



CITY of NOVI CITY COUNCIL

Agenda Item 11
June 17, 2019

SUBJECT: Approval of a cost participation agreement with the Oakland County Board of Commissioners for the Crescent Boulevard/ Lee BeGole Drive Extension and 11 Mile Road/ Lee BeGole Drive Roundabout project, in the amount of \$104,471.

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

CITY MANAGER APPROVAL: PK

BACKGROUND INFORMATION:

The Oakland County Board of Commissioners has approved funding for the extension of the Crescent Boulevard (Northeast Ring Road) to Lee BeGole Drive, reconstruction and realignment of Lee BeGole Drive, and the construction of a roundabout at the intersection of 11 Mile Road and Lee BeGole Drive as part the Local Road Improvement Matching Fund Program (LRIP). The purpose of the program is to help local agencies fund road construction projects that remove impediments to the economic development of the community.

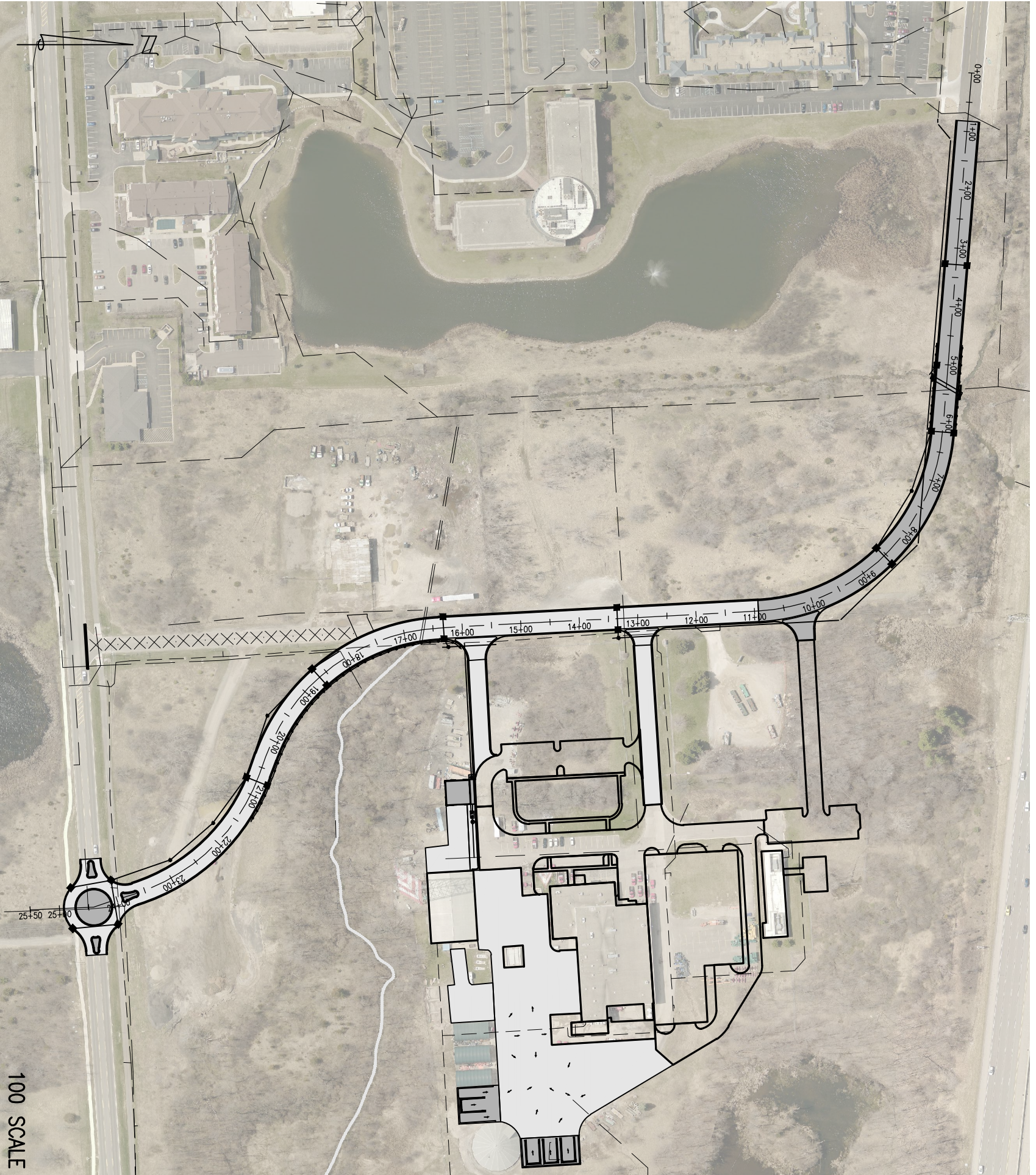
The estimated construction cost for the project is \$3,825,000 and Oakland County will provide \$104,471 in project funding. The City will be responsible for the remaining cost and all non-construction costs. The City's construction share of the project is \$3,720,529. The Agreement is required for the limited purpose of setting forth how the project costs will be divided between the City and County. The City is required to contract separately for completion and administration of the project. Since this project is phased over several years, the City can apply for additional awards if the LRIP program funds continue to be available.

