

CITY of NOVI CITY COUNCIL

Agenda Item P
May 6, 2019



SUBJECT: Request for Adoption of a Resolution for a Local Pavement Warranty Program and a Resolution to Implement a Local Pavement Warranty Program as part of the Michigan Local Pavement Warranty Program as required by Michigan Legislature (MCL 247.662, 247.663) and Public Act 51.

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

As part of the Transportation Funding Package of 2015, the Michigan Legislature created a requirement (MCL 247.662, 247.663) for each local road agency in Michigan to adopt a Local Pavement Warranty Program ("Program") acceptable to the Michigan Department of Transportation (MDOT) for hot mix asphalt and plain jointed concrete paving projects on public roads and streets. The Program is applicable to projects involving state or federal funds exceeding \$2 million dollars in pavement costs. If the only source of revenue for a local road agency paving or reconstruction projects is entirely locally derived revenue (non-Act 51 or federal funds), such as local general fund, millage revenue, special assessment districts or other locally raised revenue, those projects will not be subject to the Local Agency Pavement Warranty Program reporting requirements.

The overall goal of the Michigan Local Pavement Warranty Program is to have one standardized method for applying pavement warranties on local agency projects, which provides a consistent, quantifiable, and transparent program, pavement contractors can recognize and implement. The Program primarily requires the City to follow the requirements in the event a warranty is required on state and federally-funded projects meeting the \$2 million dollar threshold.

Currently, the City requires each contractor on its paving projects to provide a Maintenance and Guarantee Bond in the full amount of the project cost for a minimum of one year from the date the project is completed and accepted by the City. In the event that the City intends to require a warranty on future projects that use any state or local funding, it must meet the minimum standards of the Local Pavement Warranty Program. Although the City's current bond forms appear to meet the minimum requirements of the MDOT bond form, the City's warranty period is typically not as long as the warranty periods called for under the Program. Therefore, depending on the type of project, the City's bond term may need to be extended. This is likely to add to the cost of each project.

According to the applicable statutes, this Warranty Program must be adopted by every community no later than September 18, 2019. The adoption of the Resolution to Adopt a Local Pavement Warranty Program and the Resolution to Implement a Local Pavement Warranty Program keeps the City eligible for future federal funding.

Once both resolutions have been adopted by City Council, the documents will be kept on file at the City of Novi Clerk's Office in the event that MDOT requests verification that the City has adopted the local pavement warranty program as required by Public Act 51.

The City Attorney has reviewed both resolutions and sees no legal impediment (Beth Saarela, January 31, 2019).

RECOMMENDED ACTION: Request for Adoption of a Resolution for a Local Pavement Warranty Program and a Resolution to Implement a Local Pavement Warranty Program as part of the Michigan Local Pavement Warranty Program as required by Michigan Legislature (MCL 247.662, 247.663) and Public Act 51.

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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

January 31, 2019

Jeffrey Herczeg, Director of Public Works
City of Novi
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: *Local Agency Paving Warranty Program*

Dear Mr. Herczeg:

As you may be aware, as part of the Transportation Funding Package of 2015, the Michigan Legislature created a requirement (MCL 247.662, 247.663) that each local road agency in Michigan adopt a Local Pavement Warranty Program ("Program") acceptable to the Michigan Department of Transportation (MDOT) to use for hot mix asphalt and plain jointed concrete paving projects on public roads and streets. The Program is applicable to projects involving state or federal funds exceeding \$2 million dollars in pavement costs. If the only source of revenue for a local road agency paving or reconstruction projects is entirely locally derived revenue (non-Act 51 or federal funds) such as local general fund, millage revenue, special assessment districts or other locally raised revenue, those projects will not be subject to the Local Agency Pavement Warranty Program reporting requirements.

The Program primarily requires the City to follow the Program's warranty requirements in the event that a warranty is required on state and federally-funded projects meeting the \$2 million dollar threshold. In addition to a warranty, an inspection and reporting process is required meeting Program standards.

The City already requires each contractor on its paving projects to provide a Maintenance and Guarantee Bond in the full amount of the project cost for a minimum of one year from the date the project is completed and accepted by the City. In the event that the City intends to require a warranty on future projects that use any state or local funding, it must meet the minimum standards of the Local Pavement Warranty Program. Although the City's current bond forms appear to meet the minimum requirements of the MDOT bond form, a copy of which is enclosed, the City's warranty period is typically not as long as the warranty periods called for under the Program. Therefore, depending on the type of project, the City's bond term may need to be extended. This is likely to add to the cost of each project. The enclosed manual, entitled Guidelines for Local Agency Pavement Warranty Program, and attached warranty requirements, detail the expected length of warranty period for different types of paving projects.

