



## CITY COUNCIL ACTION REPORT

June 14, 2010

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Asst. City Manager/Finance & Administration  
 Mark Miller, Acting Asst. City Manager/Economic Development Services  
 Steven J. Vandette, City Engineer *SV*

SUBJECT: Agenda Item – Approval of Amendment to MDOT Contract 07-7734 by  
 MDOT Contract No. 10-4040  
 Stephenson Highway, 14 Mile to I-75  
 Project No. 02.201.5

### Recommendation:

Staff recommends that City Council approve MDOT Contract No. 10-4040 which amends MDOT Contract 07-7734 with the Michigan Department of Transportation (MDOT) for the purpose of waiving the interest payments from October 1, 2009 until the project is converted to regular Federal-Aid in fiscal year 2010 for the reconstruction of Stephenson Highway, from 14 Mile to I-75. Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreements.

### Background:

By Resolution #2008-01-019, City Council approved MDOT Contract No. 07-7734 for the purpose of assisting the city in financing the reconstruction of Stephenson Highway, from 14 Mile to I-75 with the use of a short-term loan from MDOT. This short term loan was provided under the Local Jobs Today program in March of 2006 which provided grants and loans to local agencies to take advantage of available federal transportation funding before these federal funds would normally be available.

Staff applied for and received approval to use Local Jobs Today funding for the Stephenson Highway, 14 Mile to I-75 reconstruction project in 2008 to build the project as an advance construct project two (2) years ahead of when the federal funds were to be available.

By using this approach, the city saved approximately \$577,000 in traditional local match. The city's share of the project was approximately \$141,000 where it would normally have been approximately \$718,000. In addition, maintenance costs were reduced significantly on this section of Stephenson Highway since the road was rehabilitated in 2008 rather than waiting until the federal funds became available in 2010.

Under the Local Jobs Today program, MDOT used State Transportation Fund (STF) monies to pay the city's local match (up to the project cap amount) and then issued a loan to the city to allow MDOT to pay for the construction costs. MDOT converts the available federal funds when they become

available to reimburse themselves for the loan portion. There is no payback on the local match (i.e. grant portion) of the program.

In our case, the federal funds were to be converted by MDOT in FY 2010, which began on October 1, 2009. Due to budget discussions at the federal level, the highway bill has not been approved as of this date and is still currently operating under a continuing resolution where highway funds are approved at FY 2009 levels. It is unknown when a new highway bill will be approved.

This Amendatory Contract recognizes that this situation is not the fault of the local agency or MDOT. The only significant change between MDOT Contract No. 07-7734 and the Amendatory Contract No. 10-4040 is the addition of the following language: "*Due to limitations on the distribution of Federal Funds for the fiscal year beginning October 1, 2009, the DEPARTMENT shall waive the interest from October 1, 2009 until the PROJECT is converted to regular Federal-aid in fiscal year 2010*".

#### Financial Considerations:

The city has made two (2) loan payments, one in FY 2008 and the second and final interest payment in FY 2009. By executing this agreement, there will be no further interest payments on the loan.

#### Legal Considerations:

MDOT Contract No. 10-4040 amends MDOT Contract 07-7734 to include language to waive the interest that would otherwise be due in FY 2010 since federal funds are not readily available at this time for MDOT to convert.

#### Policy Considerations:

Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues (Goal II).

Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world (Goal III).



STATE OF MICHIGAN  
DEPARTMENT OF TRANSPORTATION  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

KIRK T. STEUDLE  
DIRECTOR

May 26, 2010

Ms. Toni Bartholomew  
Clerk  
City of Troy  
500 W. Big Beaver Road,  
Troy, MI 48084-5285

Dear Ms. Bartholomew:

RE: MDOT Contract No.: 10-4040  
Control Section: STU 63459  
Job Number: 102287

Enclosed is the original and one copy of the above described contract between your organization and the Michigan Department of Transportation (MDOT). Please take time to read and understand this contract. If this contract meets with your approval, please complete the following checklist:

     **PLEASE DO NOT DATE THE CONTRACTS.** MDOT will date the contracts when they are executed. A contract is not executed unless it has been signed by both parties.

