June 30, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steve Vandette, City Engineer

SUBJECT: **Agenda Item** - Approval of Cost Participation Agreement for the Reconstruction of Crooks Road, Square Lake to M-59
Project No. 94.108.6

RECOMMENDATION

Staff recommends that City Council approve the attached Cost Participation Agreement with the Board of Road Commissioners for the County of Oakland for the reconstruction of Crooks Road, Square Lake to M-59. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreement.

REVISED AGREEMENT INFORMATION

This item was previously presented to City Council at their meeting of June 19, 2006. Discussion of the project limits led to the postponement of the item until the regular City Council meeting of July 10, 2006 so that staff could review the project limits.

The agreement previously submitted was based on project limits previously established in MDOT Contract No. 06-5094 executed by the RCOC and MDOT. The MDOT contract is prepared before the project has been bid and is based on the best available information at the time it is prepared. This contract must be in place early on as it obligates the federal funds for the project and establishes the financial responsibilities of each party.

Staff has reviewed the MDOT contract along with the previous cost participation agreement with the RCOC. Attached is a revised agreement formalizing the cost sharing of the non-federally funded portions of the project along with the sharing of the local match between each party that is based on the as-bid construction plans. Since the construction phase has already started, we are able to use the actual construction documents, rather than previous estimates, which are traditionally used in these types of agreements.

By using the as-bid documents, the total length of the project is now described as 2.46 miles or an increase in the overall project length of 0.13 miles. The length of the project in Troy is 1.06 miles or 43% as compared to 1.11 miles and 48% previously. The length of the project in Rochester Hills is 1.40 miles or 57% as compared to 1.22 miles and 52% previously. The RCOC as the lead agency, is responsible for 50% of the local match in each community; therefore Troy's share of the local match is 22% while Rochester Hills share is 28% as compared to 24% and 26% previously. In addition to the 22% local match, non-participating local construction items (items ineligible to receive federal and/or state funding) which include sanitary sewer installation and street lighting in the City of

Troy (which are independent of the revised project length) make up the remainder of Troy's total project share of $1,211,150 an apparent reduction in the local match for Troy of $70,900 over the previous agreement.

While the use of the as-bid documents allows us to provide a more accurate representation of the project limits, the dollar amounts discussed are based on as-bid prices and amounts and are subject to change based on as constructed amounts. As-bid amounts are not as-constructed amounts and as such final construction costs are established at the conclusion of the construction phase after MDOT performs an audit of the project. The percentages established in the revised agreement will not change unless the project limits were to change during construction.

PROJECT INFORMATION

Crooks Road will be widened to a four-lane concrete boulevard from Square Lake Road to just south of M-59. The project will also include improvements at the Crooks/South Boulevard and Crooks/Auburn Road intersections. The Crooks Road project is currently under construction. The project will take two years to complete and is the single most expensive project ever undertaken by the Road Commission for Oakland County (RCOC). Final landscape and cleanup work is anticipated to be completed in the spring of 2008.

FUNDING

The total estimated project cost is $19,040,000 as detailed in the attached "Exhibit A". Of this amount, Troy's share is $1,211,150. We have reserved Tri-Party funds in the amount of $779,900 from our 2002, 2003 and 2004 Tri-Party allocations to partially offset this cost. Troy is responsible for 1/3 of the Tri-Party allocation or $259,966 with the remaining $519,934 paid by the RCOC and the Oakland County Board of Commissioners. By reserving the past year's Tri-Party funds, Troy's actual share of the project is reduced to an estimated total amount of $691,216 an overall net reduction of $23,634 when compared to the previous agreement.

Funds for the City's share are included in the 2005-06 and 2006-07 Major Road Capital fund, account number 401479.7989.941086 as well as in the 2006-07 Water Fund and Sewer Fund, account numbers 555.7972.045015 and 535.7973.044015, respectively. The amounts include funds for construction, inspection and contingencies.

