



CITY of NOVI CITY COUNCIL

Agenda Item C
March 24, 2014

SUBJECT: Approval of cost participation agreement with the Road Commission for Oakland County for the Haggerty Road Lane Gap Construction project (south of Ten Mile Road) allocating \$40,000 of the total project cost to Novi (of which \$18,500 is to be paid by the City of Farmington Hills).

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division *BTC*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

On February 18, 2014, City Council approved a resolution authorizing participation in the Road Commission for Oakland County's 2014 Tri-Party Program for road improvements and dedicated Novi's 2014 allotment of \$159,089 to the Haggerty Road Lane Gap project (located south of Ten Mile Road). The project would add a right lane to fill a 700-foot long lane drop on southbound Haggerty, south of Ten Mile Road. A lane drop occurs when one through lane is merged into another. Such is the case between Westminster Circle and Shorebrooke Townhouses where there is a transition from two southbound lanes to one lane and then back to two southbound lanes. As explained in the attached memo, there were several other lane drops along Haggerty Road that have been addressed over the past few years, and this specific location is the last remaining lane drop.

Filling this gap has been scoped as a potential project in the proposed FY 14-15 Capital Improvements Program (CIP), in the amount of \$110,000, which excludes the design engineering awarded on March 10 (FY13-14 budget) in the amount of \$9,970. Once the project is designed and constructed, any leftover Tri-Party funds could be re-allocated to one of several future road projects such as Napier Road paving (Nine Mile Road to Ten Mile Road).

The attached agreement between the Road Commission for Oakland County (RCOC), Oakland County, and City of Novi is being presented for consideration to formalize the allocation of costs for the project between the three parties. Typically, RCOC would administer the engineering and construction contracts for Tri-Party project and the City would make payments to RCOC for the City's share. RCOC is unable to commit to 2014 construction based on current workload; therefore, the City will use consultants to prepare construction drawings and specifications and will administer the construction contract. The agreement reflects this arrangement and allows the City to invoice RCOC and Oakland County for the total contribution for each.

The City of Farmington Hills has pledged \$18,500 to offset the City of Novi's share of the project costs. The City of Farmington Hills is not included in the agreement because they are using the general fund for the cost share rather than Tri-Party funds. A separate invoice will be sent to Farmington Hills for its share of the project costs.

The cost participation agreement is based on the current project estimate of \$120,000 (including engineering and construction costs). The allocation of costs under the agreement is as follows:

Total Estimated Project Cost Haggerty Lane Gap		\$120,000
Tri-Party Funding to be paid to Novi		
Road Commission for Oakland County	\$40,000	
Oakland County	\$40,000	
		<u>(\$80,000)</u>
Less Tri-Party Funding due to Novi		
City of Novi Share per the Agreement		<u>\$40,000</u>

The following shows Novi's final project cost participation based on the commitment from the City of Farmington Hills:

City of Novi Share Per the Agreement	\$40,000
Less City of Farmington Hills Contribution	<u>(\$18,500)</u>
Final Novi Project Cost Haggerty Lane Gap	<u>\$21,500</u>

The proposed agreement has been reviewed by staff and the City Attorney (see Beth Saarela's March 6, 2014 letter, attached).

The construction of the project would not be awarded until after July 1, should the project be funded in FY14-15 budget. It is anticipated that once awarded, the construction of the project would be completed this construction season.

RECOMMENDED ACTION: Approval of cost participation agreement with the Road Commission for Oakland County for the Haggerty Road Lane Gap Construction project (south of Ten Mile Road) allocating \$40,000 of the total project cost to Novi (of which \$18,500 is to be paid by the City of Farmington Hills).

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				



JOHNSON ROSATI SCHULTZ JOPPICH PC

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Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

March 6, 2014

Brian Coburn, Engineering Manager
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: **Cost Participation Agreement – Haggerty Road South of Ten Mile Road**

Dear Mr. Coburn:

We have received and reviewed the Cost Participation Agreement prepared by the Board of County Road Commissioners (Board) for the widening of Haggerty Road south of Ten Mile.

As set forth in Exhibit A, the total project cost is expected to be \$120,000.00. The Tri-Party Program funding is to be equally shared by the City of Novi, Oakland County, and the Board in the amount of \$40,000 each. Any excess amounts will be paid by the City if no additional Tri-Party Program funds are available.

