



500 West Big Beaver
Troy, MI 48084
troymi.gov



CITY COUNCIL AGENDA ITEM

Date: June 23, 2021

To: Mark F. Miller, City Manager

From: Robert J. Bruner, Assistant City Manager
Robert C. Maleszyk, Chief Financial Officer
Lisa Burnham, Accounting Manager
Kurt Bovensiep, Public Works Director
William J. Huotari, City Engineer

Subject: 2021 Oakland County Local Road Improvement Program
Wilshire Drive
Project No. 20.106.5

History:

The Oakland County Local Road Improvement Program was established in 2016 by the Oakland County Board of Commissioners to assist local cities and villages with maintenance and improvements on local roads under their jurisdiction.

This program provides limited financial assistance to Oakland County cities and villages. Local municipalities must match funding from Oakland County. Communities are allocated funds based upon a formula consisting of road miles, population and crash data.

This program is more flexible than the current Tri-Party Road Program. It allows Oakland County to assist its cities and villages with maintenance and safety projects on non-county roads for the purposes of improving economic development in Oakland County cities and villages. Project funding is to be utilized solely for the purposes of road improvements to roads under the jurisdiction of local cities and villages and must be real capital improvements to roadways (no administrative expenses, personnel, consultants, etc.). Non-motorized projects do not qualify. Projects authorized under this program must contribute to the purpose of encouraging and assisting businesses to locate and expand within the county.

Project Information:

The project submitted for consideration and subsequently approved by the Committee for 2021 is for the removal and replacement of select concrete pavement on Wilshire Drive, from Big Beaver to Crooks. Work on Wilshire will be coordinated with the owner/developer of the 888 West Big Beaver site (Unicorp National Developments) as Unicorp has committed to working jointly with the City on pavement repairs on Wilshire as the result of their construction on the 888 West Big Beaver site and Zen Apartments. City management has met with representatives of Unicorp and O'Brien Construction and will formalize work areas later this summer prior to any work commencing. This will allow for a more complete project and all work will be completed by one contractor under one contract.



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Financial:

Troy's share of the work on Wilshire will be funded with 2021 Oakland County Local Road Improvement Program funds. The 2021 program amount for Troy is \$420,477. The City of Troy and the Board of Commissioners of the County of Oakland share this amount 50/50. Troy's share is \$210,238.

Funds are included in the 2022 Major Road Fund (Account No. 401.447.479.7989.201065).

Recommendation:

Staff recommends that City Council approve the attached Cost Participation Agreement between the City of Troy and the Board of Commissioners of the County of Oakland for the Local Road Improvement Program in the amount of \$420,477 at an estimated cost to the City of Troy of \$210,238 for the removal and replacement of select concrete pavement on Wilshire Drive, from Big Beaver to Crooks. Funds are included in the 2022 Major Road Fund (Account No. 401.447.479.7989.201065). Furthermore, staff recommends that the Mayor and City Clerk be authorized to execute the agreement.

Legal Review:

This item was submitted to the City Attorney for review pursuant to City Charter Section 3.17.



WILSHIRE

CROOKS

WILSHIRE

BIG BEAVER



2021 Oakland County Local Road Improvement Program
City of Troy Wilshire Drive



June 21, 2021

Greetings,

We are pleased to inform you that the Board of Commissioners has approved your application for funding under the 2021 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.

For execution, you will receive a separate email requesting a digital signature on your Cost Participation Agreement. This email will come from JoAnn Stringfellow at the email address: echosign@echosign.com. If you are not the designated signer, please click the “**DELEGATE**” link in the email and enter the name and email address of the appropriate individual. Following approval by your governing authority as applicable, and execution of the agreement, please electronically sign the agreement. All signers will automatically receive a digital sealed copy of the executed document for your records.

After you receive the digital sealed and executed 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 248-425-7056 or aubrya@oakgov.com.

