

February 23, 2005

TO: John Szerlag, City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven J. Vandette, City Engineer *SV*

SUBJECT: Agenda Item
Approval of MDOT Amendatory Contract 05-5032 for Demolition Work
Troy Project No. 01.105.5 – Big Beaver, Rochester to Dequindre

RECOMMENDATION

Staff recommends that City Council approve the attached Amendatory Contract No. 05-5032 to MDOT Contract No. 02-5394 with the Michigan Department of Transportation for demolition work as part of the Big Beaver, Rochester to Dequindre widening project. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreement.

The amendment as submitted is based on estimated costs, as is standard with all MDOT agreements, since these agreements are prepared when funding for the project is obligated and before actual costs are known. The City's reimbursements from MDOT, under the agreement, will be based on the actual cost incurred. This amendatory agreement allows the City to use federal funds to pay for 80% of the participating demolition costs.

SUMMARY

There are thirteen (13) single-family homes that have already been acquired by the City on Thames and Sparta for the project. These homes are currently vacated and will be demolished prior to the road project starting later this summer.

FUNDING

The estimated cost for the demolition phase is \$152,500. Of this amount, \$122,000 in Transportation Economic Development funds is available. The local share of the project, to be paid for by the City, is estimated at \$30,500. Funds for the City of Troy's share are included in the 2004-05 Major Road Capital budget, account number 401479.7989.011055.

AMENDMENT TO CONTRACT 02-5394

CAB

Control Section EDCF 63544
Job Number 59072
Project MG 0263(064)
Federal Item No. RR 3308
CFDA No. 20.205 (Highway
Research Planning &
Construction)
Contract No. 05-5032

THIS AMENDATORY CONTRACT is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF TROY, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to this Amendment to CONTRACT #02-5394.

WITNESSETH:

WHEREAS, the parties to the Amendment have heretofore, by a Contract dated January 6, 2003, hereinafter referred to as "CONTRACT 02-5394" provided for the construction and financing of that which is hereinafter referred to as the "PROJECT" and is described as follows:

Acquisition of right-of-way for the widening to a six-lane boulevard of Big Beaver Road from Rochester Road to Dequindre Road; and all together with necessary related work.

WHEREAS, the DEPARTMENT and the REQUESTING PARTY having appropriate authority desire to amend CONTRACT 02-5394 to provide for the demolition work to be advertised and awarded by the DEPARTMENT.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that:

1. Section 4 of CONTRACT 02-5394 is revised to read as follows:

4. The REQUESTING PARTY will perform or cause to be performed all the PROJECT work, except for the demolition work. The method of performing the work will be indicated on the work authorization. The demolition work necessary for the completion of the PROJECT will be placed under contract by the DEPARTMENT.

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2. Section 5 of CONTRACT 02-5394 is revised to read as follows:

5. The PROJECT COST shall be met in part by contributions by the Federal Government and/or TED FUNDS. Federal Minimum Guarantee Funds being used as TED FUNDS Category C shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 80 percent. The balance of the PROJECT COST, after deduction of Federal Funds and/or TED FUNDS, shall be paid by the REQUESTING PARTY. The PROJECT COST is estimated to be as follows:

	<u>ESTIMATED COST</u>	<u>Federal Minimum Guarantee Funds Being Used As TED FUNDS</u>	<u>REQUESTING PARTY'S SHARE</u>
Work by REQ PARTY	\$4,047,500	\$3,238,000	\$809,500
Work Contracted by DEPT	\$ 152,500	\$ 122,000	\$ 30,500
Total	\$4,200,000	\$3,360,000	\$840,000

Any items of PROJECT COST not reimbursed by Federal Funds and/or TED FUNDS will be the sole responsibility of the REQUESTING PARTY.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds and/or TED FUNDS earned as the PROJECT progresses.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

3. Section 6 of CONTRACT 02-5394 is revised to read as follows:

The DEPARTMENT will issue a separate authorization to the REQUESTING PARTY to proceed with the performance of the PROJECT, excluding the demolition work.

4. Section 8 of CONTRACT 02-5394 is revised to read as follows:

8. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT does not relieve the REQUESTING PARTY of its exclusive jurisdiction of any of its highways and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

5. Section 11 of CONTRACT 02-5394 is revised to read as follows:

11. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the contract for demolition work for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

6. Except as amended by the provisions herein, all of the provisions, covenants, and obligations of the parties contained in CONTRACT 02-5394 shall remain in full force and effect.

7. The REQUESTING PARTY waives any and all claims it has or may have against the DEPARTMENT which arise out of the need to amend CONTRACT 02-5394.

8. This Amendatory contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto; upon the adoption of the necessary resolution approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF TROY

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:

2/10/05
[Signature]
REQUESTING
OFFICER
[Stamp: WCS REVIEWED 2-8-05 CONTRACT # 000000]