



# Rochester Hills

## Master

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**File Number: 2007-0861**

**File ID:** 2007-0861

**Type:** Permit

**Status:** To Council

**Version:** 2

**Reference:** 2007-0861

**Controlling Body:** City Council  
Regular Meeting

**File Created Date :** 12/07/2007

**File Name:** 2008 Annual Permit for Work on State Highways

**Final Action:**

**Title label:** Request for Adoption of the Michigan Department of Transportation (MDOT) Annual Permit Application entitled Performance and Indemnification for Governmental Bodies, to perform various maintenance activities with the roads under MDOT jurisdiction during the year of 2008.

**Notes:**

**Sponsors:**

**Enactment Date:**

**Attachments:** Agenda Summary.pdf ,Annual Permit Application.pdf  
,Letter from MDOT Oakland TSC.pdf

**Enactment Number:**

**Contact:**

**Hearing Date:**

**Drafter:**

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	City Council Regular Meeting	01/07/2008					

### Text of Legislative File 2007-0861

#### Title

Request for Adoption of the Michigan Department of Transportation (MDOT) Annual Permit Application entitled Performance and Indemnification for Governmental Bodies, to perform various maintenance activities with the roads under MDOT jurisdiction during the year of 2008.

#### Body

##### PERFORMANCE RESOLUTION FOR GOVERNMENT BODIES

*This Performance Resolution is required by the Michigan Department of Transportation for purposes of issuing to a municipal utility an "Individual Permit for Use of State Trunkline Right of Way" (form 2205) or an "Annual Application and Permit for Miscellaneous Operations Within State Trunkline Right of Way" (form 2205B).*

**RESOLVED WHEREAS**, the City of Rochester Hills hereinafter referred to as the "GOVERNMENTAL BODY" periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT" for permits, hereinafter referred to as "PERMIT," to construct, operate, use and /or maintain utility or other facilities, or to conduct other activities, on, over, and under State trunkline right of way at various locations within and adjacent to its corporate limits;

**NOWHEREFOR**, in consideration of the DEPARTMENT granting such PERMIT the GOVERNMENTAL BODY agrees that:

Each party to this agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law.

This Agreement is not intended to increase either party's liability for, or immunity from, tort claims.

This Agreement is not intended nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.

1. Any work performed for the GOVERNMENTAL BODY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL BODY and not as a contractor or agent of the DEPARTMENT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL BODY. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL BODY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT.

2. The GOVERNMENTAL BODY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

3. It will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State trunkline right of way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL BODY's facilities according to a PERMIT issued by the DEPARTMENT.

4. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL BODY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

5. The incorporation by the DEPARTMENT of this resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

6. This resolution shall continue in force from this date until cancelled by the GOVERNMENTAL BODY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It

will not be cancelled or otherwise terminated by the GOVERNMENTAL BODY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the Michigan Department of Transportation for the necessary permit to work within State trunkline right of way on behalf of the GOVERNMENTAL BODY.

Name And/or Title

Paul M. Davis, P.E. - City Engineer  
Paul Shumejko, P.E., PTOE - City Transportation Engineer  
Tracey A. Balint P.E. - Project Engineer

I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by the City Council of the City of Rochester Hills of Oakland County at a regular City Council meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 200\_\_.

Signed \_\_\_\_\_

Title \_\_\_\_\_