



**City of Rochester Hills  
AGENDA SUMMARY  
NON-FINANCIAL ITEMS**

**1000 Rochester Hills Dr.  
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**Legislative File No: 2008-0664**

**TO:** Mayor and City Council Members  
**FROM:** Ed Anzek, Planning & Development Department, ext. 2572  
**DATE:** December 8, 2008  
**SUBJECT:** Payback Agreement with Kirco Construction, LLC

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**REQUEST:**

To approve the Payback Agreement with Kirco Construction, LLC for the bidding and construction of Austin Ave. and Devondale north of Austin Ave, and waive the Purchasing Ordinance

**BACKGROUND:**

City Council approved the transfer of Local Development Finance Authority funds to the Major Road Fund in 2008 in order to pay for the Austin Ave. and Devondale paving (from Austin Ave. northward) project. Due to the time frame for the completion of Rayconnect's new headquarters on land directly adjacent to the proposed Austin Ave., it has been determined by the City's Planning & Development Department and Engineering Department that it will be beneficial to permit Kirco Construction, LLC, the developer of Rayconnect's facility, to bid and construct the road improvements. This approach provides two advantages:

1. It is anticipated that the cost of construction will be less due to synergies with Rayconnect's paving needs and economies of scale
2. Given normal weather and other conditions, it is expected that Kirco will complete the work sooner

City Administration and Kirco Construction, LLC have jointly drafted a Payback Agreement that outlines the terms and conditions for the bidding, management and construction of the project. It provides for a minimum of three qualified bids; review of the bids and oversight of the construction by the City's Engineering Department; and payment terms and conditions.

In order that the City may enter into the Payback Agreement, City Council is requested to waive Section 2-275(c)(1) of the Purchasing Ordinance, requiring formal competition for purchases or contracts exceeding \$25,000. Under Section 2-281, City Council may waive the formal competition requirement, recognizing the best value to the City.

In the Agreement, the City's Engineering Department has provided a cost estimate of the proposed work. The Agreement provides that should the bids come in 10% or higher over the estimate, the City Council must approve the award.

**RECOMMENDATION:**

Approve the Payback Agreement and waive the Purchasing Ordinance for the following reasons:

1. It will enable the work to be completed sooner, providing needed access for Rayconnect when its facility opens in May of 2009
2. It will provide economies of scale with the Rayconnect project, likely resulting in lower construction costs than if the City had bid the project

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**RESOLUTION**

**NEXT AGENDA ITEM**

**RETURN TO AGENDA**

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<b>APPROVALS:</b>	<b>SIGNATURE</b>	<b>DATE</b>
<b>Department Review</b>		
<b>Department Director</b>		
<b>Mayor</b>		
<b>City Council Liaison</b>		