



# CITY of NOVI CITY COUNCIL

Agenda Item C  
September 30, 2013

**SUBJECT:** Approval to award an engineering services agreement with Spalding DeDecker Associates for design engineering services related to the 2014 Neighborhood Road Program in the amount of \$95,313.

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division <sup>194</sup> *BC*

**CITY MANAGER APPROVAL:** *[Signature]*

EXPENDITURE REQUIRED	\$ 95,313
AMOUNT BUDGETED	\$370,000
LINE ITEM NUMBER	203-203.00-805.434

## BACKGROUND INFORMATION:

Each year, the City of Novi selects residential streets for reconstruction, repaving, repair, and/or rehabilitation based on PASER ratings, staff's field observations and resident concerns. Similar to the current year's program, the 2014 program will consist of two separate contracts: one for concrete streets and one for asphalt streets. The approved FY 13-14 budget allocated \$2,329,000 for neighborhood roads, of which \$300,000 was used in the 2013 program and \$2,029,000 is being allocated to the 2014 Neighborhood Road Program. Funding for FY13-14 represents a 77% increase over the previous fiscal year due to the increased level of funding for local streets as a result of the approved Municipal Street Fund millage increase. Staff will work with Spalding DeDecker (SDA) to develop a list of streets to be further evaluated and designed for inclusion in the 2014 program. This list will be distributed once the streets have been selected.

One of the primary goals of the Department of Public Services' asset management program is the preservation of the City's roadways to prevent costly reconstruction. Novi's neighborhood road and preventative maintenance programs are intended to result in an overall improvement in the quality of the City's roadways and consequently increase the overall PASER rating for the roadway network. The neighborhood road program will typically address large sections of streets that require significant rehabilitation. Rehabilitation techniques that will be considered include standard methods, such as mill and overlay, partial-depth and full-depth joint repairs; and will also include other emerging technologies such as pavement interlayers, asphalt recycling, full-depth reclamation, and the use of other materials and methods that improve the strength of the pavement and resistance to reflective cracking. The objective is to preserve good quality roads using lower-cost rehabilitation techniques, rather than allowing the roads to deteriorate to a point that requires road reconstruction involving much more effort at a higher cost. This type of rehabilitation is intended to limit further deterioration of existing pavement defects and extend the service life of the pavement.

SDA will be assisting the Engineering Division with the design and construction engineering services for this project. The design fees for the project based on the fixed fee schedule established in the Agreement for Professional Engineering Services for Public Projects for the City's three pre-qualified engineering consultants. The design fees for this project will be \$95,313 (4.85% of the estimated construction cost of \$1,965,220). (The construction value used for award is less than the budgeted construction amount to reserve a contingency of 3%). The construction phase engineering fees will be awarded at the time of construction award and will be based on the contractor's bid and the fee percentage in the Agreement for Professional Engineering Services for Public Projects. A draft of the Supplemental Professional Engineering Services Agreement for this project is enclosed.

The 2014 Neighborhood Road Program will be designed over the winter months, and construction of this project is expected to commence in spring 2014.

**RECOMMENDED ACTION:** Approval to award an engineering services agreement with Spalding DeDecker Associates for design engineering services related to the 2014 Neighborhood Road Program in the amount of \$95,313.

	1	2	Y	N
<b>Mayor Gatt</b>				
<b>Mayor Pro Tem Staudt</b>				
<b>Council Member Casey</b>				
<b>Council Member Fischer</b>				

	1	2	Y	N
<b>Council Member Margolis</b>				
<b>Council Member Mutch</b>				
<b>Council Member Wrobel</b>				

# **SUPPLEMENTAL PROFESSIONAL ENGINEERING SERVICES AGREEMENT**

## **2014 NEIGHBORHOOD ROAD PROGRAM**

This Agreement shall be considered as made and entered into as of the date of the last signature hereon, and is between the City of Novi, 45175 W. Ten Mile Road, Novi, MI 48375-3024, hereafter, "City," and Spalding DeDecker Associates, Inc., whose address is 905 South Boulevard East, Rochester Hills, MI 48307, hereafter, "Consultant."

### **RECITALS:**

This Agreement shall be supplemental to, and hereby incorporates the terms and conditions of the AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES FOR PUBLIC PROJECTS, and attached exhibits, entered into between the City and the Consultant on December 17, 2012.

The project includes the design and the preparation of plans and specifications for the 2014 Neighborhood Road Program. SDA will assist the City with the selection of the streets to be included in the program, as well as the method of rehabilitation for the streets selected. Additionally, the sidewalk ramps adjacent to the project limits will be improved to current Americans with Disabilities Act (ADA) standards.