Prepared by: William J. Huotari, Deputy City Engineer
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COST PARTICIPATION AGREEMENT

CONSTRUCTION

CROOKS ROAD
Square Lake Road to Highway M-59
In the
City of Troy and City of Rochester Hills

BOARD Project No. 47971

This Agreement, made and entered into this_____day of_____, 2006, by and between the Board of Road Commissioners for the County of Oakland, Michigan, hereinafter referred to as the BOARD, the City of Troy, hereinafter referred to as TROY; and

WHEREAS, the BOARD, in cooperation with the Michigan Department of Transportation, hereinafter referred to as MDOT, the City of Rochester Hills, hereinafter referred to as ROCHESTER HILLS, and TROY have programmed the reconstruction and widening of Crooks Road, hereinafter referred to as the PROJECT; and

WHEREAS, for purposes of identification and funding, the PROJECT has been divided into the described limitations:

PART A – FEDERAL AND/OR STATE PARTICIPATION

Construction is described as 2.46 miles of hot mix asphalt and concrete pavement work along Crooks Road from Square Lake Road to approximately 2650 feet north of Auburn Road; including pavement removal , earthwork, storm sewer, water main repair, and traffic signal work; and all together with necessary related work. This work is eligible to receive federal and/or state funding.

PART B – NO FEDERAL OR STATE PARTICIPATION

The installation of sanitary sewer together with associated engineering and inspection services and street lighting installation within the City of Troy, defined as the distance of 1.06 miles located on Crooks Road from the centerline of the Square Lake Road intersection to the centerline of the South Boulevard Road intersection. This work is ineligible to receive federal and/or state funding.

PART C – NO FEDERAL OR STATE PARTICIPATION

The installation of water main together with associated engineering and inspection services within the City of Rochester Hills, defined as the distance of 1.40 miles located on Crooks Road from the centerline of the South Boulevard Road intersection to approximately 2650 feet north of Auburn Road. This work is ineligible to receive federal and/or state funding.

Part D – No Federal Participation

The removal of abandoned DTE Utilities located on Crooks Road within the PROJECT limits.

WHEREAS, the estimated total PROJECT cost is $19,040,000; and

WHEREAS, the BOARD has executed MDOT Contract 06-5094 for partial funding of the PROJECT cost with Federal Equity Bonus Funds being used as Transportation Economic Development Funds, Category C Program; and

WHEREAS, the BOARD, as the requesting party therein, shall be the party financially responsible to MDOT to bear all costs of the PROJECT in excess of federal funds, hereinafter referred to as the LOCAL MATCH; and

WHEREAS, the total PROJECT cost shall also include items that are ineligible to receive federal funding as detailed in MDOT Contract 06-5094, hereinafter referred to as NON-PARTICIPATING items; and

WHEREAS, TROY'S share of said LOCAL MATCH, involves certain designated funding in accordance with the Tri-Party Program, in the amount of $779,900, which amount shall be funded through equal contributions paid by the BOARD, TROY, and the Oakland County Board of Commissioners, hereinafter referred to as the COUNTY; and

WHEREAS, the parties hereto have reached a mutual understanding regarding cost sharing of the LOCAL MATCH 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 parties hereto as follows:

1. TROY and ROCHESTER HILLS approve of the PROJECT, declare its public necessity, and authorize the BOARD and MDOT to forthwith undertake and complete the PROJECT, as above described, and to perform all engineering, inspection, and administration in reference thereto.

2. The actual total cost of the PROJECT may include total payments to the contractor, construction engineering, material testing and inspection, construction and permanent traffic controls, traffic signals, and utility relocation costs.

3. All cost of the LOCAL MATCH for Part A of the PROJECT shall be shared 50% by the BOARD, 22% by TROY, and 28% by ROCHESTER HILLS, respectively, as indicated in Exhibit A.

4. All contractor payments along with 15% associated engineering cost for Part B of the PROJECT, estimated in the amount of $431,250, shall be funded entirely by TROY.

5. All contractor payments along with 15% associated engineering cost for Part C of the PROJECT, estimated in the amount of $862,500, shall be funded entirely by ROCHESTER HILLS.

6. All contractor payments along with 15% associated engineering cost for Part D of the PROJECT, estimated in the amount of $201,250, shall be funded entirely by the BOARD.

7. TROY'S 22% share of the estimated LOCAL MATCH for Part A of the PROJECT cost is $779,900 and shall be funded in accordance with the following:

   a. The cumulative Tri-Party allocations are estimated in the amount of $779,900.

   b. The BOARD shall credit the COUNTY'S Tri-Party contribution of $259,967, together with the BOARD'S Tri-Party contribution in an amount equal thereto.

   c. TROY may use any remaining available funds up to the total amount allocated to TROY for the 2004 Tri-Party Program to offset any overages, if necessary.

