. Introduction

The Minnesota Department of Transportation in partnership with Hennepin County submits this work plan for FHWA review and approval as a pipeline of projects intended to increase local impacts by incorporating an optional Local Hiring Preference (LHP) incentive and related contract provisions. This workplan is provided under the Notice: [Contracting Initiative](#) announced in the March 6, 2015 Federal Register.

Historically, FHWA prohibited its recipients from using LHP provisions that do not directly relate to the bidder's performance of work. Hennepin County has successfully used LHP contract provisions on its county-funded contracts; MnDOT is requesting FHWA's approval for the use of these provisions on a Federal-aid project for a series of projects located in Hennepin County under the experimental authorities under [23 U.S.C. 502](#) and SEP-14.

The three proposed projects are located in Hennepin County. This proposal intends to promote hiring opportunities for residents of Hennepin County that meet one or all of the following criteria: 1) residents of areas with an unemployment rate greater than 8% (Economic Preference), 2) residents of areas that have a high concentration of poverty (Economic Preference), and 3) veterans that reside in the County (Local Preference). Please refer to Exhibit A of this proposal which identifies the boundaries of Hennepin County which establishes the local preference for veterans, and the areas within Hennepin County which meet the criteria for the economic preference.

B. Purpose

Many local governments recognize the importance of encouraging local hiring through their capital program construction contracts. While FHWA has viewed such requirements as a constraint on competition, the Contracting Initiative announced in March 2015 provides Federal-aid recipients with an opportunity to evaluate such requirements on federally assisted construction projects on a pilot basis. These requirements have a variety of worthwhile local objectives, such as ensuring that the communities in which the projects are located benefit from the jobs that result from the investment of their funds, particularly for workers in low income areas.

This proposal is intended to have lasting effects on the hiring practices that impact the area in which the project is located. The series of three projects will study the effects of hiring practices and the retention of workers throughout all three projects. However, this proposal may be divided by project to examine the effects of local hiring preferences on any of the three proposed projects.

This pilot project will enable MnDOT to evaluate the effectiveness and efficiency of the use of Federal-aid and local funds in achieving the desired objectives.

C. Scope

MnDOT is proposing a LHP that is comprised of the following component:

- Monetary Incentive - The contractor will receive an incentive of \$5 per hour for hours worked by 1) residents of areas with an unemployment rate greater than 8%, 2) residents of areas that have a high concentration of poverty, and 3) veterans that reside in the County, not to exceed **\$150,866.65** (CSAH 81: \$15,149.65, CSAH 53: \$45,392.20 and Hwy 169: \$90,324.80) total for all three categories. MnDOT will apply funding from STBGP and NHPP for the monetary incentive as permitted under 23 USC 504(e).

MnDOT is proposing to use LHP on the following three projects:

1. The reconstruction of County State Aid Highway (CSAH) 81 Bottineau Boulevard from 63rd to CSAH 8. This is State Project 027-681-034, TPCE: \$13,350,000 [\$7,840,000 in STBGP, \$5,510,000 Local]. Construction begins the second quarter of 2016. This project is typical of other County projects and will provide a suitable project for comparison purposes.
2. The reconstruction of CSAH 53 from 66th St. west of Washburn Avenue to 16th Avenue South, Xerxes Avenue to Cedar Avenue. This is State Project 027-653-021, TPCE: \$40,000,000 [\$7,840,000 in STBGP, \$32,160,000 Local]. Construction begins the third quarter of 2016. This project is typical of other local projects and will provide a suitable project for comparison purposes.

3. Hwy 169 between Hwy 55 and just north of Hwy 62. This is State Project 2772-113, TPCE: \$79,595,000 [\$25,559,000 in NHPP, \$54,036,000 State]. Construction begins the fourth quarter of 2016. This project is typical of other bridge replacement projects and will provide a suitable project for comparison purposes.

D. Schedule:

An estimated schedule for the project follows:

CSAH 81 (Bottineau Boulevard) - SP 027-681-034

Advertisement: April 9, 2016

Bid Opening: April 30, 2016

Award: June 6, 2016

Project completion: June 4, 2018

CSAH 53 (66th Street) - SP 027-653-021

Advertisement: May 2016

Bid Opening: July 12, 2016

Award: September 19, 2016

Project completion: November 15, 2019

HWY 169 - SP 2772-113

Requests for Letters of Interest: September 21, 2015

Request For Qualifications (RFQ): January 22, 2016

Request For Proposals (RFP): April 2016

Bid Opening: July 27, 2016

Award: appx. August 27, 2016

Project completion: Fall 2017

E. Evaluation Measures:

MnDOT will evaluate the following criteria (as referenced in [USDOT Q&A # 21](#)), to determine the effectiveness and efficiency of this pilot project:

- 1) Describe the project(s), including the amount of FHWA funding involved in the as well as the estimated total project cost.**

See the “Scope” section above.