The Agreement is provided for the limited purpose of setting forth how the project costs will be divided between the named parties. The City is required to contract separately for completion of the project and will be reimbursed by the Board and Oakland County for their proportionate shares of the costs upon completion.

Specifics relating to the award and contracting of the project are set forth in Exhibits B and C to the Contract. The City is required to incorporate the provisions listed in Exhibit B into the Contract. Additionally, the City's insurance and indemnity requirements as set forth in its Supplementary General Conditions must minimally meet the requirements set forth in Exhibit C and should name all of the parties listed in the first paragraph as additional insureds in addition to the City and its consultants.

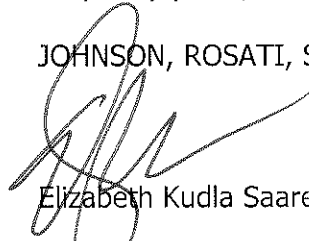
Based on the limited purpose and scope of the contract, we see no legal impediment to entering into the Agreement with the Board.

Brian Coburn, Engineering Manager
March 6, 2014
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If you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla Saarela

EKS

C: Maryanne Cornelius, Clerk (w/Enclosure)
Rob Hayes, DPS Director (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

COST PARTICIPATION AGREEMENT

CONSTRUCTION

Haggerty Road

South of 10 Mile Road

City of Novi

Board Project No. 52321

This Agreement, made and entered into this _____ day of _____, 2014, by and between the Board of Road Commissioners for the County of Oakland, Michigan, hereinafter referred to as the BOARD, and the City of Novi, hereinafter referred to as the COMMUNITY, provides as follows:

WHEREAS, the BOARD and the COMMUNITY have programmed the widening of Haggerty Road, south of 10 Mile Road, described in Exhibit "A", attached hereto and made a part hereof, which improvements involve roads under the jurisdiction of the BOARD and within the COMMUNITY, which improvements are hereinafter referred to as the PROJECT; and

WHEREAS, the estimated total cost of the PROJECT is \$120,000; and

WHEREAS, said PROJECT involves certain designated and approved Tri-Party Program funding in the amount of \$120,000, which amount shall be paid through equal contributions by the BOARD, the COMMUNITY, and the Oakland County Board of Commissioners, hereinafter referred to as the COUNTY; and

WHEREAS, the BOARD and the COMMUNITY have reached a mutual understanding regarding the cost sharing of the PROJECT and wish to commit that understanding to writing in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and in conformity with applicable law, it is hereby agreed between the COMMUNITY and the BOARD that:

1. The COMMUNITY shall forthwith undertake and complete the PROJECT, as above described, under Road Commission for Oakland County permit; and shall perform or cause to be performed all preliminary engineering, construction engineering, and administration in reference thereto.
2. The actual total cost of the PROJECT shall include total payments to the contractor.
3. The COMMUNITY shall comply with the provisions as set forth in Exhibit "B" attached hereto.
4. The COMMUNITY shall comply with the liability and insurance requirements as set forth in Exhibit "C" attached hereto.
5. The estimated total PROJECT cost of \$120,000 shall be funded in the following order:
 - a. Tri-Party Program in the amount of \$120,000.
 - b. Any PROJECT costs above the Tri-Party Program funding of \$120,000 will be funded first with any available Tri-Party Program funds. If no Tri-Party Program funds are available, any additional PROJECT costs will be funded 100% by the COMMUNITY.
6. Upon execution of this agreement, the COMMUNITY shall submit two invoices to the BOARD:
 - a. The first invoice shall be payable by the BOARD in the amount of \$40,000 (being 100% of the BOARD's Tri-Party contribution).
 - b. The second invoice shall be payable by the COUNTY in the amount of \$40,000 (being 100% of the COUNTY'S Tri-Party contribution).

- c. The invoices shall be sent to:

Ms. Julie Enders, Engineering Aide
Road Commission for Oakland County
31001 Lahser Road
Beverly Hills, MI 48025

- 7. Within 90 days of completion of the PROJECT, the COMMUNITY shall submit to the BOARD the following:
 - a. A cover letter originated by the COMMUNITY certifying that the PROJECT is now complete.
 - b. A copy of the FINAL payment estimate paid to the contractor.
 - c. One copy of the complete set of the as-built construction plans containing the adjusted quantities of the PROJECT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and date first written above.