This LRIP funding source was also utilized on the Southwest Ring Road (Bond Street/Flint Street) as these types of projects fit within the funding parameters. Construction will likely be phased over a few years to accommodate adjacent site access and to adjust the budgeted funds. This project not only will create economic development for the vacant parcels but will also create new jobs as a result of the future businesses that will be attracted to this corridor.

The City Attorney has reviewed the attached cost participation agreement and recommends the agreement is sufficient for the purpose of assigning estimated project costs between the City and the Oakland County Board of Commissioners (Beth Saarela, June 3, 2019).

RECOMMENDED ACTION: Approval of a cost participation agreement with the Oakland County Board of Commissioners for the Crescent Boulevard/ Lee BeGole Drive Extension and 11 Mile Road/ Lee BeGole Drive Roundabout project, in the amount of \$104,471.

CRESCENT BLVD



100 SCALE

11 MILE

I-96

| SHEET | DATE | PROJ NUMBER | ENG | PROJ MGR | CADD | COUNTY | CITY/VILLAGE/TOWNSHIP | SCALE | HORIZ DATUM | VERT DATUM |
|-------|-------|-------------|-----|----------|------|--------|-----------------------|------------------|-------------|------------|
| # | | | | | | | | H: 1"=80' V: N/A | ### | ### |
| OF # | ##### | | | | | | | | | |
| | ##### | | | | | | | | | |
| | ##### | | | | | | | | | |

| REVISIONS: |
|------------|
| ### |
| ### |
| ### |
| ### |
| ### |

OHM
 ARCHITECTS ENGINEERS PLANNERS
 OHMADVISORS.COM

ELIZABETH KUDLA SAARELA
esaarela@rsjalaw.com

27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331
P 248.489.4100 | F 248.489.1726
rsjalaw.com



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

June 3, 2019

George Melistas, Senior Engineering Manager
City of Novi
Department of Public Works
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: Local Road Improvement Matching Fund Pilot Program - Cost Participation Agreement – Lee BeGole Drive

Dear Mr. Melistas:

We have received and reviewed the Cost Participation Agreement prepared by the Board of County Road Commissioners (Board) for the construction of a roundabout at the intersection of 11 Mile at Lee BeGole Drive.

As set forth in Exhibit A, the total project cost is expected to be \$3,825,000. The Board of County Road Commissioners will provide the City reimbursement in the amount of \$104,471. The excess amount will be paid by the City.

The Agreement is provided for the limited purpose of setting forth how the project costs will be divided between the named parties. The City is required to contract separately for completion and administration of the project.

Based on the limited purpose and scope of the contract, we see no legal impediment to entering into the Agreement with the Board.

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

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

A handwritten signature in blue ink, appearing to read 'Elizabeth Kudla Saarela', is written over a horizontal line.

