



CITY OF NOVI CITY COUNCIL
APRIL 8, 2024

SUBJECT: Adoption of a resolution authorizing approval of a contract with the Michigan Department of Transportation to agree to the rights and obligations associated with the reconstruction of Fountain Walk Avenue between Novi Road and the westbound I-96 entrance ramp, with the City of Novi's estimated responsibility for construction in the amount of \$348,000.

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

EXPENDITURE REQUIRED	\$ 348,000
AMOUNT BUDGETED	\$ 348,000
APPROPRIATION REQUIRED	\$ 0
LINE ITEM NUMBER	202-449.20-975.035

BACKGROUND INFORMATION:

The Michigan Department of Transportation's I-96 Flex Route project is entering its third and final year of construction on I-96 between Kent Lake Rd and I-275. The westbound I-96 pavement and ramps will be reconstructed this year, including the westbound I-96 entrance ramp from southbound Novi Road. The ramp splits off from Fountain Walk Avenue, which is owned and maintained by the City. The portion of Fountain Walk Avenue between Novi Road and the I-96 entrance ramp needs repair, but since it is a City-owned road, it was not included in the MDOT Flex Route construction plans. City staff requested that MDOT add the segment of Fountain Walk to its construction contract, since the entrance ramp will be closed for construction this year.

As outlined in the contract, the City will be responsible for 100% of the estimated construction cost, plus a preliminary engineering fee and an apportioned construction engineering fee, totaling \$348,000. The City Attorney reviewed the contract and resolution favorably (Beth Saarela, April 1, 2024). The ramp will be closed for construction from mid-April to mid-September. Motorists will be directed to use West Oaks Dr to access Fountain Walk Ave.

RECOMMENDED ACTION: Adoption of a resolution authorizing approval of a contract with the Michigan Department of Transportation to agree to the rights and obligations associated with the reconstruction of Fountain Walk Avenue between Novi Road and the westbound I-96 entrance ramp, with the City of Novi's estimated responsibility for construction in the amount of \$348,000.

CITY OF NOVI
COUNTY OF OAKLAND, MICHIGAN

RESOLUTION
MDOT CONTRACT 24-5131
MDOT COST PARTICIPATION AGREEMENT
FOUNTAIN WALK AVENUE FROM SOUTHBOUND NOVI ROAD
AND WESTBOUND HIGHWAY I-96 ENTRANCE RAMP

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on April 8, 2024, at 7 o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS, the City of Novi requested that the Michigan Department of Transportation (MDOT) include reconstruction of Fountain Walk Avenue between Novi Road and the westbound Highway I-96 entrance ramp in connection with the I-96 Flex Route construction; and

WHEREAS, MDOT estimates the requested additional work on Fountain Walk Avenue to be \$348,000; and

WHEREAS, the additional work on Fountain Walk Avenue shall be charged to the City 100 percent and paid in the manner and at the times set forth in MDOT contract 24-5131; and

WHEREAS, MDOT will administer all phases of the additional work on Fountain Walk Avenue; and

WHEREAS, the Mayor and the City Clerk are authorized to execute the approved Cost Participation Contracts, on behalf of the City, as expressly authorized, directed, and instructed by the Council.

NOW THEREFORE, IT IS THEREFORE RESOLVED that the Mayor and Council of the City of Novi hereby support and authorize participation in MDOT Contract No. 24-5131, by and between the Michigan Department of Transportation and the City of Novi.

And approve MDOT Contract Number 24-5131.

AYES:

NAYS:

