



July 27, 2022

Mr. Bill Lohr  
Field Operations Team Lead  
FHWA – Minnesota Division  
180 East Fifth Street, Suite 930  
St Paul, MN 55101

RE: Special Experimental Project 14  
Locked Incentive Date (LID) Request for SP 1906-71

Dear Mr. Lohr:

Please accept this correspondence for the Special Experimental Project 14 – Locked Incentive Date (LID) request for use on SP 1906-71. The Department is requesting permission through the Minnesota Division Office to continue its cautious use of the LID specification.

Previous projects have shown that LIDs can be an effective tool to aid in accelerating completion of critical projects. The use of the LID specification does not ensure that acceleration will be successful nor even strived for by the Contractor.

Based on the information provided this attachment and findings in the previous reports the Department requests SEP-14 approval to use the LID specification on this project. The Office of Construction and Innovative Contracting will continue to oversee the implementation of this specification.

This project has a currently assigned Letting date of November 9, 2022. We look forward to hearing from you on our request.

If you have any questions, please contact Kevin Kosobud (218-310-3677) or myself at 651-295-4194.

Sincerely,

**Digitally signed by Thomas Ravn** Date: 2022.07.28 09:11:24 -05'00'

Tom Ravn, PE  
State construction Engineer

CC: Paul Johns, OCIC  
Brian Tomassoni, Metro District, Mendota Office  
Kevin Kosobud, OCIC

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State of Minnesota  
Department of Transportation

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**APPLICATION FOR  
SPECIAL EXPERIMENTAL PROJECT:**

**S.P. 1906-71**

**TH 52**

**Unbonded Concrete Overlay**

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**July 2022**

## **A—INTRODUCTION**

**Purpose.** The Minnesota Department of Transportation (Mn/DOT) hereby submits this work plan of the proposed Unbonded Concrete Overlay in the County of Dakota, State of Minnesota, for review and approval by the U. S. Department of Transportation (USDOT) Federal Highway Administration (FHWA) as a project under the provisions of Special Experimental Project No. 14 (SEP 14). Approval is requested to use an innovative contracting practice Locked-Incentive Date (LID).

Mn/DOT is the governmental entity responsible for the design, construction, and maintenance of trunk highways throughout the State of Minnesota. As an integral part of that responsibility, Mn/DOT is continually seeking improved processes and procedures for efficiently and cost-effectively delivering on-time, high-quality highway projects to the citizens of the State of Minnesota.

Mn/DOT has used a LID on several state and federally funded projects, dating back almost 15 years. This includes of TH 36 Highways for Life project, 94/35E Concrete Pavement Repair (CPR) and the I-35W St. Anthony Falls Bridge over the Mississippi River. Mn/DOT has had great success on the projects that have used this clause and is confident that the LID clause will be successful on this project also.

**Existing Conditions.** SP 1906-71 is a Concrete Overlay project on TH52 in Dakota County. Project limits are from north of CSAH 42 to CSAH 86 in Cannon Falls. The project limits were established based on existing pavement sections on either side of the limits of this project. An Unbonded Concrete Overlay (UBOL) was completed in 2021 that will tie into this project on the south and existing concrete pavement in good condition is at the north limit of this project. The southern 5 miles of this project is bituminous over concrete (BOC) and the Northern 10 miles is bituminous over bituminous (BOB). The northern portion of the project has the worst ride and most surface distress, with the BOC section riding only slightly better than the BOB.

**Project Description.** The primary needs of the project are: to extend the minimal remaining service life of the pavement on TH52; and the desire for long term ride improvement. MnDOT uses four indices to report pavement conditions, rank existing pavement sections, and predict the need for future maintenance and rehabilitation. The ride quality index (RQI) of this section of area places was fair and good in the south and north segments respectively, but some most of that can be attributed to significant maintenance patching over the preceding years including recent micro-surfacing efforts. A formal cost analysis determined that a UBOL and White Topping over the bituminous and concrete sections (after milling) is the most cost effective option for the 50 year analysis period selected. Reconstruction under bridges to maintain clearance and overlay or reconstruction is also slated for this project.

## **B—PURPOSE**

**Approval of Innovations.** Mn/DOT requests that FHWA approve this following innovation:

- ▣ A locked-incentive date early completion clause.

**Expected Benefits.** We expect the locked incentive date approach to produce the following benefits:

- Completed in one construction season.
- Reduced traffic impact, less impact to businesses, commuters and freight.
- Minimize head-to-head configuration by accelerating project and forcing more work to be done simultaneously during stages.

## **C—SCOPE**

The scope of this SEP 14 request is to reduce the need for a partial 2<sup>nd</sup> construction season and therefore reduce the duration of traffic impacts and the cost of the extensive traffic control required for the work. The construction will impact several interchanges, which will lead to long detours for local residents for portions of the project. TH52 also has significant at-grade access that is impacted for the duration of the project. Acceleration of this project will greatly reduce impacts to business, shipping and reduce commuter delays.

The incentive amount is based on approximately 1.2% of the anticipated contract bid price. This amount was agreed to by all project partners as a reasonable incentive and an attractive incentive for the contractor. The incentive cost is lower than the estimated impact costs to motorists and businesses.

## **D—SCHEDULE**

Mn/DOT's goal is to complete major traffic impacting work on this project (except for miscellaneous cleanup) by November 17, 2023. The Contractor must provide written notice to the Engineer of its election to either accept or decline the LID incentive payment within 30 days after verification from the Engineer, that they have completed the work required by the LID. If they intend to pursue the LID, they must submit a Progress Controlling Schedule, reflecting the accelerated schedule, for approval by Mn/DOT.

