



CITY of NOVI CITY COUNCIL

Agenda Item I
March 28, 2016

SUBJECT: Approval of a Resolution of Support and an Agreement for Traffic Control Device with the Road Commission for Oakland County for the ongoing operation costs of the existing traffic signal at Novi Road and 13 Mile Road.

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division *BTC RJA*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The traffic signal at the intersection of Novi Road and 13 Mile Road was installed in the 1990s. The intersection is under the City's jurisdiction; however the City contracts with the Road Commission for Oakland County to maintain all city-owned traffic signals on the City's behalf.

The Road Commission for Oakland County is requesting approval of an updated traffic signal agreement to reflect that the City is being allocated 100% of the maintenance costs for the signal since an agreement was never executed and the City controls all four legs of the intersection. The agreement reflects the allocation that has been charged to the City since the installation of the signal, and includes the original cost allocation for installation as well as ongoing operation and maintenance costs.

RECOMMENDED ACTION: Approval of a Resolution of Support and an Agreement for Traffic Control Device with the Road Commission for Oakland County for the ongoing operation costs of the existing traffic signal at Novi Road and 13 Mile Road.

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

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

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION OF SUPPORT FOR
TRAFFIC CONTROL DEVICE AGREEMENT
13 MILE ROAD AND NOVI ROAD

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on _____, _____, at ____ o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS ; the existing traffic signal at the intersection of Novi Road and 13 Mile Road was constructed by the City of Novi in the 1990s; and,

WHEREAS ; the City of Novi contracts with the Road Commission for Oakland County to maintain all traffic signals in the City under the City's jurisdiction including said signal; and,

WHEREAS ; the Road Commission for Oakland County requires an executed traffic control agreement for all signals under complete or partial local control with an agreed upon allocation based on jurisdiction; and,

WHEREAS ; the Road Commission for Oakland County is unable to located an agreement for said traffic signal and has requested execution of an agreement; and,

WHEREAS ; the City of Novi controls all four legs of the intersection of Novi Road and 13 Mile Road and agrees that 100% of the maintenance costs for said traffic signal be paid by the City; and,

WHEREAS ; the Mayor of the City of Novi and the City Clerk are authorized to sign the agreements between the Road Commission for Oakland County and the City of Novi.

NOW THEREFORE, IT IS THEREFORE RESOLVED that the Mayor and Council of the City of Novi support the allocation of costs in the Traffic Control Device Agreement and authorize the Mayor of the City of Novi and the City Clerk to sign said agreement.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

Maryanne Cornelius, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this ____ day of _____, 2016, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

Maryanne Cornelius, City Clerk
City of Novi

Novi Road and 13 Mile Road

Location Map



Traffic Signal Location

Map Author: Coburn
Date: 3/21/16
Project:
Version #:

Amended By:
Date:
Department:

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





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Elizabeth Kudla Saarela
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March 22, 2016

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
West Thirteen Mile and Novi Road***

Dear Mr. Coburn:

Our office has reviewed the proposed Agreement for consideration by City Council prepared by RCOC with respect to sharing the cost of installing and maintaining the traffic control devices at the intersection of West Thirteen Mile and Novi Road.

Under the Agreement it appears that the City will pay the County 100% of the cost to maintain and operate the signal. It is likely that a court would construe the Agreement as an agreement retaining the County as a contractor hired by, and working on behalf of, the City to maintain the signal. The RCOC will pay for energy billings and/or leased line interconnection billings.

We note, like previous agreements between the City and RCOC, the Agreement requires the City to indemnify and hold harmless the County for claims relating to the traffic control device in the event that device is located on a road or street *other than a county road*. Since Thirteen Mile and Novi Road are both City streets, this provision likely applies. The County has previously declined to revise or remove the provision. As we previously noted, recent case law provides the County and the City are 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).

Furthermore, the State Legislature amended Section 2 of the Governmental Immunity for Tort Liability Act in 2012 (Public Act 50 of 2012) as set forth in MCL 691.1402, to clarify that cities are only required to maintain and repair the "improved portion of the highway designed for vehicular travel." Based on this statutory amendment, and the current case law, it appears that

Brian Coburn, Engineering Manager
March 22, 2016
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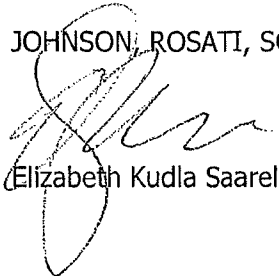
the City would be immune from liability for the maintenance and repair of traffic signals. Therefore, even though the County is acting as the City's agent like a contractor for the purpose of maintaining the traffic signal to be installed at West Thirteen Mile and Novi Road, it is likely that the City would be immune from liability and indemnifying the County would not be required as set forth in the Agreement.

Subject to the above, I see no legal impediment to entry into the Agreement with the RCOC.

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

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

Type of Work: Traffic Signal Installation & Maintenance

Location: West Thirteen Mile Road and Novi Road

Signal No: 678

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		MAINTENANCE
	Percent	Estimated Cost	Percent
City of Novi	100 %	\$ City Project	100 %
Total	100 %	\$ City Project	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

Date _____

By _____
Danielle Deneau, P.E.

DIRECTOR OF TRAFFIC-SAFETY
Title of Authorized Official

APPROVED:

CITY OF NOVI

Date _____

By _____

Title of Authorized Official

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

Coburn, Brian

From: Keller, Chuck <ckeller@rcoc.org>
Sent: Monday, March 07, 2016 12:28 PM
To: Coburn, Brian
Subject: Traffic Signal agreement - West 13 Mile Rd & Novi Rd (Co. #678)
Attachments: 13 Mile & Novi (Co#678) Agreement.pdf

Hello Brian:

Per our phone conversation last week, I'm sending you a Traffic Signal Agreement for the intersection of West Thirteen Mile Road and Novi Road. I was recently contacted by the Road Commission for Oakland County (RCOC) Accounting Department informing me about the absents of an agreement for this intersection.

Current account invoicing has the City of Novi responsible for 100% of the maintenance cost based on jurisdiction of the intersection. In an effort to update our records, RCOC is requesting execution of an agreement in accordance with the current billing practice.

Attached is a copy of the agreement needing execution. Please print three copies to be used as originals. Please have all copies signed by the appropriate official and return them to me via U.S. Mail for further processing. In addition, please include a City Council Resolution of support for this agreement. A fully executed copy of the agreement will be returned for your records.

If you have any question, please feel free to contact me at (248) 858-4830.

Thanks,
Chuck