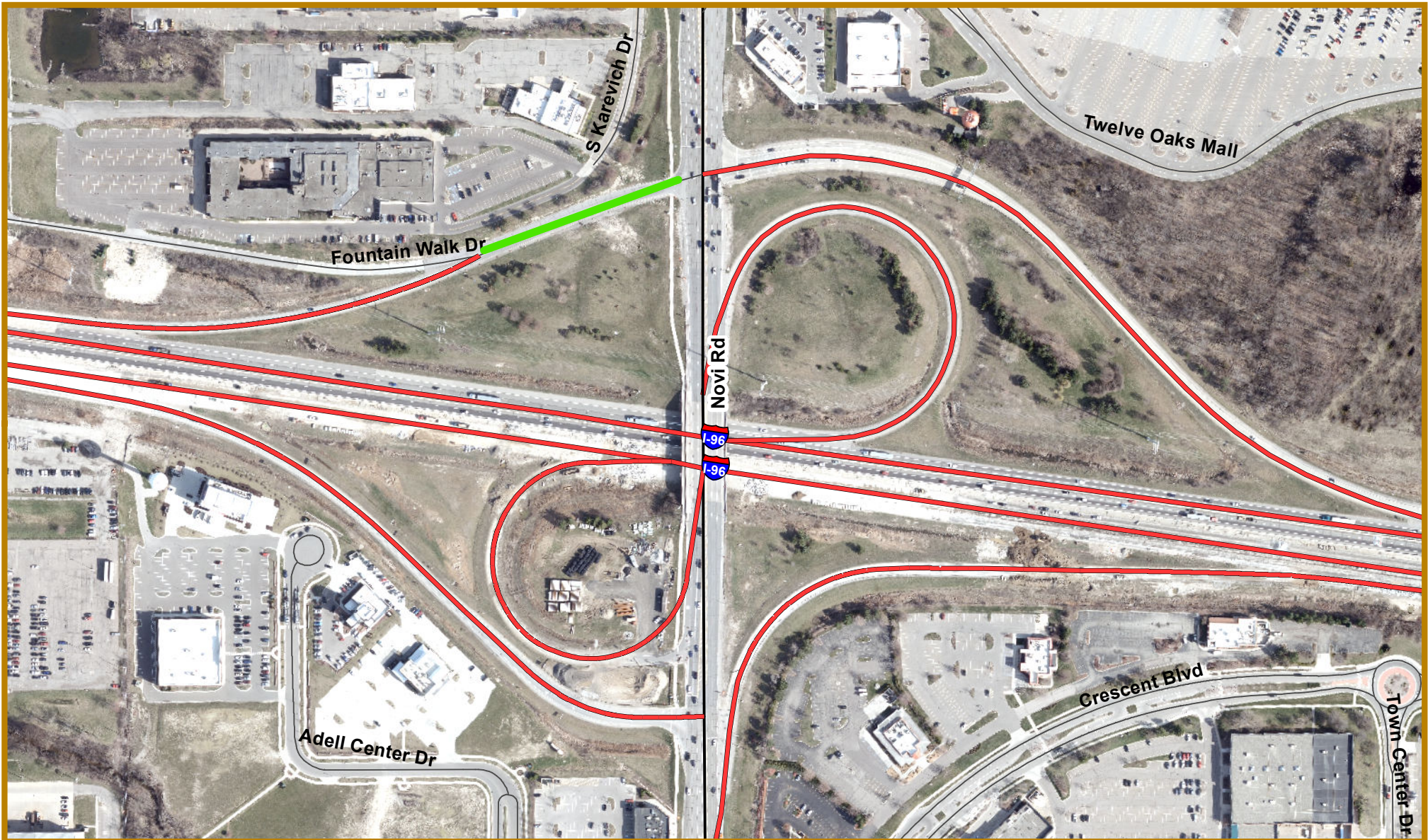
RESOLUTION DECLARED ADOPTED.

Cortney Hanson, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this 8th day of April, 2024, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

Cortney Hanson, City Clerk
City of Novi



Map Author: Rebecca Runkel
 Date: 4/1/24
 Project: Fountain Walk Ramp
 Version #: 1.0

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

Fountain Walk Ramp Reconstruction Location Map

 Road Segment Added to MDOT's Flex Route Project



City of Novi

Engineering Division
 Department of Public Works
 26300 Lee BeGole Drive
 Novi, MI 48375
cityofnovi.org

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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

April 1, 2024

Rebecca Runkel, Project Engineer
City of Novi
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

**Re: MDOT Cost Participation Agreement and Resolution- Fountain
Walk Avenue
Contract No. 24-5131**

Dear Ms. Runkel:

We have received and reviewed the Contract for Special Trunkline Non-Act-51 Added Work prepared by the Michigan Department of Transportation (MDOT) for has requested that the MDOT perform additional work on behalf of the City in connection with the Highway I-96 construction, which includes roadway reconstruction work along Fountain Walk Avenue from southbound Novi Road and westbound Highway I-96 entrance ramp; together with necessary related work, located within the corporate limits of the CITY; and. The total project cost for the added work is is \$348,000, plus construction engineering in the amount of \$14,000, which costs will be fully paid by the City.

The Agreement is provided for the limited purpose of setting forth how the project costs will be paid by the named parties. MDOT will bid and complete the project as part of its I-96 Project.

Subject to Engineering review and approval of the cost of the project, we see no legal impediment to entering into the Cost Sharing Agreement. It is MDOT standard Cost Participation Agreement and Resolution, and the parties each retain liability for their own actions.

The Resolution provided is for the purpose of City Council approving the Contract and authorizing City signatures.

Please feel free to contact me with any questions or concerns in regard to this matter.

Rebecca Runkel, Project Engineer
City of Novi
April 1, 2024
Page 2

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC



Elizabeth Kudla Saarela

EKS

Enclosure

C: Cortney Hanson, Clerk (w/Enclosure)
Megan Mikus, Deputy DPW Director (w/Enclosure)
Ben Croy, City Engineer (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

SPECIAL TRUNKLINE
NON-ACT-51
ADDED WORK

DA	
Control Section	RMBP 63022: CM 63022
Job Number	124103CON; 124103PE
Fed Project #	1763042
Contract	24-5131

THIS CONTRACT is made by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF NOVI, a Michigan municipal corporation, hereinafter referred to as the "CITY"; for the purpose of fixing the rights and obligations of the parties in agreeing to construction improvements in conjunction with the DEPARTMENT'S construction on Highway I-96, within the corporate limits of the CITY.

