



**CITY OF NOVI CITY COUNCIL
AUGUST 22, 2022**

SUBJECT: Acceptance of a sanitary sewer easement from International Transmission Company (ITC) for construction of a sanitary sewer that crosses ITC property (parcel 50-22-15-200-088) in the amount of \$10,000.00.

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

EXPENDITURE REQUIRED	\$ 10,000.00
AMOUNT BUDGETED	\$ 965,017.00 FY 2021-22 BA Rollover
APPROPRIATION REQUIRED	\$ 0
LINE ITEM NUMBER	592-592.00-976.071

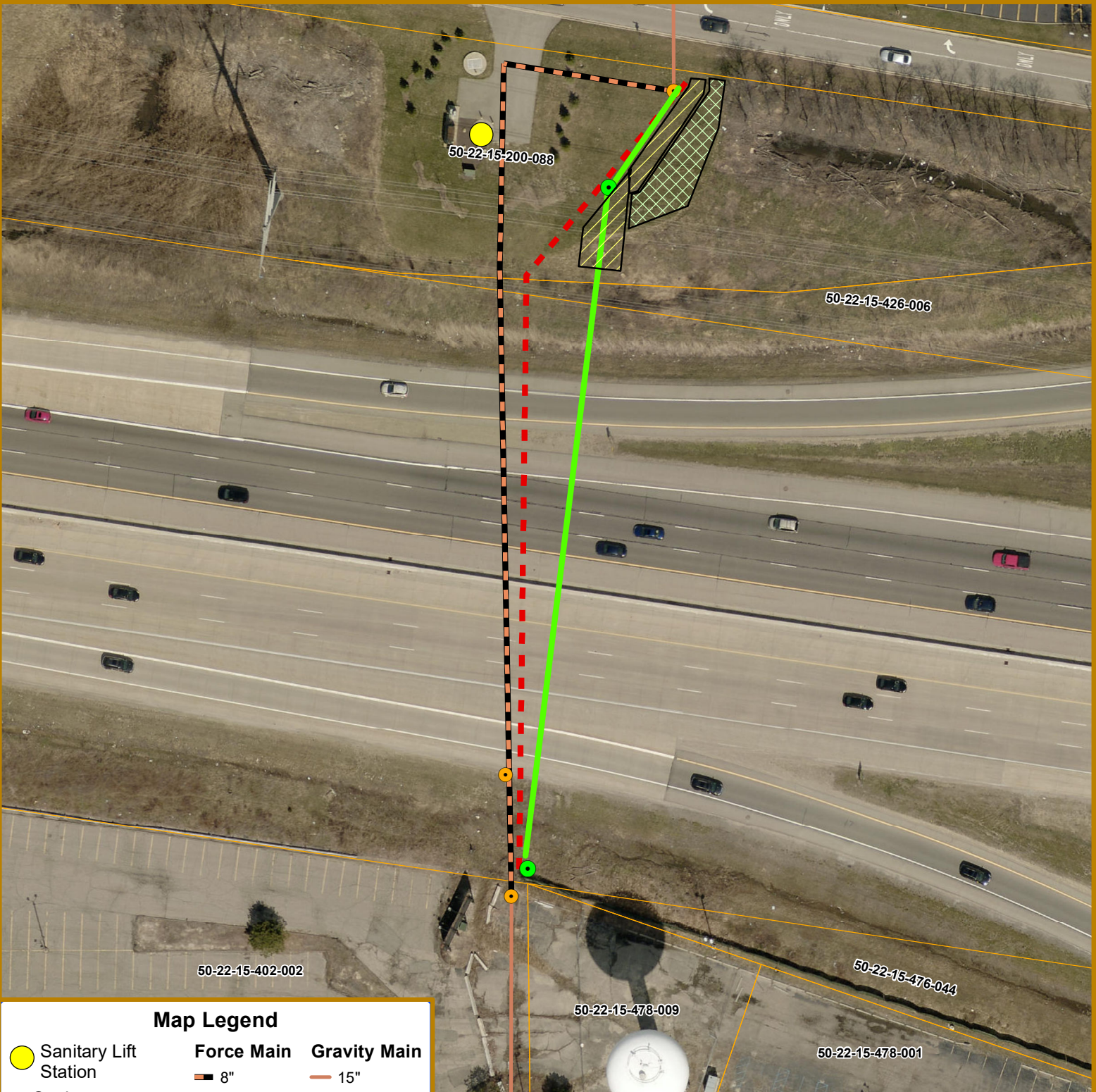
BACKGROUND INFORMATION:

The West Oaks Pump Station Abandonment and I-96 Sanitary Sewer Crossing project involves construction of a 15-inch diameter gravity sanitary sewer under I-96, which will allow abandonment of the existing force main and West Oaks pump station. The new sanitary sewer will cross ITC property, parcel 50-22-15-200-088, on the north side of I-96, so an easement from ITC is required. The City Attorney reviewed the easement favorably (Beth Saarela, August 15, 2022). Construction was awarded to L. D'Agostini & Sons, Inc. at the February 28, 2022, City Council meeting. Construction is expected to begin at the end of this month.

RECOMMENDED ACTION: Acceptance of a sanitary sewer easement from International Transmission Company (ITC) for construction of a sanitary sewer that crosses ITC property (parcel 50-22-15-200-088) in the amount of \$10,000.00.

ITC Easement for I-96 Sanitary Sewer Crossing & West Oaks Pump Station Abandonment Project

Location Map



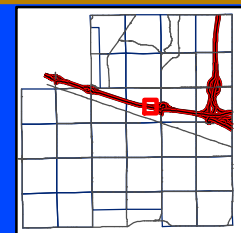
Map Legend

- | | | | | | |
|--|--------------------------------------|--|--------------------------------------|--|--------------------------------------|
| | Sanitary Lift Station | | Force Main
8" | | Gravity Main
15" |
| | Sanitary Manhole | | Abandoned 15" Sanitary | | Proposed Gravity Main |
| | Proposed Sanitary Manhole | | Proposed Gravity Main | | Proposed Permanent Sanitary Easement |
| | Proposed Permanent Sanitary Easement | | Proposed Temporary Sanitary Easement | | |

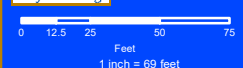
Map Author: R. Runkel
Date: 4/25/22
Project: ITC Easement

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 Works
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cityofnovi.org



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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

August 15, 2022

Rebecca Runkel, Project
City of Novi
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: I-96 Sewer Project - Sanitary Sewer Easement Agreement and Agreement to Grant Easement- ITC REVISED

Dear Ms. Runkel:

We have received and reviewed the enclosed proposed Sanitary Sewer Easement Agreement between the City and International Transmission Company (ITC) to allow the construction of a sanitary sewer extension across ITC's property for the I-96 Sanitary Sewer Project.

Sanitary Sewer Easement Agreement

The Sanitary Sewer Easement Agreement is a permanent easement that ITC is conveying to the City for compensation in the total amount of \$10,000 for the value of the land based on ITC's analysis, and ITC's attorneys' fees in preparing the easement. It should be noted that the consideration is not recited in the Easement Agreement and is instead included in the separate Agreement to Grant Easement. Consideration must be recited in an easement for purposes of the County's determination of the amount of transfer tax required or whether an exemption applies. In this case, no exemption applies. The Register of Deeds is likely to reject the Easement Agreement and send it back without the recited consideration. Alternatively, the easement should reference the Agreement to Grant Easement, which should be provided to the County for recording. Subject to acceptance of ITC's proposed valuation of the easement area, the terms of the easement are similar to ITC's standard easement terms. It is our understanding that City Staff has worked diligently with ITC staff to obtain the most favorable terms possible; however, consistent with all previous grants for use of ITC's property – including License Agreements, the Sanitary Sewer Easement Agreement still tends to favor ITC's interest and places certain risks on the City. The City will be required to be aware of the unique terms of this easement, which are different from the City's standard Sanitary Sewer Easement form whenever working on the property, including:

1. ITC's use of the property for electrical transmission purposes supersedes the City's rights in the pathway. Furthermore, DTE retained an easement in the property for electrical transmission purposes that provides for DTE to override any other use of the property in the event that DTE requires ITC to expand or reconfigure the electrical transmission corridor.
2. ITC may make *any* use of the property so long as it does not "unreasonably" interfere with the pathway.
3. ITC may move heavy equipment across the easement area and will not be responsible for damage to the sewer line.
4. ITC shall control certain construction and maintenance standards, including all of those set forth in Paragraphs 3-4.
5. The City is required to indemnify and hold harmless ITC for any damages or injuries resulting from environmental contamination operation and maintenance of the sanitary sewer on an on-going basis. Similar language has previously been reviewed and approved by the City's risk manager as being covered by the City's municipal insurance policy. The City is further required to ensure that the same indemnity provision is included in all contracts and subcontracts for its contractors constructing, maintaining and/or repairing the pathway.
6. The City must add ITC to its insurance policy as an additional insured in the amount of \$4,000,000. City staff should confirm that the coverage requested can be provided by the City's insurer.
7. If the City fails to maintain the easements area in accordance with ITC's standards, or the use of the easement is "abandoned" by the City for five (5) years, ITC may terminate the Agreement. This type of provision is unusual for a permanent easement.
8. We note that ITC refers to the City's sanitary sewer easement as a "drainage" easement throughout the document, which is not accurate.

In the event that the terms of the Sanitary Sewer Easement Agreement and corresponding Agreement to Grant Easement setting forth the amount of compensation are acceptable to the City and are approved by City Council, the original Sanitary Sewer Easement Agreement may be executed by the City and returned to ITC for signature. It is our understanding that ITC will provide the City with a duplicate signed original for recording. Transfer tax should be paid by the City based on the value of the land identified by ITC.

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

Rebecca Runkel, Project Engineer
City of Novi
August 15, 2022
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Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC



Elizabeth Kudla Saarela

Enclosures

- C: Cortney Hanson, Clerk (w/Enclosures)
- Jeffrey Herczeg, Director of Public Works (w/Enclosures)
- Ben Croy, City Engineer (w/Enclosures)
- Thomas R. Schultz, Esquire (w/Enclosures)

SANITARY SEWER EASEMENT AGREEMENT

On _____, 2022, pursuant to this Sanitary Sewer Easement Agreement (the "Agreement") and for good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, Grantor conveys and warrants to Grantee a permanent easement over, under, across and through a part of Grantor's Land called the Easement Area, as herein described.

"Grantor" is: International Transmission Company, a Michigan corporation, whose address is 27175 Energy Way, Novi, Michigan 48377.

"Grantee" is: City of Novi, a Michigan municipal corporation, whose address is 45175 West Ten Mile, Novi, Michigan 48375.

"Grantor's Land" is:

Parcel #50-22-15-200-088

Part of the West 1/2 & East 1/2 of section 15, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Beginning at a point distant North 76.41 feet from the Center of said Section 15; thence North 166.81 feet; thence N 79°33'30" W 905.36 feet; thence S 37°10'00" E to N'ly right of way line of I-696; thence along a curve concave NE'ly, radius 7489.44 feet, chord bears S 80°19'40" E 313.22 feet, distant of 313.24 feet; thence S 81°31'30" E 422.45 to the Point of Beginning, ALSO, beginning at point distant S 87°58'24" W 931.44 feet and S 12°19'31" E 61.67 feet from the E 1/4 of said Section 15; thence S 12°19'31" E 27.09 feet to N'ly right of way line I-96; thence along said N'ly line of I-96, S 78°21'25" W 100.01 feet and S 82°36'25" W 201.19 feet & N 88°53'35" W 201.19 feet & N 84°38'35" W 49.32 feet & N 83°29'50" W 1226.35 feet to point on N-S 1/4 line of said Section 15; thence N 02°00'00" W 166.84 feet; thence S 83°29'50" E 1001.93 feet; thence S 01°53'38" E 40.43 feet; thence S 83°29'50" E 774.39 feet to the Point of Beginning. Subject to all easements and restrictions of record, if any.