BOARD OF ROAD COMMISSIONERS FOR THE
COUNTY OF OAKLAND
A Public Body Corporate

By _____

Its _____

CITY OF NOVI

By _____

Its _____

EXHIBIT A

TRI - PARTY PROGRAM

Haggerty Road

South of 10 Mile Road

City of Novi

Board Project No. 52321

Widening of Haggerty Road south of 10 Mile Road.

ESTIMATED PROJECT COST

Contractor Payments	<u>\$120,000</u>
Total Estimated Project Cost	<u><u>\$120,000</u></u>

COST PARTICIPATION BREAKDOWN

	COMMUNITY	COUNTY	BOARD	TOTAL
FY2014 Tri-Party Program	\$40,000	\$40,000	\$40,000	\$120,000
TOTAL SHARES	\$40,000	\$40,000	\$40,000	\$120,000

Exhibit B PROVISIONS

Bidding: The COMMUNITY shall select the contractor for its share of the work, on a competitive basis by advertising for sealed bids in accordance with its established practices.

Bonds – Insurance: The COMMUNITY shall require the contractor provide payment and performance bonds for the PROJECT; said bonds to be in compliance with the provisions of 1963 PA 213 as amended, compiled at MCL 129.201, et seq.

Further, the COMMUNITY shall require the contractor to provide insurance naming the Road Commission for Oakland County as additional named insured's. Coverage's shall be substantial as set forth in Exhibit "C", attached hereto.

Records: The parties shall keep records of their expenses regarding the PROJECT in accordance with generally accepted accounting procedures, and shall make said records available to the other during business hours upon request giving reasonable notice. Such records shall be kept for three (3) years from final payment.

Final costs shall be allocated after audit of the records and adjustments in payments shall be invoiced and paid within thirty (30) days thereafter.

EEO: The COMMUNITY shall require its contractor to specifically agree that it will comply with any and all applicable State, Federal, and Local statutes ordinances, and regulations, and with RCOC regulations during performance of the SERVICES and will require compliance of all subcontractors and subconsultants.

In accordance with Michigan 1976 PA 453, the COMMUNITY hereto agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, national origin, age, sex, height, weight or marital status. Further, in accordance with Michigan 1976 PA No. 220, as amended, the parties hereby agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

The COMMUNITY further agrees that it will require all subconsultants and subcontractors for this PROJECT comply with this provision.

Governmental Function, Scope: It is declared that the work performed under this AGREEMENT is a governmental function. It is the intention of the parties hereto that this AGREEMENT shall not be construed to waive the defense of governmental immunity held by the RCOC, and the COMMUNITY.

Third Parties: This AGREEMENT is not for the benefit of any third party.

**EXHIBIT C
LIABILITY AND INSURANCE REQUIREMENTS**

Hold Harmless Agreement: The Contractor shall hold harmless, represent, defend and indemnify the Board of County Road Commissioners of Oakland County, the Road Commission for Oakland County, its officers and employees; the County of Oakland; the Water Resources Drain Commissioner and relevant drainage district(s), if applicable; the Michigan State Transportation Commission; the Michigan Department of Transportation; and the local unit(s) of government, within which the Project is located against all claims for damages to public or private property, for injuries to persons, or for other claims arising out of the performance or non-performance of the contracted work, whether during the progress or after the completion thereof.

Insurance Coverage: The Contractor, prior to execution of the contract, shall file with the Road Commission for Oakland County, copies of complete certificates of insurance as evidence that he carries adequate insurance satisfactory to the Board. Insurance coverage shall be provided in accordance with the following:

- a. Workmen's Compensation Insurance: To provide protection for the Contractor's employees, to the statutory limits of the State of Michigan and \$500,000 employer's liability. The indemnification obligation under this section shall not be limited in any ways by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor under worker's disability compensation coverage established by law.
- b. Bodily Injury and Property Damage Other than Automobile: To afford protection against all claims for damages to public or private property, and injuries to persons arising out of and during the progress and to the completion of the work, and with respect to product and completed operations for one year after completion of the work.