Sincerely,

The Oakland County Board of Commissioners

LOCAL ROAD IMPROVEMENT MATCHING FUND PROGRAM

COST PARTICIPATION AGREEMENT

Concrete Slab Replacement on Wilshire Drive, From Big Beaver to Crooks Road

City of Troy

Board Project No. 2021-32

This Agreement, made and entered into this 17TH day of JUNE, 2021, by and between the Board of Commissioners of the County of Oakland, Michigan, hereinafter referred to as the BOARD, and the City of Troy, hereinafter referred to as the COMMUNITY, provides as follows:

WHEREAS, the BOARD has established the 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 concrete slab replacement on Wilshire Drive, from Big Beaver to Crooks Road, 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 an annual 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 2021. 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 \$420,477; and

WHEREAS, said PROJECT involves certain designated and approved Local Road Improvement Matching Funds in an amount not to exceed \$210,238, 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 \$210,238. The COMMUNITY shall submit an invoice to the COUNTY in an amount not to exceed \$210,238.

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 in an amount not to exceed \$210,238 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: _____
David T. Woodward

Its: Chairman _____

COMMUNITY

By: _____

Its: _____

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 is continuing the success of the pilot program launched in 2016 that was more flexible than the current Tri-Party Road Program; one that allowed 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

help its cities and villages accomplish this through its Local Road Improvement Matching Fund Program, commonly known as the Local Road Improvement Program (LRIP).

Any such program must be mindful of the limits imposed under Public Act 9. One important restriction Public Act 9 imposed on grants or loans made pursuant to Subsection 2 of the Act is the mandate that, "A grant or loan under this Subsection shall not be derived from ad valorem taxes except for ad valorem taxes approved by a vote of the people for economic development." This means that funding for an expanded local road assistance program cannot utilize proceeds from any of Oakland County's ad valorem tax levies since no levy has been approved by voters specifically for economic development.

Given this limitation, it appears that the state statutory revenue sharing appropriated to the County can provide a non-ad valorem source of funds that legally can be used to support the program. Competition for those funds, which are limited in amount, is fierce and their yearly availability is subject to the state legislative process. In the recent past, the State stripped all of those funds away from Michigan counties. Understanding that reality, it shall be the policy of the Oakland County Board of Commissioners that the Board shall not appropriate any County funds for a local road improvement matching fund program for non-County roads in any year where the State of Michigan fails to appropriate statutory revenue sharing funds to Oakland County in an amount sufficient to allow the County to first prudently address its core functions.

Act 9 imposes additional conditions on grants and loans. These include requirements that the loan or grant shall be administered within an established application process for proposals; that any grant or loan shall be made at a public hearing of the county board of commissioners and that the Board shall require a report to the county board of commissioners regarding the activities of the recipient and a report as to the degree to which the recipient has met the stated public purpose of the funding.

Understanding all of the above, the Oakland County Board of Commissioners hereby establishes the following Local Road Improvement Matching Fund Program:

PROGRAM SUMMARY

The Board of Commissioners established a Pilot Local Road Improvement Matching Fund Program through Miscellaneous Resolution #16103 for the purposes of improving economic development in Oakland County cities and villages. The County intends to continue this Program to assist its municipalities by offering limited matching funds for specific, targeted road maintenance and/or improvement projects on roadways under the jurisdiction of cities and villages.

A city or village participating in the Local Road Improvement Matching Fund Program shall match any fund authorized by the Board of Commissioners in an amount equal to a minimum of 50% of the cost of the total project award. County participation shall be limited to a maximum of 50% of the cost of the total project budget. Funding shall be utilized to supplement and enhance local road maintenance and improvement programs. Funding is not intended to replace existing budgeted local road programs or to replace funding already committed to road improvements.

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 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.
2. A percentage derived from the population of each city and village as determined by the last decennial census conducted by the U.S. Census Bureau divided by the aggregate total population of cities and villages in the County.

3. A percentage derived from the three-year rolling total of the number of crashes on city and village major local streets divided by the aggregate three-year rolling crash numbers for all city and village major local streets, using the most recent data available. The crash data will be supplied by the South East Michigan Council of Governments (SEMCOG).