The **"Easement Area"** is:

Parcels of land being part of the West 1/2 & East 1/2 of Section 15, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the E 1/4 corner of said Section 15; thence S 87°58'24" W 931.44 feet; thence S 12°19'31" E 61.67 feet; thence N 83°29'50" W 349.93 feet along the Southerly right of way line of Fountain Walk Avenue; thence S 02°14'59" E 4.94 feet; thence S 41°31'02" W 45.27 feet to the Point of Beginning; thence S 04°17'29" W 71.78 feet; thence N 88°53'35" W 20.03 feet along the Northerly right of way line of I-96; thence N 04°17'29" E 46.57 feet; thence N 41°31'02" E 33.06 feet to the Point of Beginning,

ALSO,

Commencing at the E 1/4 corner of said Section 15; thence S 87°58'24" W 931.44 feet; thence S 12°19'31" E 61.67 feet; thence N 83°29'50" W 339.81 feet to the Point of Beginning; thence S 02°14'59" E 7.42 feet; thence S 41°31'02" W 58.18 feet; thence S 69°42'51" W 2.84 feet; thence N 04°17'29" E 14.32 feet; thence N 41°31'02" E 45.27 feet; thence N 02°14'59" W 4.94 feet; thence S 83°29'50" E 10.12 feet to the Point of Beginning.

The "**Temporary Construction Easement**" is:

A parcel of land being part of the West 1/2 & East 1/2 of Section 15, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the E 1/4 corner of said Section 15; thence S 87°58'24" W 931.44 feet; thence S 12°19'31" E 61.67 feet; thence N 83°29'50" W 329.01 feet to the Point of Beginning; thence S 05°34'04" W 35.69 feet; thence S 29°15'31" W 42.70 feet; thence S 63°07'41" W 33.78 feet; thence N 04°17'29" E 37.41 feet; thence N 69°42'51" E 2.84 feet; thence N 41°31'02" E 58.18 feet; thence N 02°14'59" W 7.42 feet; thence S 83°29'50" E 10.80 feet to the Point of Beginning.

Grantor's Land, the Easement Area and the Temporary Construction Easement are also described in Exhibit A, attached hereto.

1. Purpose. Subject to the terms and conditions stated herein, Grantor grants a ten (10) foot wide easement to Grantee for all purposes related to the construction, operation, control and maintenance of an fifteen (15) inch wide polyvinyl chloride (PVC) gravity sanitary sewer pipe ("Drainage Pipe") in the Easement Area, including the rights to construct, lay, install, improve, inspect, operate, repair, alter, remove, renew or replace the Drainage Pipe in the Easement Area (the "Easement"). Grantor further conveys a Temporary Construction Easement to Grantee as described above and depicted in Exhibit A only for the purpose of initial construction of the Drainage Pipe.

2. Limitations on Use of Easement. The Easement is granted solely for the purposes and uses set forth in this Agreement and as further limited below:

a. Other Easements. Grantee acknowledges that the Easement is non-exclusive and that Grantor may grant other easements over, along and across the Easement Area so long as such other easements do not interfere with Grantee's purposes and uses of the Easement. Grantee shall have no right to grant additional easements or sub-easements on, under, along or across the Easement Area.

b. Grantor's Use of Easement Area. Grantor retains and reserves the right to use and shall continue to use the Easement Area for Grantor's own business operations, which operations include, without limitation, the construction, reconstruction, maintenance, repair, upgrade, expansion, addition, renewal, replacement, relocation, removal, use and operation of Grantor's equipment and facilities used in the transmission of electrical energy, whether now existing or hereafter to be installed, in, at, over, under, along or across the Easement Area and Grantor's Land

("Grantor's Operations"). Grantee shall not interfere with Grantor's Operations. Grantor additionally retains the right to use the Easement Area for any and all purposes that do not interfere with or prevent the use by Grantee of the Easement. Grantor reserves the right to relocate the Easement, at Grantee's expense, and the Drainage Pipe installed therein provided that the relocated Easement and Drainage Pipe can be reasonably used for its intended purpose by Grantee. Grantor may exercise this right by giving Grantee reasonable notice and a viable alternative location for the Easement and Drainage Pipe.