If the LID is not pursued, the Contractor must complete all Work to meet the requirements of MnDOT 1516.2 "Project Acceptance" under this contract before July 11, 2025.

## **E—EVALUATION MEASURES**

After completion, the project will evaluate the effectiveness of the locked incentive date clause. This evaluation will examine the reasons why the incentive was met or not met, evaluate the effectiveness of the LID modification, contractor's impression and make any recommendations for using the LID on future projects.

## **F—REPORTING**

Mn/DOT anticipates that it will file with the FHWA a summary report for the project.

**Summary Report.** A summary report will be submitted within 90 days following final contract acceptance of the project. This report will:

- ▣ Evaluate the completed project against the same factors described in Section E;
- ▣ Describe lessons learned, pitfalls to avoid, and suggestions for improvements on future innovative procurements.
- ▣ Document contract complications encountered and claims made during construction;

Mn/DOT believes the procedures described herein will result in very successful project. Mn/DOT looks forward to working with the FHWA as the project progresses and to providing FHWA and others with the benefits of Mn/DOT's experience with LIDs on our projects.

### **Exhibit A**

#### **PROPOSED LOCKED INCENTIVE DATE CONTRACT LANGUAGE**

**S.1.1** In addition to other time requirements, if the Contractor completes all work defined in 1806 (Determination and Extension of Contract Time) S-6.5 and S-6.6: this includes:

Concrete Paving, lighting, signing, permanent striping, RCIs, RCUTS, high tension and plate beam guardrail, concrete barrier, crossover removals, bridge work, approach panel, moment slabs, and installation of permanent turf establishment As-builts, Punch list and permanent turf establishment are exempt.

A "Locked Incentive Date (LID)" Payment is made available to the Contractor under the following conditions:

1. Subject to the conditions set forth below, the Department shall pay the Contractor a lump sum incentive of \$700,000.00 if the work specified above in this Section is completed on or before November 17, 2023 (hereinafter the "Locked Incentive Date" or "LID").

2. The LID shall not be adjusted for any reason, cause or circumstance whatsoever, regardless of the cause of the delay, and even though it may have been caused by Mn/DOT. Contractor acknowledges and agrees that delays may be caused by or arise from any number of events during the course of the Contract. Such delays or events and their potential impacts on the performance by the Contractor are specifically contemplated and acknowledged by the parties in

entering into this Contract and shall not result in an extension of the LID set forth above. Any and all costs or impacts incurred by the Contractor in accelerating the Contractor's work to overcome or absorb such delays in an effort to complete the work by the LID, regardless of whether the Contractor successfully meets the LID or not, shall be the sole responsibility of the Contractor in every instance.

3. If the Contractor fails to complete the work by the LID, the Contractor reserves the right to submit claims for additional compensation in accordance with Mn/DOT 1517, or for time extensions in accordance with Mn/DOT 1806, for work performed prior to the LID. The Contractor shall not, however, make a claim for any acceleration costs associated with attempting to meet the LID date.

4. The Contractor shall provide proper notification of all claims in accordance with MN/DOT 1517 to allow Mn/DOT the option of mitigating or documenting the extra costs, excluding acceleration costs.

5. If the Contractor completes the work by the LID, the following shall apply:

A. The Contractor must promptly request written verification from the Engineer that the required work was completed on or before the LID. The Contractor shall request this verification from the Engineer in writing on or before the LID.

B. The Contractor shall elect to either:

1) Accept payment of the LID incentive; or

2) Reject payment of the LID incentive and instead reserve the right to submit claims for additional compensation or time extensions (in which the Contractor shall not have the right to make a claim for any acceleration costs associated with attempting to complete Work on or before the Locked Incentive Date).

C. The Contractor must provide written notice to the Engineer of its election to either accept or decline the LID incentive payment within 30 days of receiving the Engineer's verification that work was completed by the LID. If the Contractor does not notify the Engineer of its election within 30 days, the Contractor shall be deemed to have waived its right to accept the incentive, and shall retain the right to submit claims as specified above.

6. If the Contractor elects to accept the LID incentive payment, the following shall apply:

A. The Contractor agrees that the incentive payment shall constitute full and final settlement of all claims for additional compensation or time extensions that the Contractor has submitted, could have submitted, or might otherwise hereafter submit, on

behalf of itself or any subcontractor or supplier, for work performed up to and including the Locked Incentive Date. This includes all claims that may already be pending with the Department, or in any alternative dispute resolution process such as mediation or arbitration, or before a Dispute Review Board.

B. The Contractor releases and covenants not to sue the State based upon any claims, demands, charges or causes of action, accruing to the Contractor (including its subcontractors and suppliers) up to and including the Locked Incentive Date. This waiver of claims covers all known or unknown damages, losses, charges, expenses, delays or compensation of whatever nature or kind based upon or in any way arising out of any work performed or materials provided by the Contractor (including its subcontractors and suppliers) for this Project.

C. Payment of the incentive shall be made on the first partial estimate voucher processed after the Engineer receives the Contractors written request to accept the incentive.

7. Payment of the LID incentive is intended to assure the Department and the public of the benefits of early completion of the specified work and to eliminate claims disputes. Should this provision conflict with any other provision of the Contract, this provision shall prevail, and the Contract shall be interpreted in accordance with it.