- 2) Describe the proposed contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.**

Hennepin County has been utilizing a LHP program called the Workforce Entry Program (WEP) on its County projects. MnDOT understood that the uses of such provisions were limited by the competitive bidding requirements of Title 23 U.S.C.; however, MnDOT is

interested in evaluating this requirement on a Federal-aid project on a pilot project basis under SEP-14. The project will incentivize contractors with \$5 per local labor hour performed by qualifying workers. This is an optional program for contractors. Labor hours performed by non-qualifying workers will not be restricted.

- 3) Describe how the applicant will evaluate the effects of relevant contracting requirements on competitive bidding. In doing so, the applicant should, at a minimum, provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. If a reduction in the pool of bidders is evident, explain the potential offsetting benefits resulting from the use of the requirement.**

As this project is similar in size and scope to other County and MnDOT reconstruction projects, a comparison with similar size and scope projects (projects using the preference and projects not using the preference) will be provided based on the following evaluation criteria:

- The number of bidders- An explanation will be provided for the apparent increase or decrease in the average number of bidders. Specific competitive reasons (e.g. other bidding opportunities, apparent risk, etc.) will be provided for the increase / decrease in competition. The evaluation will discuss the impact on the number of bids received by local and non-local firms.
- A comparison of the impact of the LHP requirement on the workforce will be made by comparing the percentage of total local labor hours on the pilot program with the percentage typically achieved on a similar Federal-aid project that did not use the LHP provision. An explanation of any significant differences will be provided.

MnDOT and Hennepin County have identified the following similar projects for comparison:

CSAH 81

- SP 027-681-034, CSAH 81 from 2000' north of 63rd Ave N to 1200' north of West Broadway Ave (CSAH 8) – 1.03 miles
- Previous segments have been completed along the same corridor:
 - SAP 027-681-023, CSAH 81 from Lowry Ave (CSAH 153) to TH 100 – 1.79 miles
 - SP 027-681-027, CSAH 81 from TH 100 to 59th Ave N – 1.61 miles
 - SP 027-681-029, CSAH 81 from 1250' north of Bass Lake Road (CSAH 10) to 2000' north of 63rd Ave N – 1.26 miles

CSAH 53

- SP 027-653-021, CSAH 53 (66th Street) from Xerxes Ave S to 16th Ave S – 3.43 miles
- Project similar in size and scope at time of bidding:
 - SAP 027-701-017, 027-701-029, CSAH 101 from Minnetonka Blvd to Wayzata Blvd – 2.27 miles

HWY 169

- SP 2772-113, Hwy 169 between Hwy 55 and just north of Hwy 62

- Project similar in size and scope at time of bidding:
 - SP 6283-175, EB I94 from E 7th St exit to pedestrian bridge 62868 in St Paul-add auxiliary lane, noise wall, drainage, pond, tms, signing, lighting, guardrail

4) Describe and quantify how the proposed contracting requirement would lead to increases in the effectiveness and efficiency of Federal funding for the project(s).

An analysis of the effectiveness and efficiency of the LHP requirement will be made through the following information:

- MnDOT will document questions and comments received from prime contractors prior to bid award that are relevant to the effectiveness and efficiency of using LHP.
- MnDOT will interview the prime contractor at the conclusion of the contract to obtain its opinion of the effectiveness and efficiency of the LHP provision on its construction operations and to discuss any potential concerns or recommendations for the program. This will provide one measure of the relative efficiency of the contractor in meeting the contract requirements.
- A comparison of unit bid prices - An evaluation of the unit prices for five bid items with the highest total value on the pilot project will be compared to unit prices for projects with a similar size and scope.
- MnDOT and Hennepin County will provide an evaluation of the net economic benefit of employing local residents by analyzing the potential monetary benefits that might be related to the receipt of funds from other federally assisted programs (e.g. reductions in the County's unemployment rolls, payments for uninsured health insurance costs, etc.). The economic analysis will address the extent to which other Federal funds may be impacted by reducing unemployment in the local workforce.
- MnDOT will utilize summary unemployment data to track the pool of skilled labor available to contractors. MnDOT will provide an evaluation of the effect on the pool of skilled labor available to all contractors with or without the use of LHP.