Elizabeth Kudla Saarela

George Melistas, Senior Engineering Manager
City of Novi
June 3, 2019
Page 2

C: Cortney Hanson, Clerk
Jeffrey Herczeg, Director of Public Works
Thomas R. Schultz, Esquire



CITY OF NOVI
CITY CLERK'S OFFICE

2019 MAY 29 12:12

BOARD OF COMMISSIONERS

1200 N. Telegraph Road
Pontiac, MI 48341-0475
Phone: (248) 858-0100
Fax: (248) 858-1572

May 23, 2019

City Manager Pete Auger
City of Novi
45175 W. Ten Mile Rd.
Novi, MI 48375-3024

Dear City Manager Auger,

I am pleased to inform you that the Board of Commissioners has approved your application for funding under the 2019 Pilot Local Road Improvement Program.

Poor conditions on our roads create an impediment to the economic development of our community and diminish the excellent quality of life our residents expect. Oakland County is proud to be a partner with your local government to provide much needed investment in our local transportation infrastructure.

Enclosed you will find two (2) copies of a Cost Participation Agreement. Following approval by your governing authority and execution of the agreement, please forward the documents to:

Oakland County Board of Commissioners
Attn: Amy Aubry, Analyst
1200 N. Telegraph Road
Pontiac, Michigan 48341-0475

We will return a fully executed copy to you for your records. After you receive the finalized agreement, you can invoice our Management and Budget office as instructed in the agreement for payment.

If you have any questions regarding the program or agreement, please feel to contact Amy Aubry, Analyst of the Board of Commissioners at (248)858-1067 or aubrya@oakgov.com. In addition, please feel free to contact me if I can be of further assistance.

Sincerely,

Gwen Markham
Oakland County Commissioner

LOCAL ROAD IMPROVEMENT MATCHING FUND PILOT PROGRAM

COST PARTICIPATION AGREEMENT

Install a Roundabout at 11 Mile and Lee BeGole

City of Novi

Board Project No. 2019-26

This Agreement, made and entered into this ____ day of _____, 2019, by and between the Board of 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 has established the Pilot Local Road Improvement Matching Fund Program, hereinafter the PROGRAM, for the purposes of improving economic development in Oakland County cities and villages. The terms and policies of the PROGRAM are contained in Attachment A. The BOARD intends the PROGRAM to assist its municipalities by offering limited funds, from state statutory revenue sharing funds, for specific, targeted road maintenance and/or improvement projects on roadways under the jurisdiction of cities and villages; and

WHEREAS, the BOARD shall participate in a city or village road project in an amount not exceeding 50% of the cost of the road improvement, hereinafter referred to as the PROJECT, and also not exceeding the Preliminary Distribution Formula as it relates to the COMMUNITY, (Attachment B); and

WHEREAS, the COMMUNITY has identified the PROJECT as the Install a Roundabout at 11 Mile and Lee BeGole, as more fully described in Attachment C, attached hereto, and made a part hereof, which improvements involve roads under the jurisdiction of and within the COMMUNITY and are not under the jurisdiction of the Road Commission for Oakland County or state trunk lines; and

WHEREAS, the COMMUNITY has acknowledged and agreed to the BOARD's policies regarding the PROGRAM, Attachment A, and further acknowledge and agree that the PROJECT's purpose is to encourage and assist businesses to locate and expand within Oakland County and shall submit a report to the BOARD identifying the effect of the PROJECT on businesses in the COMMUNITY at the completion of the PROJECT. In addition, the COMMUNITY acknowledges that the program is meant to supplement and not replace funding for existing road programs or projects; and

WHEREAS, the COMMUNITY has acknowledged and agreed that the PROGRAM is expressly established as a pilot program and there is no guarantee that the PROGRAM will be continued from year to year. The BOARD anticipates that most PROJECTS funded under the PROGRAM will be completed by the end of calendar year 2020. There is no obligation on behalf of the BOARD to fund either the PROJECT or the PROGRAM in the future; and