Jeffrey Herczeg, Director of Public Works
City of Novi
January 31, 2019
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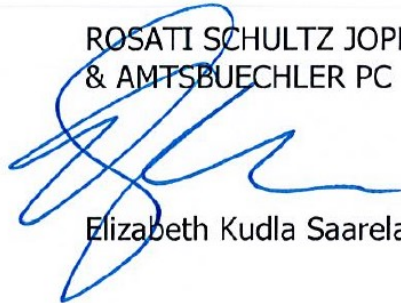
According to the applicable statutes, this Warranty Program must be adopted by every community no later than September 18, 2019. Communities must annually report on projects with \$2 million or more in paving-related items, regardless of whether they implemented a warranty or not.

According to the Program materials, enclosed, the overall goal of the Michigan Local Pavement Warranty Program is to have one standardized method for applying pavement warranties on local agency projects, which provides a consistent, quantifiable and transparent program that pavement contractors can recognize and implement.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC



Elizabeth Kudla Saarela

Enclosures

- C: Cortney Hanson, Clerk (w/ Enclosures)
- George Melistas, Senior Engineering Manager (w/Enclosures)
- Aaron Staup, Construction Engineer (w/Enclosures)
- Joseph Akers, Staff Civil Engineer (w/Enclosures)
- Thomas R. Schultz, Esquire (w/Enclosures)

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION TO ADOPT A LOCAL PAVEMENT WARRANTY PROGRAM

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 Michigan Legislature (MCL 247.663) requires each city or village to adopt a Local Agency Pavement Warranty Program that was approved by the Michigan Department of Transportation in 2018;

WHEREAS, the Michigan Local Agency Pavement Warranty Program was developed by the Local Agency Pavement Warranty Task Force for use by all 533 cities and villages in the format approved by the Michigan Department of Transportation in 2018;

WHEREAS, the Michigan Department of Transportation has reviewed and approved the Michigan Local Agency Pavement Warranty Program consisting of Special Provisions (Boilerplate, Concrete, HMA, Location, Pass-Through Warranty Bond); a Warranty Bond Form and Contract Form; and Guidelines for Local Agency Pavement Warranty Programs;

NOW THEREFORE BE IT RESOLVED, the City of Novi hereby adopts the Michigan Local Agency Pavement Warranty Program and accompanying documents in accordance to the requirements of MCL 247.663;

BE IT FURTHER RESOLVED, this resolution is made a part of the minutes of the City of Novi meeting on _____, 2019.

AYES:

NAYES:

ABSTENTIONS:

Resolution declared adopted.

STATE OF MICHIGAN)

) ss.

COUNTY OF OAKLAND)

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Novi at the regular meeting held on _____, 2019.

CORTNEY HANSON, CITY CLERK

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

RESOLUTION TO IMPLEMENT A LOCAL PAVEMENT WARRANTY PROGRAM

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 Michigan Legislature created a requirement (MCL 247.663) as part of the Transportation Funding Package of 2015 that requires each city and village to adopt a Local Agency Pavement Warranty Program that was approved by the Michigan Department of Transportation in 2018;

WHEREAS, the City of Novi adopted the Michigan Local Agency Pavement Warranty Program on _____, 2019;

WHEREAS, the City of Novi agrees to consider a local pavement warranty on each project that includes \$2 million or more in paving-related items *and* includes any state or federal funds;

WHEREAS, the Local Agency Pavement Warranty Program law requires each city and village to report annually on each project that includes \$2 million or more in paving-related items *and* includes any state or federal funds, whether or not a warranty was utilized in the project;

WHEREAS, the City of Novi agrees to implement the Michigan Local Agency Pavement Warranty Program consistent with the Guidelines for Local Agency Pavement Warranty Program document that was approved by the Michigan Department of Transportation in 2018; and which the City of Novi adopted Implementation Policy defines the City of Novi's intent of its pavement warranty program;

NOW THEREFORE BE IT RESOLVED, the City of Novi hereby agrees to implement the Local Agency Pavement Warranty Program and annually report in accordance with the law.

AYES:

NAYES:

ABSTENTIONS:

Resolution declared adopted.

STATE OF MICHIGAN)

) ss.

COUNTY OF OAKLAND)

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Novi at the regular meeting held on _____, 2019.

CORTNEY HANSON, CITY CLERK