5) Describe and quantify how the proposed experimental contracting technique would protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program.

MnDOT and Hennepin County are committed to maintaining the integrity of the competitive bidding process. To that end, MnDOT has approved the County's project administration procedures with oversight from the MnDOT Office of State Aid, thus allowing the County to administer its own state and federally-funded projects.

Hennepin County has used the Local Hiring Preference on a number of its State and locally funded projects, and has not encountered issues in maintaining the integrity of its competitive bidding process. Should there be issues with this project, MnDOT is confident that the project administration process will provide satisfactory safeguards and ensure the competitive nature of the bidding process.

6) Describe whether or not the proposed contracting requirement has been the subject of litigation or whether litigation surrounding the use of the requirement has been threatened.

MnDOT is not aware of any litigation surrounding local hiring preferences or Hennepin County's Workforce Entry Program. MnDOT is aware of the Associated General Contractors comment submitted in response to the U.S. D.O.T.'s proposal that generally opposes the use of local hiring preferences. However, the Minnesota AGC has indicated its general support of the incentive program.

F. Reporting

MnDOT will prepare and submit initial and final evaluation reports for the project. The initial report will be prepared shortly after the award of contract. The initial report will include a description of any concerns raised by stakeholders following approval of the proposal and any identifiable effects on the bids received.

A final report will be submitted upon completion of the series of projects. The final report will contain an overall evaluation of the local hiring preference incentive along with any suggestions and recommendations for improving the process.

Attachments

Exhibit A: Workforce Availability Data

Exhibit B: Notice to Bidders

Exhibit C: Analysis of Bidder Pool With and Without Hennepin County WEP Program

Section 192 Certification

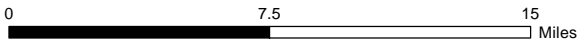
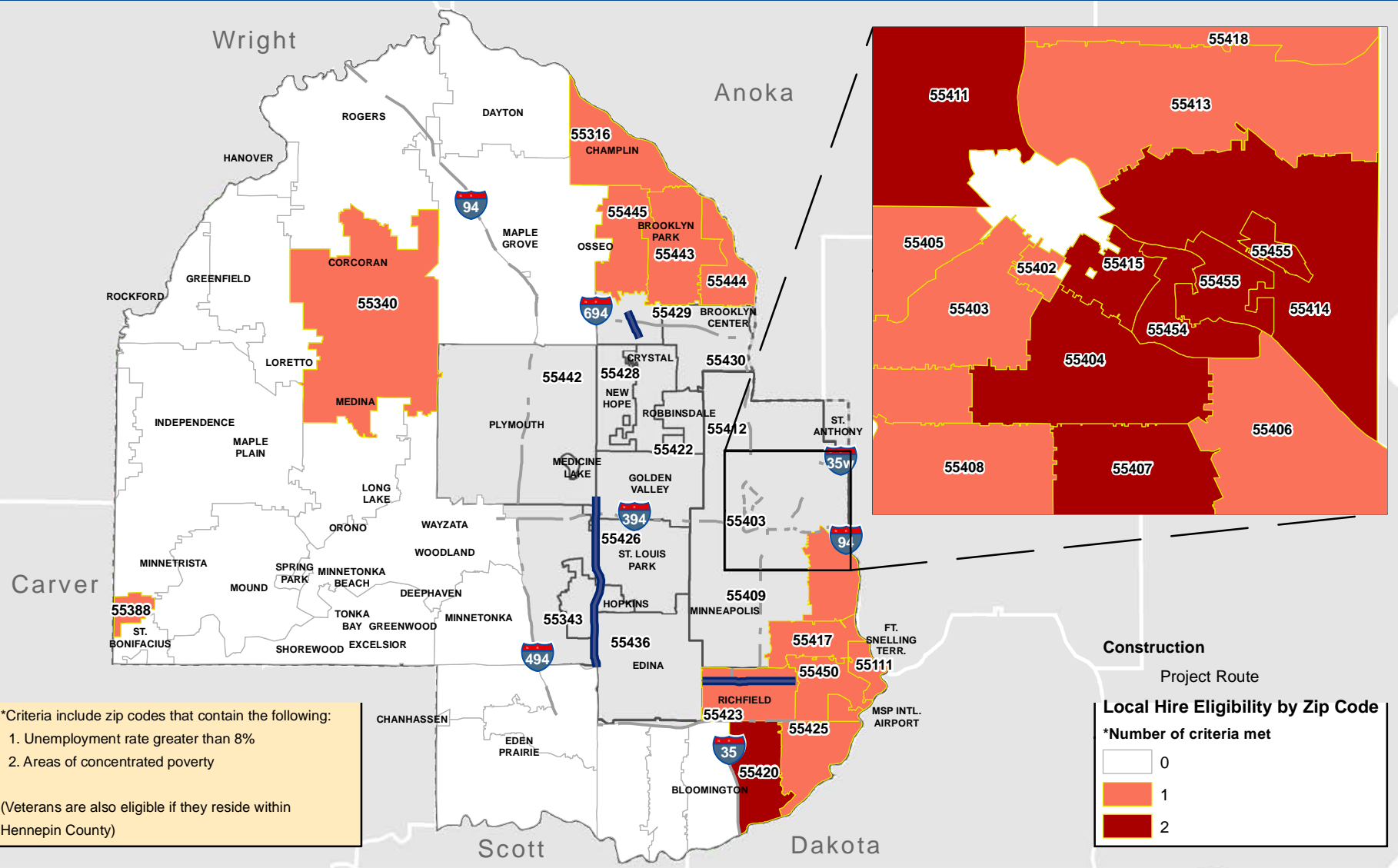
In conformance with the Section 192 of the FY Appropriations Act, MnDOT certifies that the following three conditions have been satisfied for the three pilot construction projects:

SEC. 192. The Department of Transportation may use funds provided by this Act, or any other Act, to assist a contract under title 49 U.S.C. or title 23 U.S.C. utilizing geographic, economic, or any other hiring preference not otherwise authorized by law, except for such preferences authorized in this Act, or to amend a rule, regulation, policy or other measure that forbids a recipient of a Federal Highway Administration or Federal Transit Administration grant from imposing such hiring preference on a contract or construction project with which the Department of Transportation is assisting, only if the grant recipient certifies the following:

- (1) that except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;***
- (2) that the grant recipient will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and***
- (3) that any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.***

Exhibit A: Workforce Availability Data

Hennepin County Eligible Residents for US DOT Local Labor Hiring Pilot Program



Hennepin County Public Works



Exhibit B: Notice to Bidders

NOTICE TO BIDDERS

1. The contractor will receive an incentive of \$5 for each hour worked on this contract by 1) residents of areas with an unemployment rate greater than 8%, 2) residents of areas in Hennepin County identified as having a high concentration of poverty, and 3) veterans residing in Hennepin County. The total amount of incentive received under this provision will not exceed \$15,149.65. The incentive will be paid monthly. The contractor shall not displace any of its existing employees in order to satisfy such hiring preference.
2. At the start of construction, the contractor must submit a plan to meet the item 1 requirement. The contractor must also provide certified payrolls via CRL for each week Project Work is performed. The certified payroll reports must include all of the contractor employees and subcontractor employees working on the project, their current residency, and whether they meet any of the four incentive eligibility criteria in item 1 above.
3. The contractor must verify each laborer's eligibility for local hiring preference by requiring the laborer to provide a Minnesota driver's license with a local address or a comparable form of identification for address verification purposes and capturing this information on the provided form. Eligibility must be verified before requesting payment of the incentive.
4. The contractor must identify the labor for which they are seeking the incentive and submit to MnDOT a summary that includes the name of each eligible laborer, the hours each eligible laborer worked on the project and the total incentive amount sought.
5. See Exhibit A included with this Special Provision for depiction of areas within Hennepin County:
 - 1) With an unemployment rate greater than 8%, and
 - 2) Identified as having a high concentration of poverty

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Local Hire Residency and Veteran Certification Form

I, _____, certify the following is true and correct:

Current Employer Name:

Trade Classification:

Employment Period:

Residency Certification within Hennepin County

I reside at: (street address)

City: _____ State: _____ ZIP: _____

United States Military Veteran Status Certification

Are you a Veteran?: Yes ☐ No ☐

Employee Certification

I understand that this certification is subject to verification by the Minnesota Department of Transportation or Hennepin County. All of the statements made above are true and correct under penalty of perjury in the State of Minnesota.

I understand that I am being asked to provide Not Public data about myself. I understand I am not legally required to provide this data, however failure to do so may impact the contractor's decision to hire me or for the contractor to receive an incentive based on my employment. Completing this form does not establish an employment relationship.