WHEREAS the COMMUNITY has acknowledged and agreed that the COMMUNITY shall assume any and all responsibilities and liabilities arising out of the administration of the PROJECT and that Oakland County shares no such responsibilities in administering the PROJECT; and

WHEREAS, the estimated total cost of the PROJECT is \$3,825,000; and

WHEREAS, said PROJECT involves certain designated and approved Local Road Improvement Matching Funds in the amount of \$104,471, which amount shall be paid to the COMMUNITY by the BOARD; and

WHEREAS, the BOARD and the COMMUNITY 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 and BOARD resolution(s), it is hereby agreed between the COMMUNITY and the BOARD that:

1. The BOARD approves of the PROJECT, and in reliance upon the acknowledgements of the COMMUNITY, finds that the PROJECT meets the purpose of the PROGRAM.

2. The BOARD approves of a total funding amount under the PROGRAM for the PROJECT in an amount not to exceed \$104,471. The COMMUNITY shall submit an invoice to the COUNTY in the amount of \$104,471.

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

3. Upon receipt of said invoice and upon execution of this Agreement, the BOARD shall pay the COMMUNITY the sum of \$104,471 from funds available in the PROGRAM.

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

OAKLAND COUNTY BOARD OF COMMISSIONERS

By: _____

Its: _____

COMMUNITY

By: _____

It's: _____

PILOT LOCAL ROAD IMPROVEMENT MATCHING FUND PROGRAM

STATEMENT OF PURPOSE

Oakland County Government recognizes that Michigan law places the primary responsibility for road funding on the State and non-county local units of government. However, the County also recognizes that the law does permit a limited, discretionary role for the County in assisting a road commission and local units within a county by supporting some road maintenance and improvement efforts.

Accordingly, for many years Oakland County has voluntarily provided limited assistance to its cities, villages and townships (CVT's) and to the Road Commission of Oakland County (RCOC) by investing in a discretionary Tri-Party Road Program. Authorized under Michigan law, the County's tri-party funding contributions primarily facilitate safety improvement projects on CVT roads under the jurisdiction of the RCOC. By law, tri-party funds cannot be used to fund projects on roads solely under the jurisdiction of CVT's.

Recognizing a continuing need to better maintain local CVT streets and roads, yet being ever mindful of the County's limited responsibility for and jurisdiction over non-County roads and streets, Oakland County Government wishes to pilot a discretionary program that is more flexible than the current Tri-Party Road Program, one that will allow Oakland County to assist its cities and villages with maintenance and safety projects on non-County roads.

Not being the funding responsibility of County government, local CVT roads generally cannot be maintained or improved using County funds because doing so would be considered to be the "gifting" of County resources. However laudable the purpose, Michigan law generally forbids the gifting of government resources. To avoid application of the constitutionally-based gifting restriction, the state legislature must, and in this arena has, determined that a public benefit results from a taxpayer investment, one that provides a *quid pro quo* sufficient to avoid application of the gifting prohibition. Here, the legislature has determined that the economic development benefit presumed to accrue to a county as a result of local street and road investments can provide a sufficient *quid pro quo* to county taxpayers justifying a discretionary county investment in a non-county road, a benefit that constitutes a fair exchange for value and not a gift.

This legislative determination is set forth in 1985 P.A. 9, which amended 1913 P.A. 380, by adding a new section 2, which in pertinent part provides:

"(1)...A county may grant or loan funds to a township, village or city located within that county for the purpose of encouraging and assisting businesses to locate and expand within the county...

(2) A loan or grant made under subsection (1) may be used for local public improvements or to encourage and assist businesses in locating or expanding in this state, to preserve jobs in this state, to encourage investment in the communities in this state, or for other public purposes."

Communities that wish to attract, retain and grow business, retain jobs and encourage community investment, needs a safely maintained road infrastructure. This road infrastructure must include both residential and commercial roads as workers and consumers need to get to and from work, shopping, schools and recreation. In a fiscally prudent and limited manner, the County wishes to

PROJECT GUIDELINES

Program funding shall be utilized solely for the purposes of road improvements to roads under the jurisdiction of local cities and villages. Road improvements may include, but not be limited to, paving, resurfacing, lane additions or lengthening, bridges, or drainage as such improvements relate to road safety, structure or relieving congestion.