Each city and village's percentage allocation shall be determined by adding each factor percentage and dividing that total by three. The amount of funds available for match shall be determined by the total amount of funds allocated by the Board of Commissioners added to an equal amount representing the match provided by local cities and villages.

The Chairman of the Board of Commissioners shall establish a Special Committee on the Local Road Improvement Program. This Special Committee shall consist of three members, with two members representing the majority caucus and one member representing the minority caucus. It shall be the responsibility of the Special Committee to direct the administration of this program, receive applications for program funding, and make recommendations of acceptance to the Board of Commissioners. The Special Committee may consult with County departments, staff, the South East Michigan Council of Governments (SEMCOG), and the Road Commission for Oakland County in the conduct of its business.

DISBURSEMENT

The Special Committee shall forward recommendations for approval of Local Road Improvement Matching Fund Program projects to the Chairman of the Board of Commissioners. This recommendation shall include a cost participation agreement between the County and participating municipality. Minimally, cost participation agreements shall include: responsibility for administering the project, the project location, purpose, scope, estimated costs including supporting detail, provisions ensuring compliance with project guidelines, as well as disbursement eligibility requirements. The cost participation agreement shall also require the maintenance of supporting documentation to ensure compliance with the following provisions:

1. Any and all supporting documentation for project expenditures reimbursed with appropriated funding shall be maintained a minimum of seven years from the date of final reimbursement for actual expenditures incurred.
2. The Oakland County Auditing Division reserves the right to audit any and all project expenditures reimbursed through the program.

Upon receipt of recommendation of project approval from the Special Committee, the County Commissioner or Commissioners representing the area included in the proposed project may introduce a resolution authorizing approval of the project and the release of funds. Resolutions shall be forwarded to the Economic Development and Infrastructure Committee of the Board of Commissioners, who shall review and issue a recommendation to the Board on the adoption of the resolution. A public hearing shall be scheduled before the Board of Commissioners prior to consideration of final approval of the resolution.

The deadline for projects to be submitted for consideration shall be established by the Special Committee. The Special Committee may work with participating municipalities to develop a plan 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 cost 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.

**LRIP DISTRIBUTION FORMULA
2021**

Attachment "B"