     **Secure the necessary signatures on all contracts.**

     **Include a certified resolution.** The resolution should specifically name the officials who are authorized to sign the contracts.

     **Return all copies of the contracts to my attention of the Department's Design Division, Local Agency Programs, 2<sup>nd</sup> floor for MDOT execution.**

**In order to ensure that the work and payment for this project is not delayed, the agreement needs to be returned within 35 days from the date of this letter.**

A copy of the executed contract will be forwarded to you. If you have any questions, please feel free to contact me at (517) 335-2264.

Sincerely,  
*Jackie Burch*  
Jackie Burch  
Contract Processing Specialist  
Design Division – Local Agency Programs

Enclosure

AMENDMENT TO CONTRACT 07-7734

CAB

Control Section	STU 63459
Job Number	102287
Project	STP 0863(018)
Federal Item No.	RR 6189
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	10-4040

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 "RECIPIENT"; for the purpose of fixing the rights and obligations of the parties in agreeing to this Amendment to CONTRACT #07-7734.

WITNESSETH:

WHEREAS, the parties to the Amendment have heretofore, by a Contract dated February 6, 2008, hereinafter referred to as "CONTRACT 07-7734 provided for the construction and financing of that which is hereinafter referred to as the "PROJECT" and is described as follows:

Hot mix asphalt resurfacing work along Stephenson Highway from 14 Mile Road northerly to Highway I-75; including pavement removal, earth excavation, subbase, aggregate base, concrete base, concrete curb and gutter, storm sewer, and drainage improvement work; and all together with necessary related work.

WHEREAS, the DEPARTMENT and the RECIPIENT having appropriate authority desire to amend CONTRACT 07-7734 to provide for a waiver of the interest for a period of the loan; and.

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

1. Section 3 of CONTRACT 07-7734 is revised to read as follows:

**Section 3 PROJECT FUNDING, BILLINGS, AND PAYMENTS**

The DEPARTMENT will loan the RECIPIENT \$3,318,400. The RECIPIENT will pay interest at the rate of 4 percent annually. The loan funds will be used only for the PROJECT. The DEPARTMENT will retain the loan funds and make payments to

PROJECT contractors and subcontractors on the RECIPIENT's behalf. The RECIPIENT directs the DEPARTMENT to convert federal advanced construction funds as soon as they become available. The assessment of interest will begin when the DEPARTMENT expends loan funds on the RECIPIENT's behalf. Due to limitations on the distribution of Federal Funds for the fiscal year beginning October 1, 2009, the DEPARTMENT shall waive the interest from October 1, 2009 until the PROJECT is converted to regular Federal-aid in fiscal year 2010. It is understood that the loan funds provided under this CONTRACT will not be sufficient to pay all PROJECT costs.

The loan under this CONTRACT is subject to the RECIPIENT's repayment in the following manner: federal aid reimbursement applicable to the PROJECT will be used to pay principal on the loan, and the DEPARTMENT will invoice the RECIPIENT annually for the actual amount of interest. The invoiced amounts will be due and payable within thirty days. Final payment of all principal and interest on the loan must be made on or before September 30, 2010.

If the RECIPIENT fails to make any of its required payments when they are due, the DEPARTMENT will immediately notify the RECIPIENT of such default and of the amount thereof, and if such default is not corrected by payment within ten (10) days, the DEPARTMENT is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the RECIPIENT from the Michigan Transportation Fund, but only after sufficient money has been returned to the county road commission, city, or village to provide for the payment of contractual obligations incurred or to be incurred and principal and interest on notes or bonds issued or to be issued under 1941 PA 205, 1943 PA 143, 1952 PA 175, or Section 18c or 18d of 1951 PA 51, sufficient monies to remove the default and to credit the RECIPIENT with payment thereof and to notify the RECIPIENT in writing of such fact.

The RECIPIENT 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 RECIPIENT 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.

2. Except as amended by the provisions herein, all of the provisions, covenants, and obligations of the parties contained in CONTRACT 07-7734 shall remain in full force and effect.

3. The RECIPIENT waives any and all claims it has or may have against the DEPARTMENT which arise out of the need to amend CONTRACT 07-7734.

4. 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 RECIPIENT, 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:

