



CITY of NOVI CITY COUNCIL

Agenda Item B
April 9, 2012

SUBJECT: Approval of a traffic control device maintenance agreement with the Road Commission for Oakland County for the existing traffic signal on Eastbound 12 Mile Road, 1,600 feet west of Meadowbrook Road (currently serving several properties adjacent to the DMC facility).

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division ^{RM} _{BIC}

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The Road Commission for Oakland County (RCOC) has provided the attached Agreement for Traffic Control Device for the existing traffic signal at the intersection of Eastbound 12 Mile Road at the boulevard crossover 1,600 feet west of Meadowbrook Road near the DMC Medical Facility. Under the existing agreement the property owner of the DMC Medical Facility pays 100% of the maintenance costs. When the original agreement was executed with the property owner, 12 Mile Road was two lanes and the property owner requested the signal to improve access to the site. The property owner executed the original agreement with RCOC to fully cover the installation and maintenance costs.

The property owner has contacted RCOC and requested termination of the existing agreement, which would require the removal of the signal at the sole cost of the property owner. Staff reviewed the operation of the signal and noted that it serves not only the DMC medical facility, but also the property to the west as well as Waltonwood to the south. In addition, the signal stops eastbound 12 Mile traffic to allow westbound U-turns. Based on this review, staff recommends that the signal should remain in service for the benefit of the public.

The proposed agreement contemplates that the City would take over 100% of the routine maintenance costs for the signal. Routine maintenance costs for this intersection average \$2,500 per year. The revised agreement from RCOC has been reviewed by staff and the City Attorney's office (Beth Saarela's March 30, 2012 letter, attached), and approval is recommended.

RECOMMENDED ACTION: Approval of a traffic control device maintenance agreement with the Road Commission for Oakland County for the existing traffic signal on Eastbound 12 Mile Road, 1600 feet west of Meadowbrook Road (currently serving several properties adjacent to the DMC facility).

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

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

**STATE OF MICHIGAN
BOARD OF COUNTY ROAD COMMISSIONERS
OAKLAND COUNTY
AGREEMENT FOR TRAFFIC CONTROL DEVICE**

Type of Work: Traffic Signal Maintenance

Location: Twelve Mile Road (EB) and X-Over 1600 Feet West of Meadowbrook Road (Medical Center) **Signal No:** 696
Date Effective:

Under authority of state law and by virtue of resolution formally adopted by their respective governing bodies, the under-signed hereby agree to participate in the cost of installation, maintenance and operation of the above traffic control device on the basis of the following division of costs. (Title to equipment shall remain with the purchasing agency, unless purchased for roads not under the jurisdiction of the Board of County Road Commissioner.) The proportionate share of all costs are to be billed monthly. This agreement is terminable on thirty days written notice by any party.

DIVISION OF COSTS

AGENCY	INSTALLATION Percent	Estimated Cost	MAINTENANCE Percent
City of Novi	N/A %	\$ N/A	100 %
	Total	N/A % \$ N/A	100 %

It is further agreed that the agency responsible for payment of energy billings and/or leased line interconnection billings included in maintenance costs, shall be the ROAD COMMISSION FOR OAKLAND COUNTY.

It is further agreed that the agency responsible for making original and replacement installations and performing maintenance shall be the ROAD COMMISSION FOR OAKLAND COUNTY.

"In the event the traffic control device referred to in this agreement is located on a road or street that is not under the jurisdiction of the Road Commission for Oakland County, the authority having the jurisdiction over the road or street hereby agrees to save harmless, indemnify, represent, and defend the Road Commission for Oakland County from any and all claims, demands, or suits arising out of or relating to the installation, maintenance and operation of the traffic control device which is the subject matter of this agreement."

"In the event the traffic control device referred to in this agreement is located on a road or street that is under the jurisdiction of the Road Commission for Oakland County and by virtue of this agreement will be maintained by an agency other than the Road Commission for Oakland County, then and in that event the said agency hereby acknowledges that it is undertaking the Road Commission for Oakland County's duty to maintain the said traffic control device and further agrees to provide insurance coverage protecting the Road Commission for Oakland County."

APPROVED:
ROAD COMMISSION FOR OAKLAND COUNTY

APPROVED:
CITY OF NOVI

Date _____

Date _____

By _____
Danielle Deneau

By _____

DIRECTOR OF TRAFFIC-SAFETY
Title of Authorized Official

Title of Authorized Official

*Certified copy of resolution must be submitted with this form for new installations.

JOHNSON | ROSATI | SCHULTZ | JOPPICH

A Professional Corporation

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Phone: 248.489.4100 / Fax: 248.489.1726
www.johnsonrosati.com

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

March 30, 2012

Brian Coburn, Engineering Manager
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

**RE: Agreement with Road Commission for Oakland County
EB Twelve Mile Road Traffic Signal West of Meadowbrook Road**

Dear Mr. Coburn:

Our office has reviewed the proposed Agreement for consideration by City Council prepared by the Road Commission for Oakland County (RCOC) with respect to payment of the cost of maintaining the traffic control devices at the intersections of EB Twelve Mile Road and the Crossover 1600 feet west of Meadowbrook Road.

Under the Agreement the City of Novi will pay 100% of the cost for maintenance of the signal by the RCOC. RCOC will undertake the maintenance obligations. RCOC's contribution to the cost of the signal is payment of energy billings and/or leased line interconnection billings.

We note that though the last two paragraphs include indemnity requirements for the City to indemnify the RCOC for damages and injuries relating to installation, maintenance and operation of the traffic signal, it appears that neither paragraph applies in this instance because neither road controlled by the signal is in the City's jurisdiction. Twelve Mile is under the RCOC's jurisdiction and the driveway adjacent to the crossover is a private drive.