NOW, THEREFORE, in consideration of the foregoing, the City and Consultant agree as follows:

### **Section 1. Professional Engineering Services.**

For and in consideration of payment by the City as provided under the "Payment for Engineering Services" section of this Agreement, Consultant shall perform the work described in the manner provided or required by the following Scope of Services, which is attached to and made a part of this Agreement as Exhibit A, all of said services to be done in a competent, efficient, timely, good and workmanlike manner and in compliance with all terms and conditions of this Agreement.

Exhibit A                      Scope of Services

### **Section 2. Payment for Professional Engineering Services.**

#### **1. Basic Fee.**

- a. Design Phase Services: The Consultant shall complete the design phase services as described herein for a lump sum fee of \$95,313, which is 4.85% of the estimated construction cost (\$1,965,220) as indicated on the design and construction engineering fee curve provided in Exhibit B of the Agreement for Professional Engineering Services for Public Projects.

- b. Construction Phase Services will be awarded at the time of construction award, should it occur.

2. Payment Schedule for Professional Engineering Services Fee.

Consultant shall submit monthly statements for professional engineering services rendered. The statements shall be based on Consultant's estimate of the proportion of the total services actually completed for each task as set forth in Exhibit A at the time of billing. The City shall confirm the correctness of such estimates, and may use the City's own engineer for such purposes. The monthly statements should be accompanied by such properly completed reporting forms and such other evidence of progress as may be required by the City. Upon such confirmation, the City shall pay the amount owed within 30 days.

Final billing under this agreement shall be submitted in a timely manner but not later than three (3) months after completion of the services. Billings for work submitted later than three (3) months after completion of services will not be paid. Final payment will be made upon completion of audit by the City.

3. Payment Schedule for Expenses.

All expenses required to complete the scope of services described herein, including but not limited to costs related to mileage, vehicles, reproduction, computer use, etc., shall be included in the basic fee and shall not be paid separately. However, as compensation for expenses that are not included in the standard scope of services, when incurred in direct connection with the project, and approved by the City, the City shall pay the Consultant its actual cost times a factor of 1.15.

#### **Section 4. Ownership of Plans and Documents; Records.**

1. Upon completion or termination of this agreement, all documents prepared by the Consultant, including tracings, drawings, estimates, specifications, field notes, investigations, studies, etc., as instruments of service shall become the property of the City.

2. The City shall make copies, for the use of the Consultant, of all of its maps, records, laboratory tests, or other data pertinent to the work to be performed by the Consultant under this Agreement, and also make available any other maps, records, or other materials available to the City from any other public agency or body.

3. The Consultant shall furnish to the City, copies of all maps, records, field notes, and soil tests that were developed in the course of work for the City and for which compensation has been received by the Consultant.

#### **Section 5. Termination.**

1. This Agreement may be terminated by either party upon 7- days' prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party.

2. This Agreement may be terminated by the City for its convenience upon 90 days' prior written notice to the Consultant.

3. In the event of termination, as provided in this Article, the Consultant shall be paid as compensation in full for services performed to the date of that termination, an amount calculated in accordance with Section 2 of this Agreement. Such amount shall be paid by the City upon the Consultant's delivering or otherwise making available to the City, all data, drawings, specifications, reports, estimates, summaries, and that other information and materials as may have been accumulated by the Consultant in performing the services included in this Agreement, whether completed or in progress.

**Section 6. Disclosure.**

The Consultant affirms that it has not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of the person's immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional engineering services to the City within the two years preceding the execution of this Agreement. A campaign contribution, as defined by Michigan law shall not be considered as a valuable gift for the purposes of this Agreement.

**Section 7. Insurance Requirements.**

1. The Consultant shall maintain at its expense during the term of this Agreement, the following insurance:

- A. Worker's Compensation insurance relative to all Personnel engaged in performing services pursuant to this Agreement, with coverage not less than that required by applicable law.
- B. Comprehensive General Liability insurance with maximum bodily injury limits of \$1,000,000 (One Million Dollars) each occurrence and/or aggregate and minimum Property Damage limits of \$1,000,000 (One Million Dollars) each occurrence and/or aggregate.
- C. Automotive Liability insurance covering all owned, hired, and non-owned vehicles with Personal Protection insurance to comply with the provisions of the Michigan No Fault Insurance Law including Residual Liability insurance with minimum bodily injury limits of \$1,000,000 (One Million Dollars) each occurrence and/or aggregate minimum property damage limits of \$1,000,000 (One Million Dollars) each occurrence and/or aggregate.
- D. The Consultant shall provide proof of Professional Liability coverage in the amount of not less than \$1,000,000 (One Million Dollars) per occurrence and/or aggregate, and Environmental Impairment coverage.

