



CITY of NOVI CITY COUNCIL

Agenda Item 4
November 14, 2016

SUBJECT: Approval of a cost participation agreement with the Road Commission for Oakland County for Right-of-Way Acquisition for the Napier Road (Nine Mile to Ten Mile) Paving and Napier/Ten Mile Intersection Improvement project in the amount of \$500,000, of which \$83,334 is to be paid by the City of Novi, \$166,666 is to be paid by the Tri-Party Program, and the remaining \$250,000 to be funded by the Road Commission for Oakland County.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division **GDM**

CITY MANAGER APPROVAL: 

EXPENDITURE REQUIRED	\$ 83,334
AMOUNT BUDGETED	\$ 275,000
LINE ITEM NUMBER	204-204.00-863.513

BACKGROUND INFORMATION:

The Road Commission for Oakland County has completed the preliminary engineering and identified right-of-way acquisition requirements for the Napier Road (Nine Mile to Ten Mile) Paving Project. The project will include the reconstruction and paving of Napier Road between Nine Mile Road and Ten Mile Road, which is currently a gravel road. Additionally, the project will improve the safety of the Ten Mile Road and Napier Road intersection with the installation of a new traffic signal, reconstruction of the intersection to add left turn lanes, and removal of the hill on Ten Mile Road west of Napier, which is currently a sight obstruction.

The cost for the right-of-way acquisition for the project is \$500,000, split equally between the City of Novi and the Road Commission for Oakland County. The City's share of \$250,000 is further reduced through the use of Tri-Party Funds, of which \$83,334 is paid by Novi, \$83,333 is paid by the County of Oakland, and \$83,333 is paid by Road Commission for Oakland County. The City's contribution utilizes \$83,334 of the remaining \$251,413 Tri-Party funding allocated for this project authorized by City Council resolution on the February 29, 2015 (attached).

The City Attorney has reviewed the attached local cost participation agreement and finds that it is sufficient for the purpose of assigning estimated project costs between the City and Road Commission (see Beth Saarela's letter, attached).

The right-of-way acquisition for the project will be completed later this year. Once the all easements and rights-of-way have been acquired by the Road Commission, construction will commence. Construction is scheduled to begin in early 2017.

RECOMMENDED ACTION: Approval of a cost participation agreement with the Road Commission for Oakland County for Right-of-Way Acquisition for the Napier Road (Nine Mile to Ten Mile) Paving and Napier/Ten Mile Intersection Improvement project in the amount of \$500,000, of which \$83,334 is to be paid by the City of Novi, \$166,666 is to be paid by the Tri-Party Program, and the remaining \$250,000 to be funded by the Road Commission for Oakland County.

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

Location Map

Napier Road Paving Project

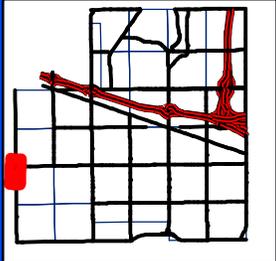


Map Author: Coburn
 Date: 2/11/16
 Project:
 Version #:

Amended By:
 Date:
 Department:

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.



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



1 inch = 417 feet





JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrslaw.com

www.johnsonrosati.com

October 31, 2016

Adam Wayne, Civil Engineer
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

**Re: Cost Participation Agreement – Right-of-Way Acquisition – Napier Road 9
Mile to 10 Mile Road**

Dear Mr. Wayne:

We have received and reviewed the Cost Participation Agreement prepared by the Board of County Road Commissioners (Board) for the cost of right-of-way acquisition relating to the repaving of Napier Road between 9 Mile and 10 Mile Roads. The cost of right-of-way acquisition will be shared by the Board and the City. The enclosed Cost Participation provides for the assignment of Novi's Tri-Party funds, in the amount of \$83,334. The estimated overall cost of right-of-way is \$500,000. It should be noted that although the estimate may seem low for 11 parcels, RCOC indicates that the estimate is based on the need for mostly *temporary easements* with the exception of three permanent highway easements and acquisition of fee title in one parcel. It should be noted, additionally, that the estimate does not specifically include the cost of appraisals or other legal costs of acquisition. It is important to note that any excess costs beyond the estimated total *will be shared equally by the City and RCOC pursuant to Paragraph 3.c of the Agreement*. Given that acquisition costs are often difficult to estimate if any of the acquisitions require litigation, this additional cost could be significant. Excess costs may include the cost of appraisals, court costs, and legal fees in the event it is necessary to acquire any of the easements by condemnation under the Uniform Condemnation Procedures Act.

The Agreement is provided for the limited purpose of setting forth how the cost of right-of-way will be divided between the named parties. Based on the limited purpose and scope of the contract, and subject to the understanding that costs may exceed the estimate in the event that condemnation is necessary, we see no legal impediment to entering into the Agreement with the Board.

Adam Wayne, Civil Engineer

October 31, 2016

Page 2

If you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla Saarela

EKS

Enclosure

C: Cortney Hanson, Clerk (w/Enclosure)
Rob Hayes, DPS Director (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

COST PARTICIPATION AGREEMENT

RIGHT OF WAY ACQUISITION

Napier Road

9 Mile Road to 10 Mile Road

City of Novi

Board Project No. 52111

This Agreement, made and entered into this ____ day of _____, 2016, by and between the Board of County Road Commissioners of the County of Oakland, Michigan, hereinafter referred to as the BOARD, and the City of Novi, hereinafter referred to as the COMMUNITY, provides as follows:

WHEREAS, the BOARD and the COMMUNITY have programmed the right of way acquisition for the future paving of Napier Road from 9 Mile Road to 10 Mile Road, as described in Exhibit "A", attached hereto, and made a part hereof, which improvements involve roads under the jurisdiction of the BOARD and within the COMMUNITY, which improvements are hereinafter referred to as the RIGHT OF WAY; and