8. ROCHESTER HILLS' 28% share of the LOCAL MATCH for Part A, estimated in the amount of $992,600, and Part C of the PROJECT cost, estimated in the amount of $862,500 shall be funded under a separate Agreement with the BOARD.

9. Upon execution of this Agreement, the BOARD shall submit an invoice to TROY for $345,608 (being half of TROY'S share of the PROJECT cost), as initial payment toward the PROJECT costs.

10. The BOARD shall invoice TROY and ROCHESTER HILLS periodically as additional costs accrue, after the initial payment has been expended.

11. Within 30 days upon completion of the PROJECT construction, the BOARD shall submit an estimated final invoice to TROY for the remainder of TROY'S share of the estimated total LOCAL MATCH.

12. The total actual LOCAL MATCH shall be determined from the records of the BOARD upon completion of state financial audits for the PROJECT and a final

determination of the total federal funds used toward the PROJECT costs. Final adjustments in the financial obligations of the parties hereto shall be made upon completion of the required audits.

13. TROY and ROCHESTER HILLS represent and warrant to the BOARD that they have sufficient funds available to pay their obligations under this Agreement and shall pay to the BOARD all sums due within 30 days of receipt of progress billings.

14. The PROJECT shall include restoration and vegetative stabilization of all medians. After growth is established, the CITY shall be responsible for maintenance of the boulevard medians. Additional landscape work shall be subject to applicable Road Commission for Oakland County permits.

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 TROY

By_____

Its_____

By_____

Its_____

EXHIBIT A

TRI-PARTY PROGRAM

County Supported Improvements

CROOKS ROAD
Square Lake Road to Highway M-59
In the
City of Troy and City of Rochester Hills

BOARD Project No. 47971

ESTIMATED PROJECT COST			
	Federally Funded Items	Items Ineligible for Federal Funds	TOTAL
Contractor Payments (based on Engineers Estimate)			
A. Road Construction	$15,000,000	0	$15,000,000
B. City of Troy Sanitary & Street Lighting Cost	0	$ 375,000	375,000
C. City of Rochester Hills Water Main Cost	0	750,000	750,000
D. Abandoned Utility Removal	0	175,000	175,000
Construction Engineering (15% of contractors pymts)	2,250,000	195,000	2,445,000
Traffic Signal Force Account Work	261,000	0	261,000
DTE/MacLeod USA Utility Relocation Force Account Work	34,000	0	34,000
Total Project Cost	$17,545,000	$1,495,000	$19,040,000
Less Federal Equity Bonus Funds (capped)	(11,712,817)		(11,712,817)
Less State TED Funds, Cat C (80% of eligible items after deduction of Federal Equity Bonus Funds)	(2,287,183)	0	(2,287,183)
LOCAL MATCH	$ 3,545,000	$1,495,000	$ 5,040,000

DISTRIBUTION OF LOCAL MATCH					
		Part A	Parts B, C, D + 15%		Total Share(s)
BOARD	(50%)	$1,772,500	(Part D)	201,250	$1,973,750
TROY	(22%)	779,900	(Part B)	431,250	1,211,150
ROCHESTER HLS	(28%)	992,600	(Part C)	862,500	1,855,100
Total Local Match	(100%)	$3,545,000		$1,495,000	$5,040,000

BREAKDOWN OF SHARES					
	ROCHESTER HLS	TROY	BOARD	COUNTY	TOTAL
Parts B, C, D + 15% for CE	$ 862,500	$431,250	$ 201,250	$ 0	$1,495,000
28% & 50% of Part A	992,600	0	1,772,500	0	2,765,100
2002 Tri-Party Program (22% of Part A)	0	47,007	47,007	47,007	141,021
2003 Tri-Party Program (22% of Part A)	0	117,242	117,242	117,242	351,726
2004 Tri-Party Program (22% of Part A)	0	95,717	95,718	95,718	287,153
Total Shares	$1,855,100	$691,216	$2,233,717	$259,967	$5,040,000