2. The Consultant shall be responsible for payment of all deductibles contained in any insurance required hereunder.

3. If during the term of this Agreement changed conditions or other pertinent factors should in the reasonable judgment of the City render inadequate insurance limits, the Consultant will furnish on demand such additional coverage as may reasonably be required under the circumstances. All such insurance shall be effected at the Consultant's expense, under valid and enforceable policies, issued by the insurers of recognized responsibility which are well-rated by national rating organizations and are acceptable to the City.

4. All policies shall name the Consultant as the insured and shall be accompanied by a commitment from the insurer that such policies shall not be canceled or reduced without at least thirty (30) days prior notice to the City.

With the exception of professional liability, all insurance policies shall name the City of Novi, its officers, agents, and employees as additional insured. Certificates of Insurance evidencing such coverage shall be submitted to Sue Morianti, Purchasing Manager, City of Novi, 45175 West Ten Mile Road, Novi, MI 48375-3024 prior to commencement of performance under this Agreement and at least fifteen (15) days prior to the expiration dates of expiring policies.

5. If any work is sublet in connection with this Agreement, the Consultant shall require each subconsultant to effect and maintain at least the same types and limits of insurance as fixed for the Consultant.

6. The provisions requiring the Consultant to carry said insurance shall not be construed in any manner as waiving or restricting the liability of the Consultant under this Agreement.

**Section 8. Indemnity and Hold Harmless.**

A. The Consultant agrees to indemnify and hold harmless the City, its elected and appointed officials and employees, from and against any and all claims, demands, suits, losses and settlements, including actual attorney fees incurred and all costs connected therewith, for any damages which may be asserted, claimed or recovered against the City by reason of personal injury, death and/or property damages which arises out of or is in any way connected or associated with the actions or inactions of the Consultant in performing or failing to perform the work.

The Consultant agrees that it is its responsibility and not the responsibility of the City to safeguard the property and materials used in performing this Agreement. Further, this Consultant agrees to hold the City harmless for any loss of such property and materials used pursuant to the Consultant's performance under this Agreement.

**Section 9. Nondiscrimination.**

The Consultant shall not discriminate against any employee, or applicant for employment because of race, color, sex, age or handicap, religion, ancestry, marital status, national origin, place of birth, or sexual preference. The Consultant further covenants that it will comply with the Civil Rights Act of 1973, as amended; and the Michigan Civil Rights Act of 1976 (78. Stat. 252 and 1976 PA 4563) and will require a similar covenant on the part of any consultant or subconsultant employed in the performance of this Agreement.

**Section 10. Applicable Law.**

This Agreement is to be governed by the laws of the State of Michigan and the City of Novi Charter and Ordinances.

**Section 11. Approval; No Release.**

Approval of the City shall not constitute nor be deemed release of the responsibility and liability of Consultant, its employees, associates, agents and subconsultants for the accuracy and competency of their designs, working drawings, and specifications, or other documents and services; nor shall that approval be deemed to be an assumption of that responsibility by the City for any defect in the designs, working drawings and specifications or other documents prepared by Consultant, its employees, subconsultants, and agents.

After acceptance of final plans and special provisions by the City, Consultant agrees, prior to and during the construction of this project, to perform those engineering services as may be required by City to correct errors or omissions on the original plans prepared by Consultant and to change the original design as required.

**Section 12. Compliance With Laws.**

This Contract and all of Consultants professional services and practices shall be subject to all applicable state, federal and local laws, rules or regulations, including without limitation, those which apply because the City is a public governmental agency or body. Consultant represents that it is in compliance with all such laws and eligible and qualified to enter into this Agreement.

**Section 13. Notices.**

Written notices under this Agreement shall be given to the parties at their addresses on page one by personal or registered mail delivery to the attention of the following persons:

City: Rob Hayes, P.E., Director of Public Services and Maryanne Cornelius, Clerk, with a copy to Thomas R. Schultz, City Attorney

Consultant: David Eno, P.E., Project Manager

**Section 14. Waivers.**

No waiver of any term or condition of this Agreement shall be binding and effective unless in writing and signed by all parties, with any such waiver being limited to that circumstance only and not applicable to subsequent actions or events.