Neither the Minnesota Department of Transportation nor Hennepin County have any control or knowledge over what private parties may do with the data you provide, however if the data you provide is shared with either Hennepin County or the Minnesota Department of Transportation the data will be used by employees whose work reasonably requires access to the data. Your data may also be shared with anyone you specifically authorize, pursuant to court order, and by any other person or entity authorized by state or federal law (e.g. Attorney General's Office, Legislative Auditor's Office, and law enforcement agencies).

Employee Signature: _____ Date: _____

Contractor Certification

The applicant is eligible for the following local hire preference incentive based on the following: *(select at least one)*

- ☐ Resident of project ZIP
- ☐ Resident in area with high concentration of poverty
- ☐ Veteran residing in Hennepin County
- ☐ Trainee in qualifying program

The applicant provided the following:

- ☐ Driver's License ☐ Utility bill ☐ Other (Explain)

I understand that this certification is subject to verification by the Minnesota Department of Transportation or Hennepin County. All of the statements made above are true and correct under penalty of perjury in the State of Minnesota.

Contractor signature: _____ Date: _____

Return this form to: -
MnDOT Office of Civil Rights -
Transportation Building, MS 170 -
395 John Ireland Blvd -
St. Paul, MN 55155-1899 -

ocrformsubmissions.dot@state.mn.us -

Exhibit C: Analysis of Bidder Pool With and Without Hennepin County WEP Program

TRANSPORTATION BIDDER POOL PERIOD FROM YEAR 2009 - 2015

PROJECTS WITH WEP GOAL

NO.	CONTRACTOR	PROJECT NAME	NUMBER OF BIDDERS	CONTRACT AMOUNT	TOTAL EST PRJ HRS	WEP% GOAL	WEP GOAL HRS	GOAL WEP APPRN.	PRJ DATES
1	Veit & Co	Paved Multi-Use Trail CSAH 19	4	\$ 1,721,590.0	7,792	6%	468	2	07/01/09-12/31/09
2	Geislinger & Sons Inc	Improvements to CSAH 9	2	\$ 10,158,200.3	23560	5%	2250	2	07/01/14-07/31/16
3	Hardrives Inc. (Rev 10/22/15)	Bituminous Mill & Overlay Various Cty Roads	5	\$ 4,552,093.4	5750	5.0%	1350	1	07/15/14-10/31/14
4	Shafer Contracting Co.	Road Reconstruction CSAH 101-Bushaway Rd	2	\$ 41,489,967.7	97641	5.0%	7372	7	09/15/14-12/31/16
5	C S Mc Crossan	CSAH 101 between CSAH 62 & Hutchins Dr. in Mntk	6	\$ 15,599,076.8	44996	5.0%	4450	4	04/01/15-11/01/2016
6	Max Steininger	CSAH 48 Minnehaha Ave	6	\$ 15,479,836.9	39280	5.0%	4600	4	05/31/15-12/31/2016
7	Valley Paving Inc	CP1453 bituminous Mill & Overlay	5	\$ 4,391,055.6	7393	5.0%	1005	1	07/07/15-10/31/15
8	Thomas & Sons Construction	CSAH 22 (Lyndale Ave South in Mpls)	2	\$ 2,751,039.9	10100	10%	1000	2	04/01/12 -12/31/12
9	Hardrives Inc.	Mills & Overlay Bituminous Pavement	4	\$ 844,210.2	4,800	15%	720	0	08/29/10-10/30/10
10	PCI Roads	Concrete Pavement Rehab -Ply & New Hope	1	\$ 308,000.0	2,200	20%	440	2	06/05/10-08/28/10
11	Knife River Construction Inc.	Mills & Overlay Bituminous Pavement	5	\$ 1,968,030.0	7,250	20%	1,200	3	07/26/10-12/31/10
12	Sheehy Construction	Victory Memorial Drive Flag Pole	8	\$ 881,983.5	5,000	20%	1,000	2	07/27/10-04/30/11
13	Valley Paving Inc.	Improvements to CSAH 14 in Champlin	8	\$ 4,449,256.9	36,000	20%	6,720	4	09/15/10-12/31/11
14	Bituminous Roadways	Mills & Overlay Bituminous Pavement	5	\$ 482,945.7	1,600	20%	320	1	09/19/10-11/30/10

PROJECTS WITHOUT WEP GOAL

[illegible]