Grantee also acknowledges that Grantor may traverse upon the Easement Area with heavy equipment in conducting Grantor's Operations. Grantee agrees to be responsible for the installation of sufficient support, casing or other devices to ensure that such uses of the surface of the Easement Area by Grantor do not damage the Drainage Pipe. Grantor is not responsible for damage to the Drainage Pipe due to its use of the Easement Area. Notwithstanding anything in this Easement to the contrary, Grantor does not need to obtain Grantee's consent for such uses.

- c. **Restrictions.** No trees or shrubs may be planted on the Easement Area. No above-ground structures or buildings may be located within the Easement Area.

3. **Construction.**

- a. **Work Plans.** Prior to Grantee conducting any construction, construction-preparation, repair, replacement or maintenance activities in the Easement Area, Grantee shall provide detailed specifications, plans and drawings for such work to Grantor. Such detailed specifications, plans and drawings shall show the location of the Drainage Pipe in relation to Grantor's electric transmission lines, towers, structures, facilities and equipment. No work may be commenced in the Easement Area without Grantor's prior written consent.
- b. **Staking.** Grantee must stake or flag the outer boundaries of the Easement Area prior to commencement of construction or placing materials or equipment within the Easement Area.
- c. **Governmental Approvals.** Grantee shall procure and maintain at its own expense, prior to locating the Drainage Pipe within the Easement Area, all licenses, consents, permits, authorizations and other approvals required from any federal, state or local governmental authority in connection with the construction, use and operation of the Drainage Pipe and Easement Area, and Grantee shall strictly observe all laws, rules, statutes and regulations of any governmental authorities having jurisdiction over the Grantee or Grantee's operations in the Easement Area. Grantor may from time to time request reasonable evidence that all such approvals have been obtained by Grantee and are in full force and effect. In no event shall Grantee seek any governmental approvals that may materially and adversely affect in any way Grantor's Operations within the Easement Area, including without limitation any zoning approvals, without in each instance obtaining Grantor's prior written consent.
- d. **Work Standards.** The design and construction regarding the Drainage Pipe and all activities conducted in the Easement Area by Grantee shall be in accordance with the highest standards in the industry and geographical area where the Easement Area is located, with Grantee at all times following the highest observed and accepted

standards in the industry for the geographical area where the Easement is located.

Additionally, Grantee, its agents, employees, contractors, subcontractors, invitees and licensees shall comply with the following requirements relating to the construction, maintenance, repair or removal of the Drainage Pipe:

- i. The Utility Communications System (MISS DIG), (800) 482-7171, must be contacted prior to performing any excavation in the Easement Area.
 - ii. Appropriate measures shall be taken to prevent erosion during and after work activities on the Easement Area. Any backfill or disturbed earth shall be compacted to prevent settlement of the soils following work activities. Following construction, Grantor's Land shall be returned as close to its original condition as possible.
 - iii. Construction personnel and equipment shall at all times maintain a minimum twenty-five (25) foot radial distance from all electrical conductors on Grantor's Land.
 - iv. No dump truck may lift its bed under any electrical conductor on Grantor's Land.
 - v. All construction activities, including trenching, must maintain a minimum distance of twenty-five (25) feet (edge to edge) from any electric transmission structure foundation.
 - vi. No equipment may be placed within twenty-five (25) feet of any transmission structure foundation.
 - vii. No digging or trenching may occur within twenty-five (25) feet of any electric transmission structure without Grantor's prior written consent.
 - viii. The grade of the Easement Area may not be permanently changed without Grantor's prior written consent, and in no event shall it be changed by more than six (6) inches.
 - ix. No stockpiling of soil, spoils or other material shall occur within the Easement Area or within ITC property.
 - x. Any cranes, derricks or other overhead equipment operated on the Easement Area shall operate in accordance with the National Electric Safety Code (NESC) and Occupational Safety and Health Administration (OSHA) rules respecting the operation of such equipment.
 - xi. If not otherwise expressly stated herein and without limiting any and all other obligations stated herein, any and all work undertaken pursuant to the terms of this Easement must be conducted in compliance with OSHA and Michigan Occupational Safety and Health Administration (MIOSHA) regulations.
- e. **Fences and Drains.** Grantee shall construct and maintain appropriate temporary fencing and provisions for maintaining drainage during the period of construction so