**Section 15. Inspections, Notices, and Remedies Regarding Work.**

During the performance of the professional services by Consultant, City shall have the right to inspect the services and its progress to assure that it complies with this Agreement. If such inspections reveal a defect in the work performed or other default in this Agreement, City

shall provide Consultant with written notice to correct the defect or default within a specified number of days of the notice. Upon receiving such a notice, Consultant shall correct the specified defects or defaults within the time specified. Upon a failure to do so, the City may terminate this Agreement by written notice and finish the work through whatever method it deems appropriate, with the cost in doing so being a valid claim and charge against Consultant; or, the City may preserve the claims of defects or defaults without termination by written notice to Consultant.

All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and specifications shall be decided by the City. All questions as to the satisfactory and acceptable fulfillment of the terms of this agreement shall be decided by the City.

**Section 16. Delays.**

No charges or claims for damages shall be made by the Consultant for delays or hindrances from any cause whatsoever during the progress of any portions of the services specified in this agreement, except as hereinafter provided.

In case of a substantial delay on the part of the City in providing to the Consultant either the necessary information or approval to proceed with the work, resulting, through no fault of the Consultant, in delays of such extent as to require the Consultant to perform its work under changed conditions not contemplated by the parties, the City will consider supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be in writing and accompanied by substantiating data.

When delays are caused by circumstances or conditions beyond the control of the Consultant as determined by the City, the Consultant shall be granted an extension of time for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the permitting of the Consultant to proceed to complete the services, or any part of them, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the City of any of its rights herein set forth.

**Section 17. Assignment.**

No portion of the project work, heretofore defined, shall be sublet, assigned, or otherwise disposed of except as herein provided or with the prior written consent of the City. Consent to sublet, assign, or otherwise dispose of any portion of the services shall not be construed to relieve the Consultant of any responsibility for the fulfillment of this agreement.

**Section 18. Dispute Resolution.**

The parties agree to try to resolve any disputes as to professional engineering services or otherwise in good faith. In the event that the parties cannot resolve any reasonable dispute, the parties agree to seek alternative dispute resolution methods agreeable to both parties and which are legally permissive at the time of the dispute. The parties agree to use their best efforts to resolve any good faith dispute within 90 (ninety) days notice to the other party. In the event the parties cannot resolve that dispute as set forth above, they may seek such remedies as may be permitted by law.



WITNESSES

Spalding DeDecker Associates, Inc.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By:  
Its:

The foregoing \_\_\_\_\_ was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_ on behalf of  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

WITNESSES

CITY OF NOVI

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
By:  
Its:

The foregoing \_\_\_\_\_ was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_ on behalf of the City of Novi.

\_\_\_\_\_  
Notary Public  
Oakland County, Michigan  
My Commission Expires: \_\_\_\_\_

## **EXHIBIT A - SCOPE OF SERVICES**

Consultant shall provide the City professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as the City's professional engineering representative for the Project, providing professional engineering consultation and advice and furnishing customary civil, structural, mechanical and electrical engineering services and customary engineering services incidental thereto, as described below.

### **A. Basic Services.**

1. See attached.

### **B. Performance.**

1. The Consultant agrees that, immediately upon the execution of this Agreement, it will enter upon the duties prescribed in this agreement, proceed with the work continuously, and make the various submittals on or before the dates specified in the attached schedule. The City is not liable and will not pay the Consultant for any services rendered before written authorization is received by the Consultant.
2. The Consultant shall submit, and the City shall review and approve a timeline for submission of plans and/or the completion of any other work required pursuant to this Scope of Services. The Consultant shall use its best efforts to comply with the schedule approved by the City.
3. If any delay is caused to the Consultant by order of the City to change the design or plans; or by failure of the city to designate right-of-way, or to supply or cause to be supplied any data not otherwise available to the Consultant that is required in performing the work described; or by other delays due to causes entirely beyond the control of the Consultant; then, in that event, the time schedules will be adjusted equitably in writing, as mutually agreed between the City and the Consultant at the moment a cause for delay occurs.
4. Since the work of the Consultant must be coordinated with the activities of the City (including firms employed by and governmental agencies and subdivisions working with the City), the Consultant shall advise the City in advance, of all meetings and conferences between the Consultant and any party, governmental agency, political subdivision, or third party which is necessary to the performance of the work of the Consultant.



**City of Novi**  
**2014 Neighborhood Road Program**  
**Design Engineering Services and Project Scope**  
9/20/2013

Spalding DeDecker Associates, Inc. (SDA) is pleased to have been selected to provide design services for the 2014 City of Novi Neighborhood Road Program (NRP). The following information presents the understood scope and summary of services SDA will provide for this project.

