



CITY COUNCIL ACTION REPORT

December 8, 2008

TO: Phillip L. Nelson, City Manager

FROM: John M. Lamerato, Asst. City Manager/Finance & Administration
 Brian P. Murphy, Asst. City Manager/Economic Development Services
 Steven J. Vandette, City Engineer *SV*

SUBJECT: Agenda Item – Cost Participation Agreement with Clawson
 Main Street (Livernois), Broadacre Avenue to Maple Road
 Project No. 07.102.5 and 07.502.5

Background:

- Main Street (Livernois Road in Troy) was reconstructed from just north of 14 Mile Road to Maple Road under the direction of the City of Clawson.
- The east side of Main Street, north of Elmwood, is within the City of Troy and as such 28.8% of the overall project cost plus the cost for water main replacement within these limits is the responsibility of Troy.
- The attached cost participation agreement formalizes the cost sharing of the non-federally funded portions of the project, along with Troy's share of the future loan payments.
- The City of Clawson submitted and received approval to use Local Jobs Today (LJT) funding through the Michigan Department of Transportation (MDOT), which allowed them to advance construct Main Street, in 2008, rather than waiting on federal funds programmed in 2011.
- By qualifying for LJT funding, MDOT pays the local match of the project costs up to 20% (capped at \$531,000 for this project) rather than the city.
- A low interest loan (4%) is provided by MDOT in lieu of the federal funds to allow the project to be advance constructed and MDOT is repaid in 2011 when the federal funds become available.
- Governor Granholm created the Local Jobs Today plan in March of 2006 to provide grants and loans to local agencies to take advantage of available federal transportation funding and stimulate growth through the creation of road construction related jobs.
- Troy recently reconstructed Stephenson Highway, from 14 Mile to I-75 under this same program.
- The design work and construction engineering for the Main Street project have been carried out by Clawson's consultant, Anderson, Eckstein and Westrick, Inc. (AEW).
- The scope of the project called for the complete removal of the existing pavement and construction of a new five (5) lane concrete pavement. Included with the project were drainage improvements, traffic signal improvements, ADA compliant sidewalk ramp replacements and water main replacement in Troy.
- The work started in May 2008 and the road is now open to traffic. Final clean up and restoration will take place in the spring of 2009.

Financial Considerations:

- The estimated construction cost is \$3,397,776.07 with a corresponding design fee of \$202,137.92 and construction engineering fee of \$310,000 for a total estimated project cost of \$3,909,913.99.
- Troy's share of the project is \$729,135.45.
- \$411,398.74 is for the installation of new 16" diameter water main, water main design and construction engineering associated with water main and is budgeted in the Water Fund, account number 591.537.555.7972.075025.
- The remaining \$317,736.71 is for non-water main, non-participating items (traffic signal work, design fees, construction engineering and administration) and is budgeted in the Major Road Fund, account number 401.447.479.7989.071025.
- Clawson's share of the project for the non-participating items is \$597,602.59.
- Federal and State funds of \$2,583,175.95 are used for the participating items of work within the parameters of the contract.
- Troy's share of the loan amount is based on actual payments to the contractor. Interest accrues at 4% of this amount from the date that it is paid. Loan payments are due annually in October until the federal funds have been converted by MDOT for reimbursement in 2011. Troy's share of future loan payments is estimated at \$57,000 (28.8%) and is budgeted in the Major Road Fund, account number 401.447.479.7989.071025.

Legal Considerations:

- The Cost Participation agreement, as submitted, is based on estimated costs, as is standard with most construction agreements. The city's actual cost is based on the actual cost incurred by the contractor's work within the parameters of the agreement.
- The format and content of the agreement is consistent with cost participation agreements approved on past projects.

Policy Considerations:

- Troy has enhanced the health and safety of the community. (Goal I)
- Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues. (Goal II)

Options:

- Staff recommends that City Council approve the attached Cost Participation agreement between the City of Troy and the City of Clawson for the purpose of fixing the rights and obligations of each agency for the Main Street (Livernois), Broadacre to Maple reconstruction project. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreements.