WHEREAS, the estimated total cost of the RIGHT OF WAY is \$500,000; and

WHEREAS, said RIGHT OF WAY involves certain designated and approved funding in accordance with the Tri-Party Program in the amount of \$250,000, which amount shall be paid through equal contributions by the BOARD, the COMMUNITY and the Oakland County Board of Commissioners, hereinafter referred to as the COUNTY; and

WHEREAS, the BOARD and the COMMUNITY have reached a mutual understanding regarding the cost sharing of the RIGHT OF WAY 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 COMMUNITY and the BOARD that:

1. The COMMUNITY approves of the RIGHT OF WAY, declares its public necessity, and authorizes the BOARD to perform or cause to be performed, and complete the RIGHT OF WAY along with all administration in reference thereto.

2. The RIGHT OF WAY is hereby defined as all costs necessary for the right-of-way acquisition work including engineering, appraisals, acquisition, legal, financing, the costs of technical guidance, monitoring, training and any other costs as may be incurred by the BOARD as a result of this agreement.
3. The estimated total RIGHT OF WAY cost of \$500,000 shall be funded in the following order:
 - a. Tri-Party Program funding in the amount of \$250,000.
 - b. The BOARD shall contribute \$250,000 toward the RIGHT OF WAY.
 - c. Any RIGHT OF WAY costs above the Tri-Party Program funding of \$250,000 and the BOARD contribution of \$250,000 will be funded first with any available Tri-Party Program funds. If no Tri-Party Program funds are available, any RIGHT OF WAY costs above \$500,000 will be shared equally between the BOARD and the COMMUNITY.
4. Upon execution of this Agreement, the BOARD shall submit an invoice to the COMMUNITY for \$83,334 (being 100% of the COMMUNITY'S Tri-Party contribution).
5. After execution of this agreement and approval by the COUNTY, the BOARD shall submit an invoice to the COUNTY in the amount of \$83,333 (being 100% of the COUNTY'S Tri-Party contribution).
 - a. The invoice shall be sent to:

Lynn Sonkiss, Manager of Fiscal Services
Executive Office Building
2100 Pontiac Lake Road, Building 41 West
Waterford, MI 48328
6. Upon receipt of said invoice(s), the COMMUNITY and the COUNTY shall pay to the BOARD the full amount thereof, within thirty (30) days of such receipt.

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

BOARD OF ROAD COMMISSIONERS OF THE
COUNTY OF OAKLAND
A Public Body Corporate

By _____

Its _____

CITY OF NOVI

By _____

Its _____

EXHIBIT A
TRI-PARTY PROGRAM
 Napier Road
 9 Mile Road to 10 Mile Road
 City of Novi
 Board Project No. 52111

The RIGHT OF WAY is hereby defined as all costs necessary for the right of way acquisition work including engineering, appraisals, acquisition, legal, financing, the costs of technical guidance, monitoring, training and any other costs necessary to complete the right of way acquisition

ESTIMATED PROJECT COST

Right of Way Acquisition	\$500,000
Total Estimated Right of Way Cost	\$500,000

COST PARTICIPATION BREAKDOWN

	COMMUNITY	COUNTY	BOARD	TOTAL
FY2016 Tri-Party Program	\$83,334	\$83,333	\$83,333	\$250,000
Contribution	\$0	\$0	\$250,000	\$250,000
TOTAL SHARES	\$83,334	\$83,333	\$333,333	\$500,000

CITY OF NOVI
COUNTY OF OAKLAND, MICHIGAN

RESOLUTION OF PARTICIPATION
2016 TRI-PARTY PROGRAM

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 February 29, at 7:00 o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers Gatt, Staudt, Casey, Markham, Mutch, Wrobel

ABSENT: Councilmember Burke

The following preamble and Resolution were offered by Councilmember Casey and supported by Councilmember Wrobel.

WHEREAS ; the Road Commission for Oakland County has invited the City of Novi to participate in the Fiscal Year 2016 Tri-Party Program for road improvements; and

WHEREAS ; the Tri-Party Program is a means to provide for improvements to County roads with funding derived from the local units of government, the County Board of Commissioners, and the Road Commission for Oakland County; and

WHEREAS ; the City of Novi supports and strongly encourages the continuation of an annual Tri-Party Program with participation by the local unit of government, the Road Commission for Oakland County and the County Board of Commissioners; and

WHEREAS ; \$326,413 has been allocated for Novi with the total 2016 contribution from the City of Novi totaling \$108,804; and.

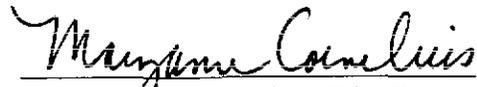
WHEREAS ; the Napier Road (Nine Mile to Ten Mile) Paving and Napier/Ten Mile Intersection Improvement project is scheduled for construction in 2017.

NOW THEREFORE, IT IS THEREFORE RESOLVED that that the Mayor and Council of the City of Novi authorize participation in the Road Commission for Oakland County's 2016 Tri-Party Program for Road Improvements and designate \$326,413 in 2016 Tri-Party funds to the Napier Road (Nine Mile to Ten Mile) Paving and Napier/Ten Mile Intersection Improvement project.

AYES: Gaff, Staudt, Casey, Markham, Mutch, Wrobel (6)

NAYS: None (0)

RESOLUTION DECLARED ADOPTED.


Maryanne Cornelius, 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 29th day of February, 2016, 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.


Maryanne Cornelius, City Clerk
City of Novi