**Project Overview and Understanding of Requested Services**

The project will generally include the rehabilitation of hot-mix asphalt (HMA) and concrete neighborhood / subdivision streets. Rehabilitation includes full-depth patching and repairs, with small segments of replacement, as opposed to reconstruction which is the complete replacement of the full width and length of a roadway pavement.

At this time, the specific roadways and exact work for each roadway has not been determined. SDA will work with City staff in reviewing the candidate roadways and estimating pre-design construction costs to result in the maximum amount of improvements within the programmed budget of \$1,965,220. The program will be packaged and bid as two separate construction projects - each roadway material type (concrete or HMA) will be designed, bid, and constructed as a separate project.

**Proposed Scope of Services**

Following award, SDA and City staff will visit each candidate roadway together and jointly discuss the planned fix for each. Pre-design estimates will be prepared and the roads to be included in the project will be finalized.

Once the roads to be included in the project have been selected, SDA will solicit three quotes from geotechnical service firms and provide the received information to the City. The City will select a firm to perform pavement cores and soil borings, as well provide input on the proposed rehabilitation methods, and pavement design for any potential full reconstruction segments. The selected geotechnical firm will contract directly with the City and the cost is not included in our design fee.

Limited topographic survey for use during design will be performed for any ADA sidewalk ramp upgrades, and potential long segments of reconstruction. Storm water catch basins will be individually inspected and the condition detailed on evaluation logs. Any repairs needed to storm catch basins will be specified on the plans.

Plans will be prepared from a combination of available aerial mapping, survey, City-provided GIS linework, SDA obtained private utility information, and measurements and observations from field reviews. In addition to showing the roadway and proposed repair locations, the plans will show driveways, trees, mailbox locations, utility structures, approximate utility locations, and house addresses by parcel.

If required based on the selected roads, permits will be applied for from either the Wayne County Department of Public Services (WCDPS) or Road Commission for Oakland County (RCOC) to place construction signing within the right-of-way for roads under the jurisdiction of either agency.

Preliminary Plans will be submitted at approximately 50-75% completion, showing existing and proposed typical cross sections; plan view of areas to be patched with summary tables; and supporting details and notes (ADA, repair types, tree protection, maintaining traffic, etc). Preliminary estimates with contingency will also be submitted for each project. Comments received will be used in preparing the final review plans.

Final Review Plans will be submitted at 95% completion and will include complete specifications / contract documents as well as final estimates. Any comments will be incorporated into the final plans and specifications, which will be prepared for advertising.

During the Bidding Phase the City will place an advertisement, and plans will be made available by SDA for potential bidders. SDA will respond to contractor inquiries and issue any required addendum. SDA will review submitted bids, prepare bid tabulations, review references, and recommend award for the concrete and HMA projects.

**Construction Cost Estimate and Proposed Fees**

Based on our pre-qualification status with the City, engineering design fees are based on a percentage of the pre-design construction cost estimate. The fee percentage used depends on the type of services to be provided based on the proposed work. Since the specific roads have not yet been selected, the fees for this project will be based on the programmed budget amount and will follow the “road rehabilitation” rates in the fee table.

<u>Project</u>	<u>Construction Budget</u>	<u>Design Fee Rate</u>	<u>Proposed Design Fee</u>
2014 Neighborhood Road Program	\$1,965,220	4.85%	\$95,313

**Project Schedule**

The following summarizes the anticipated schedule for the projects (HMA and concrete roads):

<u>Milestone</u>	<u>Completed By</u>
Design Project Award	10/01/2013
Initial Meetings and Site Visits	10/16/2013
Final Roadway Selections	11/01/2013
Geotechnical and Survey Field Work	11/30/2013
Preliminary Plans	12/15/2013
Final Plans	02/01/2014
Advertising	02/15/2014
Bid Opening	03/04/2014
Award by Council	03/17/2014
Construction Start	04/15/2014
Construction Completion	07/29/2014

Thank you again for your selection of SDA to provide design services for the 2014 Neighborhood Road Program. Please don't hesitate to contact me if you have any questions or comments regarding this submittal.

Kindest Regards,

**SPALDING DEDECKER ASSOCIATES, INC.**

A handwritten signature in black ink, appearing to read "David P. Eno". The signature is written in a cursive style with a horizontal line at the end.

David P. Eno, P.E.  
Transportation Project Manager