Program funding:

May be utilized to supplement a local government's matched funding for the purposes of receiving additional federal transportation funding;

May not be utilized to fulfill a local government's responsibility to fund improvements to state trunklines;

Shall be limited to real capital improvements to roadways and shall not be utilized for other purposes, such as administrative expenses, personnel, consultants or other similar purposes;

Shall not be utilized for non-motorized improvements, unless these improvements are included in a project plan for major improvements to a motorized roadway;

Shall be utilized for projects that will result in a measurable improvement in the development of the local economy and contribute to business growth. Recipients shall be responsible for providing an outline of the economic benefits of the project prior to approval and for reporting to the Board of Commissioners after the completion of the project on the benefits achieved as a result of the projects.

ADMINISTRATION

Local Road Improvement Matching Fund Program projects may be appropriated by the Board of Commissioners in compliance with the County budget process. The amount of funds to be dedicated for the Pilot Program shall be determined by the Board of Commissioners on an annual basis. Program funding may be reduced or eliminated based upon the ability of the County government to meet primary constitutional and statutory duties. The Board of Commissioners expressly reserves the right to adjust the County matching funds share at any time based upon County budget needs.

In accordance with MCL 123.872, funds dedicated to the Local Road Improvement Matching Fund Program shall not be derived from ad valorem tax revenues. Program funding shall be limited to funds derived from the County's distribution from the Michigan General Revenue Sharing Act. Reduction or elimination of the County's distribution of revenue sharing funds may result in the elimination or suspension of the program.

Funding availability shall be distributed based upon a formula updated annually. The formula will consist of:

1. A percentage derived from the number of certified local major street miles in each city and village divided by aggregate total of certified local major street miles of all cities and villages in the County.

for projects that exceed that municipality's annual allocation amount. This may include a limited plan to rollover that municipality's allocation for a period of years until enough funding availability has accrued to complete the project, subject to funding availability.

Upon completion of project plans and execution of the local participation agreement by the County and governing authority of the local municipality, the participating municipality shall submit an invoice in accordance with the terms and conditions included in the agreement. The Oakland County Department of Management and Budget Fiscal Services Division shall process payments in accordance with policies and procedures as set forth by the Department of Management and Budget and the Oakland County Treasurer.

In the event an eligible local unit of government chooses not to participate in the Local Road Improvement Matching Fund Program, any previously undistributed allocated funding may be reallocated to all participating local units of government at the discretion of the Local Road Improvement Program Special Committee.

At the completion of each project, the participating local government shall provide a report to the Board of Commissioners regarding the activities of the recipient and the degree to which the recipient has met the stated public purpose of the funding as required by MCL 123.872.

ATTACHMENT C

Pilot Local Road Improvement Matching Fund Program

Install a Roundabout at 11 Mile and Lee BeGole

City of Novi

Board Project No. 2019-26

Reconstruction of Crescent Blvd to Lee BeGole, extending Lee Begole Drive to the North and West and connect into existing Crescent Boulevard (aka: existing Northwest Ring Road). Includes installing a roundabout at 11 Mile and Lee BeGole and replacing the existing culvert beneath Lee BeGole Drive.

ESTIMATED PROJECT COST

| | |
|------------------------------------|--------------------|
| Construction and Engineering Costs | \$3,825,000 |
| Total Estimated Project Costs | <u>\$3,825,000</u> |

COST PARTICIPATION BREAKDOWN:

| | COMMUNITY | COUNTY | TOTAL |
|-------------------------|-------------|-----------|-------------|
| FY2019 LRIP Program | \$102,869 | \$102,869 | \$205,738 |
| Additional Contribution | \$3,617,660 | \$1,602 | \$3,619,262 |
| TOTAL SHARES | \$3,720,529 | \$104,471 | \$3,825,000 |