City/Village	Cert Major Local Road Miles	Miles %	Population	Pop %	Crash Data*	Crash %	Miles+Pop+Crash	Max County Match	Minimum Project Cost
Auburn Hills	32.33	4.82%	21,412	2.80%	463	5.25%	4.29%	\$ 89,575	\$ 179,149
Berkley	15.63	2.33%	14,970	1.96%	119	1.35%	1.88%	\$ 39,245	\$ 78,489
Beverly Hills	10.99	1.64%	10,267	1.34%	67	0.76%	1.25%	\$ 26,044	\$ 52,088
Bingham Farms	1.02	0.15%	1,111	0.15%	0	0.00%	0.10%	\$ 2,071	\$ 4,142
Birmingham	21.87	3.26%	20,103	2.63%	409	4.63%	3.51%	\$ 73,264	\$ 146,528
Bloomfield Hills	8.83	1.32%	3,869	0.51%	39	0.44%	0.76%	\$ 15,767	\$ 31,534
Clarkston	1.48	0.22%	882	0.12%	9	0.10%	0.15%	\$ 3,050	\$ 6,099
Clawson	9.62	1.44%	11,825	1.55%	112	1.27%	1.42%	\$ 29,588	\$ 59,176
Farmington	7.36	1.10%	10,372	1.36%	40	0.45%	0.97%	\$ 20,241	\$ 40,483
Farmington Hills	58.36	8.71%	79,740	10.43%	889	10.07%	9.74%	\$ 203,309	\$ 406,617
Ferndale	20.99	3.13%	19,900	2.60%	202	2.29%	2.67%	\$ 55,844	\$ 111,688
Franklin	4.34	0.65%	3,150	0.41%	10	0.11%	0.39%	\$ 8,163	\$ 16,327
Hazel Park	17.12	2.55%	16,422	2.15%	258	2.92%	2.54%	\$ 53,074	\$ 106,147
Holly	7	1.04%	6,086	0.80%	46	0.52%	0.79%	\$ 16,438	\$ 32,875
Huntington Woods	6.95	1.04%	6,238	0.82%	17	0.19%	0.68%	\$ 14,238	\$ 28,475
Keego Harbor	1.93	0.29%	2,970	0.39%	6	0.07%	0.25%	\$ 5,182	\$ 10,363
Lake Angelus	0	0.00%	290	0.04%	0	0.00%	0.01%	\$ 264	\$ 528
Lake Orion	2.74	0.41%	2,973	0.39%	39	0.44%	0.41%	\$ 8,627	\$ 17,255
Lathrup Village	7.36	1.10%	4,075	0.53%	132	1.50%	1.04%	\$ 21,761	\$ 43,522
Leonard	2.34	0.35%	403	0.05%	5	0.06%	0.15%	\$ 3,191	\$ 6,382
Madison Heights	21.5	3.21%	29,694	3.89%	442	5.01%	4.03%	\$ 84,216	\$ 168,432
Milford	7.3	1.09%	6,175	0.81%	116	1.31%	1.07%	\$ 22,349	\$ 44,699
Northville	0.8	0.12%	5,970	0.78%	11	0.12%	0.34%	\$ 7,135	\$ 14,269
Novi	39.52	5.90%	55,224	7.23%	382	4.33%	5.82%	\$ 121,445	\$ 242,890
Oak Park	18.35	2.74%	29,319	3.84%	297	3.36%	3.31%	\$ 69,171	\$ 138,342
Orchard Lake Village	1.8	0.27%	2,375	0.31%	15	0.17%	0.25%	\$ 5,215	\$ 10,429
Ortonville	3.21	0.48%	1,442	0.19%	6	0.07%	0.25%	\$ 5,119	\$ 10,239
Oxford	6.01	0.90%	3,436	0.45%	47	0.53%	0.63%	\$ 13,075	\$ 26,150
Pleasant Ridge	3.59	0.54%	2,526	0.33%	44	0.50%	0.45%	\$ 9,497	\$ 18,994
Pontiac	70.21	10.47%	59,515	7.79%	1065	12.07%	10.11%	\$ 211,071	\$ 422,143
Rochester	8.59	1.28%	12,711	1.66%	127	1.44%	1.46%	\$ 30,508	\$ 61,017
Rochester Hills	38.61	5.76%	70,995	9.29%	273	3.09%	6.05%	\$ 126,268	\$ 252,536
Royal Oak	63.96	9.54%	57,236	7.49%	1123	12.72%	9.92%	\$ 207,080	\$ 414,159
South Lyon	4.43	0.66%	11,327	1.48%	16	0.18%	0.77%	\$ 16,177	\$ 32,353
Southfield	64.71	9.65%	71,739	9.39%	789	8.94%	9.33%	\$ 194,731	\$ 389,462
Sylvan Lake	2.58	0.38%	1,720	0.23%	2	0.02%	0.21%	\$ 4,403	\$ 8,806
Troy	57.34	8.55%	80,980	10.60%	976	11.06%	10.07%	\$ 210,238	\$ 420,477
Walled Lake	5.34	0.80%	6,999	0.92%	44	0.50%	0.74%	\$ 15,388	\$ 30,775
Wixom	10.49	1.56%	13,498	1.77%	177	2.01%	1.78%	\$ 37,140	\$ 74,280
Wolverine	3.69	0.55%	4,312	0.56%	13	0.15%	0.42%	\$ 8,783	\$ 17,567
TOTAL	670.29	100.00%	764,251	100.00%	8,827	100.00%	100.00%	\$ 2,087,943	\$ 4,175,886