With respect to Twelve Mile, the County is immune from liability pursuant to the governmental immunity statute because traffic signals are not included in the definition of "highway." *Johnson-McIntosh v City of Detroit*, 266 Mich App 318 (2005). Therefore, in the event of an injury or other damages relating to the traffic control device, the County would very possibly be immune and this provision would in that event, have no effect on the City.

Brian Coburn, Engineering Manager

March 30, 2012

Page 2

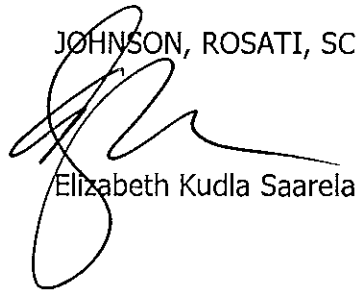
Though the dissenting opinion in *Johnson-McIntosh* points out that the plain language of MCL 691.1402a(1) would permit the City to be held liable for injury or damages relating to a traffic signal on a county road with 30 days' notice of the defect, even though the City could not be held liable for damages occurring on a city road or street, in this case, the County is maintaining the signal and not the City, so that portion of the dissenting opinion would not apply.

We see no impediment to the City entering into the Agreement.

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

Very truly yours,

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



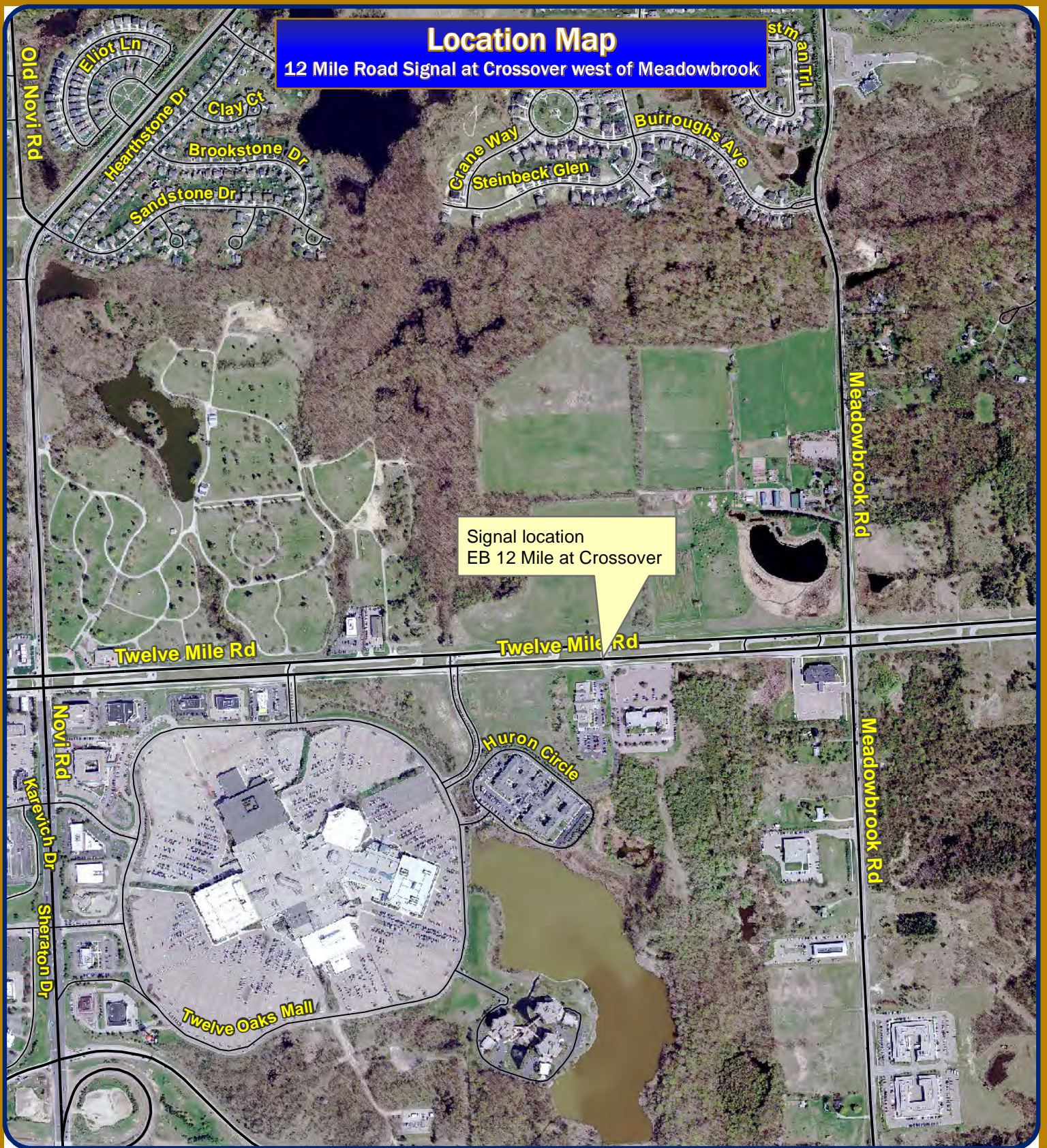
Elizabeth Kudla Saarela

EKS/sls

C: Maryanne Cornelius, Clerk
Rob Hayes, DPS Director
Thomas R. Schultz, Esquire

Location Map

12 Mile Road Signal at Crossover west of Meadowbrook



Signal location
EB 12 Mile at Crossover

Map Author: Brian Coburn
Date: 3/29/12
Project:
Version #:

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
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Novi, MI 48375
cityofnovi.org



1 inch = 856 feet