COST PARTICIPATION AGREEMENT

CONSTRUCTION, DESIGN, ENGINEERING & CONTRACT ADMINISTRATION

Main Street (Livernois Road)
Maple Road to Broadacre Avenue
In the
City of Clawson and City of Troy
MDOT Job No. STU 63459-100712

This Agreement, made and entered into this _____ day of _____, 2008, by and between the City of Clawson, hereinafter referred to as CLAWSON; and the City of Troy, hereinafter referred to as TROY; and

WHEREAS, CLAWSON and TROY have programmed the reconstruction of deteriorating concrete surfaces along Main Street (Livernois Road) between Maple Road and Lincoln Avenue, described in Exhibit "A", attached hereto and made a part hereof, which improvements involve roads under the jurisdiction of CLAWSON AND TROY, which improvements are 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 0.94 mi of concrete pavement removal, station grading, aggregate base, miscellaneous sewer, drainage structure work, and concrete pavement on Main Street from Maple Road to Broadacre Avenue in the city of Clawson, Oakland County.; including pavement removal, earthwork, storm sewer, 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 (Construction Costs)

The water main replacement and traffic signal work throughout the project, defined as the water main replacement from Elmwood to Maple (approximately 0.5 miles) and the traffic signals at the following intersections: Maple and Main Street; Park Drive & Main Street; Elmwood and Main Street; and LePla and Main Street. This work is ineligible to receive federal and/or state funding.

PART C – NO FEDERAL OR STATE PARTICIPATION (Design Fees)

The engineering design of the items described in parts A and B, above was performed by CLAWSON's engineering consultant Anderson, Eckstein & Westrick and CLAWSON's traffic signal design consultant Mansell Associates. This work is ineligible to receive federal and/or state funding.

PART D – NO FEDERAL OR STATE PARTICIPATION (Field Eng. & Contract Admin.)

Field engineering and contract administration services for the construction of the items described in Parts A and B above being performed by CLAWSON's consultants. This work includes construction staking, construction observation, contract administration and testing services. This work is ineligible to receive federal and/or state funding.

WHEREAS, CLAWSON has executed MDOT Contract 08-8035 for partial funding of the PROJECT cost with a Local Jobs Today Program Loan Contract and Grant; and

WHEREAS, a portion of said PROJECT cost involves certain designated and approved Federal Funding, financed through a loan with the Michigan Department of Transportation (MDOT) (80% of Construction Cost, estimated at \$2,583,175.95); and a State Local Jobs Today Grant (\$531,000).

TROY and CLAWSON's share of construction costs for the PROJECT, Part A - federally funded items is 28.8% and 71.2%, respectively (see Exhibit "A" attached). TROY and CLAWSON's share of construction costs for the PROJECT, Part B - non-participating items is estimated at \$565,319.06 and \$249,281.06, respectively as identified in Exhibit "A" attached; and

WHEREAS, a portion of said PROJECT cost (Part C and D) involves non-participating items where federal funding is not available for design, field engineering and contract administration fees. These costs are to be shared by CLAWSON and TROY as outlined in attached Exhibit "A". The estimated cost for design fees (Part C) for CLAWSON and TROY is \$111,451.52 and \$67,086.40, respectively. The estimated cost for field engineering and contract administration fees (Part D) for CLAWSON and TROY is \$127,601.52 and \$74,536.40, respectively.

Upon acceptance of this agreement, CLAWSON will submit an invoice to TROY for their proportionate share of costs incurred and paid to date by CLAWSON on behalf of TROY with regard to this PROJECT. Payment is to be made to CLAWSON within thirty days from receipt of said invoice.

WHEREAS, CLAWSON and TROY 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 CLAWSON and TROY that:

1. CLAWSON and TROY approve of the PROJECT, declare its public necessity, and authorize the undertaking and completion of the PROJECT, as above described, and shall perform all engineering, inspection, and administration in reference thereto.
2. The actual total cost of the PROJECT shall include total payments to the contractor, preliminary and construction engineering, testing and inspection cost, temporary and permanent traffic controls, and right of way related costs, if applicable.
3. The estimated total PROJECT cost of \$3,909,913.99 shall be shared as identified in Exhibit "A".
4. The Local Jobs Today Grant Funds are a total amount not to exceed \$531,000.
5. CLAWSON's Local Jobs Today loan agreement has an interest rate of 4% annually with payments beginning upon payments made to contractors by MDOT on behalf of Clawson. TROY is responsible for their proportionate share of interest payments on the loan in the same proportion. CLAWSON will invoice TROY as applicable.
6. CLAWSON may submit an invoice to TROY, periodically, as additional costs accrue, after the initial payment has been expended.
7. Upon completion of the PROJECT, CLAWSON shall determine the actual total PROJECT cost, and submit an invoice to TROY for any adjustment in TROY's share of the actual total PROJECT cost, if any.
8. Upon receipt of said invoice(s), TROY shall pay to CLAWSON the full undisputed amount thereof, within thirty (30) days of such receipt.
9. TROY represents and warrants to CLAWSON that they have sufficient funds available to pay their obligations under this Agreement and shall pay to CLAWSON all sums due within 30 days of receipt of progress billings.

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

CITY OF CLAWSON

By _____

Its _____

By _____

Its _____

By _____

Its _____

CITY OF TROY

By _____

Its _____

By _____

Its _____