WITNESSETH:

WHEREAS, the DEPARTMENT is planning highway reconstruction work along Highway I-96 from Highway I-275 to Kent Lake Road; and

WHEREAS, the CITY has requested that the DEPARTMENT perform additional work for and on behalf of the CITY in connection with the Highway I-96 construction, which additional work is hereinafter referred to as the "PROJECT" and is located and described as follows:

Roadway reconstruction work along Fountain Walk Avenue from southbound Novi Road and westbound Highway I-96 entrance ramp; together with necessary related work, located within the corporate limits of the CITY; and

WHEREAS, the DEPARTMENT presently estimates the PROJECT COST as hereinafter defined in Section 1 to be: \$348,000; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written Contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties shall undertake and complete the construction of the PROJECT in accordance with this Contract. The term "PROJECT COST", as herein used, is hereby defined as the cost of the construction of the PROJECT including the costs of preliminary engineering (PE), plans and specifications, physical construction necessary for the completion of the

PROJECT as determined by the DEPARTMENT, construction engineering (CE), and any and all other expenses in connection with any of the above.

2. The cost of alteration, reconstruction and relocation, including plans thereof, of certain publicly owned facilities and utilities which may be required for the construction of the PROJECT, shall be included in the PROJECT COST; provided, however, that any part of such cost determined by the DEPARTMENT, prior to the commencement of the work, to constitute a betterment to such facility or utility, shall be borne wholly by the owner thereof.

3. The CITY will approve the design intent of the PROJECT and shall accept full responsibility for the constructed PROJECT functioning as a part of the CITY'S facilities. The CITY is solely responsible for any input which it provides as it relates to the design of the PROJECT functioning as part of the CITY'S facilities.

4. The DEPARTMENT will administer all phases of the PROJECT and will cause to be performed all the PROJECT work.

Any items of PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

5. The PROJECT COST shall be charged to the CITY 100 percent and paid in the manner and at the times hereinafter set forth. Such cost is estimated to be as follows:

PROJECT COST - \$348,000

The PE costs will be a lumpsum amount of \$14,500 and the CE costs will be apportioned in the same ratio as the actual direct construction costs.

6. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT. The DEPARTMENT may submit progress billings to the CITY on a monthly basis for the CITY'S share of the cost of work performed to date, less all payments previously made by the CITY not including payments made for a working capital deposit. No monthly billings of a lesser amount than \$1,000 shall be made unless it is a final or end of fiscal year billing. All billings will be labeled either "Progress Bill Number _____", or "Final Billing". Payment is due within 30 days of receipt of invoice. Upon completion of the PROJECT, payment of all items of PROJECT COST and receipt of all Federal Aid, the DEPARTMENT shall make a final billing and accounting to the CITY.

The CITY will deposit with the DEPARTMENT the following amount which will be used by the DEPARTMENT as working capital and applied toward the end of the project for the contracted work and cost incurred by the DEPARTMENT in connection with the PROJECT:

DEPOSIT - \$69,600

The total deposit will be billed to the CITY by the DEPARTMENT and shall be paid by the CITY within 30 days after receipt of invoice.

7. Pursuant to the authority granted by law, the CITY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified herein. If the CITY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the CITY of the fact of such default and the amount thereof, and, if such default is not cured 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 CITY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the CITY with payment thereof, and to notify the CITY in writing of such fact.

8. Upon completion of the PROJECT, the CITY shall accept the facilities constructed as built to specifications within the construction contract documents. It is understood that the CITY shall own the facilities and shall operate and maintain the facilities in accordance with all applicable Federal and State laws and regulations, including, but not limited to, Title II of the Americans with Disabilities Act (ADA), 42 USC 12131 et seq., and its associated regulations and standards, and DEPARTMENT Road and Bridge Standard Plans and the Standard Specifications for Construction at no cost to the DEPARTMENT.

9. 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 pursuant to the terms of this Contract are done to assist the CITY. Such approvals, reviews, inspections and recommendations by the DEPARTMENT shall not relieve the CITY of its ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT does not relieve the CITY of its exclusive jurisdiction of the highway and responsibility under MCL 691.1402 et seq., as amended.

When providing approvals, reviews and recommendations under this Contract, the DEPARTMENT is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

The DEPARTMENT, by executing this Contract, and rendering services pursuant to this Contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402 et seq., as amended. Exclusive jurisdiction of such highway for the purposes of MCL 691.1402 et seq., as amended rests with the CITY.

10. In connection with the performance of PROJECT work under this Contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set

forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this Contract. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

11. This 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 CITY and for the DEPARTMENT; upon the adoption of a resolution approving said Contract and authorizing the signatures thereto of the respective officials of the CITY, 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 as written below.

CITY OF NOVI

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
for Department Director MDOT

By _____
Title:



APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any 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. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011

APPENDIX B
TITLE VI ASSURANCE

During the performance of this contract, the contractor, for itself, its assignees, and its successors in interest (hereinafter referred to as the “contractor”), agrees as follows:

1. **Compliance with Regulations:** For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor’s obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
 - a. Withholding payments to the contractor until the contractor complies; and/or
 - b. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.