1.	Bodily Injury Liability	or:	Single Limit: Bodily Injury and Property Damage
	Each Person: \$1,000,000		Each Occurrence: \$1,000,000
	Each Occurrence \$1,000,000		Aggregate: \$2,000,000
	Aggregate \$2,000,000		
	Property Damage Liability:		
	Each Occurrence: \$250,000		
	Aggregate: \$250,000		

Such insurance shall include: 1) explosion, collapse, and underground damage hazards (x,c,u), which shall include, but not be limited to coverage for (a) underground damage to facilities due to drilling and excavating with mechanical equipment; and (b) collapse or structural injury to structures due to blasting or explosion,

excavation, tunneling, pile driving, cofferdam work, or building moving or demolition; (2) products and completed operations; (3) contractual liability; and (4) independent contractors coverage.

2. Bodily Injury Liability and Property Damage Liability - Automobiles (Comprehensive Auto Liability).

The minimum limits of bodily injury liability and property damage liability shall be:

Bodily Injury Liability	or	Single Limit: Bodily Injury and Property Damage Liability
Each Person	\$500,000	Each Occurrence: \$2,000,000
Each Occurrence	\$1,000,000	

Property Damage Liability:
Each Occurrence: \$1,000,000

Such insurance shall include coverage for all owned, hired, and non-owned vehicles.

- c. Excess and Umbrellas Insurance – The Contractor may substitute corresponding excess and/or umbrella liability insurance for a portion of the above listed requirements in order to meet the specified minimum limits of liability.
- d. The Contractor shall provide for and on behalf of the Road Commission for Oakland County and all agencies specified by the Road Commission, as their interest may appear, Owner’s Protective Public Liability Insurance. Such insurance shall provide coverage and limits the same as the Contractor’s Public Liability Insurance.
- e. Notice – The Contractor shall not cancel, renew, or non-renew the coverage of any insurance required by this Section without providing 30 day prior written notice to the Road Commission for Oakland County. All such insurance shall include an endorsement whereby the insurer shall agree to notify the Road Commission for Oakland County immediately of any reduction by the Contractor. The Contractor shall cease operations on the occurrence of any such cancellation or reduction, and shall not resume operations until new insurance is in force. If the Contractor cannot secure the required insurance within 30 days, the Board reserves the right to terminate the Contract.
- f. Reports – The Contractor or his insurance carrier shall immediately report all claims received which relate to the Contract, and shall also report claims investigations made, and disposition of claims to the County Highway Engineer.

MEMORANDUM



TO: CLAY PEARSON, CITY MANAGER
FROM: ROB HAYES, DIRECTOR OF PUBLIC SERVICES/CITY ENGINEER
SUBJECT: HAGGERTY ROAD BETWEEN 9 MILE AND 10 MILE ROADS
DATE: FEBRUARY 6, 2014

*2/6/14
To Mayor & City Council
For your upcoming consideration.*

A lane drop occurs where one through lane is merged into another (for example, reducing a 4-lane roadway to a 3-lane section). Over the years, several lane drops along Haggerty Road south of Ten Mile Road have been eliminated. In 2007, the City of Novi funded the elimination of three lane drops between Nine Mile and Eight Mile Roads: one on the west/Novi side and two on the east/Farmington Hills side of Haggerty. All involved widening the roadway from a 3-lane to a 4-lane section. Last summer, Farmington Hills' Mahle, Inc. expansion project included the widening of Haggerty to eliminate another lane drop on the east side of Haggerty.

RH

Now there is a single remaining lane drop, which is located on the west side of Haggerty that starts a 1/4-mile south of Ten Mile (just south of Westminster Circle) and continues for approximately 700 feet (north of the Mahle project):



Filling this gap has been scoped as a potential project in the proposed FY14/15 Capital Improvements Program (CIP), and has a total estimated project cost of \$110,000.

We approached colleagues at the City of Farmington Hills' Department of Public Services to see if they would be amenable to participating in this project, since Novi solely funded eliminating the three lane drops in 2007. Because we were contemplating the use of Tri-Party funds for this project, Farmington Hills has agreed to participate by contributing up to half of our Tri-Party share (half of one-third of the cost, which equates to 16.67% or roughly \$18,500). We recently received word that our annual Tri-Party allocation for 2014 would be \$159,089. Therefore, we propose to dedicate Tri-Party funding toward the construction of this project; and because the Road Commission for Oakland County (RCOC) does not currently have the bandwidth to complete project design, we would retain a design consultant to prepare construction drawings and specifications. Once the project is designed and we have a better defined cost estimate, we would allocate any leftover Tri-Party funds to one of several future road projects.

Our plan is to present a resolution designating this project for 2014 Tri-Party funding at the February 18 City Council meeting. The award of a contract for design services would be presented at Council's March 10 meeting.

Please let me know if you have any questions, comments or concerns in regard to the planned approach to complete this project.

cc: Victor Cardenas, Assistant City Manager
David Molloy, Director of Public Services
Brian Coburn, Engineering Manager
Carl Johnson, Finance Director

Hayes, Rob

From: Gary Mekjian <GMekjian@fhgov.com>
Sent: Thursday, January 30, 2014 9:37 AM
To: Hayes, Rob
Cc: James Cubera; Steve Brock
Subject: Re: Haggerty South of Ten Mile - Follow-up

Rob,

I have discussed this issue with Steve Brock and we propose that the City of Farmington Hills will contribute in an amount not to exceed \$18,500. We arrived at this number based on your project cost estimate, and the City of Novi asking RCOC to construct this as a tri-party project.

If you have any other questions please call me.

Gary M. Mekjian, P.E.
Director of Public Services
City of Farmington Hills, MI
31555 W. Eleven Mile Road
Farmington Hills, MI 48336
Office: (248) 871-2535

>>> Gary Mekjian 1/8/2014 4:09 PM >>>

Rob,

please forward to me the location, scope, and project cost estimate for the proposed project. Once I have this, I'll take a look at it with my staff. Some initial concerns are that based on it being a relatively small project, unit pricing will come in over estimate, at least that's been our recent experience on a similar county road project in the Hills. Also, if this has to be bid through MDOT, it's going to drive the costs up too.

>>> "Hayes, Rob" <rhayes@cityofnovi.org> 1/8/2014 1:55 PM >>>

Hey, Gary:

Now I recall the other program Tom mentioned that could fund this last lane drop gap and is something I've not heard of before: the Federal "National Highway Performance Program" (NHPP – a new component of MAP-21?). The earliest we could see construction under NHPP would be 2016.

Also just to clarify, filling this last gap would result in a continuous 4-lane section (I think I said 3 lanes over the phone).

Thanks again for checking into this,

Rob

Pearson, Clay

From: Hayes, Rob
Sent: Thursday, January 09, 2014 11:34 AM
To: Pearson, Clay
Subject: FW: Haggerty South of Ten Mile - Follow-up
Attachments: 132-04 Haggerty Road Widening.pdf

1/9/14
To: Mayor & City
Council Members

Clay:

FYI – Farmington Hills is actually looking into helping to fund this small project.

More to follow,

Rob

We are continuing to look at ways for further improvements on RCOC's Haggerty Road, this is the south of Ten Mile Road segment. Looking at 14/15 for Tri-Party funds w/ Farmington Hills.

From: Hayes, Rob
Sent: Thursday, January 09, 2014 11:33 AM
To: Gary Mekjian (GMekjian@fhgov.com)
Cc: Coburn, Brian
Subject: RE: Haggerty South of Ten Mile - Follow-up

Hi Gary:

The project location is the lane drop on the west side of Haggerty that starts a 1/4-mile south of Ten Mile (just south of Westminster Circle) and continues for approximately 700 feet (a few hundred feet north of the POE of the Mahle project):



From the attached estimate, you can see that we're already using relatively higher unit costs for this small job. My hope is that this could be a Tri-Party project whereby we would each contribute equally in the local one-third cost share, so there'd be no LAP involvement.

This is the last remaining lane drop on either side of Haggerty south of Ten. You may recall that Novi worked with RCOC to fund the removal of 3 lane drops on the east side of Haggerty and 1 on the west side between 8 and 9 Mile back in 2007.

Thanks again for considering this proposal,

Rob



Rob Hayes, P.E. | Director of Public Services/City Engineer
City of Novi | 45175 Ten Mile Road | Novi, MI 48375 USA
t: 248-735-5636 f: 248-735-5659

cityofnovi.org | InvestNovi.org

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From: Gary Mekjian [<mailto:GMekjian@fhgov.com>]
Sent: Wednesday, January 08, 2014 4:10 PM
To: Hayes, Rob
Subject: Re: Haggerty South of Ten Mile - Follow-up

Rob,
please forward to me the location, scope, and project cost estimate for the proposed project. Once I have this, I'll take a look at it with my staff. Some initial concerns are that based on it being a relatively small project, unit pricing will come in over estimate, at least that's been our recent experience on a similar county road project in the Hills. Also, if this has to be bid through MDOT, it's going to drive the costs up too.