that Grantor's uses conducted on property adjoining the Easement Area can be maintained. Upon completion of construction, Grantee shall reinstall any fences and drains in a manner and condition equal to or better than that existing prior to construction.

- f. No Other Uses.** The Easement Area shall be used only for the purposes set forth in this Easement. Grantee shall not store any materials, equipment or other items or construct roads or driveways on the Easement Area, except as expressly described in this Easement, without Grantor's prior written consent. There shall be no hunting, fishing, littering, loitering, lodging, camping, or similar activities by Grantee or its contractors, permittees, invitees, or guests.
- g. As-Built Survey.** Upon completion of construction, Grantee shall provide Grantor with an as-built survey which reflects the location of the Drainage Pipe in the Easement Area. Grantee shall provide Grantor with a supplemental survey that reflects any subsequent corrections or changes to the Drainage Pipe in the Easement Area.

4. Maintenance and Upkeep.

- a. Excavation or Construction Concerning Replacement or Repair.** Grantee shall be responsible for any and all maintenance and repairs to the Drainage Pipe, including any clean up required by all appropriate regulatory authorities, unless necessitated by acts or omissions of Grantor or other easement holders. All standards and requirements applicable for initial construction activities set forth herein shall be equally applicable to any maintenance, repair or replacement activities. In the event of any maintenance, replacement or repair to the Drainage Pipe, all work and activity shall be contained in the Easement Area unless and until a separate temporary easement is agreed to in writing and signed by Grantor.
- b. Maintenance Obligations; Plans; Contact Person.** Maintenance of the Easement Area shall be the sole obligation of Grantee unless such maintenance is necessitated by acts or omissions of Grantor or other easement holders; provided that Grantor may perform any maintenance or vegetation management on the Easement Area at its sole and absolute discretion, including, but not limited to, cutting, trimming, removing, destroying or otherwise controlling any and all trees, shrubs, brush or any other vegetation. Grantee shall provide Grantor with a contact person designated by Grantee, including name, address, telephone number, fax number and email. The contact person shall have information and knowledge pertinent to the Drainage Pipe and Easement Area in order to address questions and concerns from Grantor. In the event the contact person is replaced or changed by Grantee, Grantor shall be given reasonable prior written notice of the change, along with the required information for the new contact person.
- c. Taxes.** In the event any real property taxes are imposed upon Grantor by reason of the Drainage Pipe and/or the Easement, Grantee shall assume, pay, and reimburse Grantor in full for the amount of such taxes or any other increased real or personal property taxes.

5. Liability. Grantee's use of the Easement Area shall be at Grantee's sole and absolute risk and expense. Grantee shall be strictly liable for all costs, damages and losses caused by or

arising out of construction, maintenance, repair, replacement, removal or operation of the Drainage Pipe upon the Easement Area performed by Grantee or Grantee's agents, including, but not limited to, all costs incurred in protecting the Drainage Pipe from impacts of Grantor's electric transmission lines, including newly constructed or reconstructed transmission lines or facilities. Grantor shall not be responsible for repairing any damage to the Drainage Pipe unless such damage occurs as a direct result of Grantor's sole negligence, intentional misconduct or Grantor's failure to comply with the terms and conditions of this Agreement. Grantee shall be responsible for any damage to Grantor's facilities or properties resulting from the construction, operation, maintenance, repair or replacement of the Drainage Pipe performed by Grantee or Grantee's agents.

- 6. Indemnification.** Grantee agrees to protect, indemnify, defend and hold harmless the Grantor, its parents, subsidiaries and affiliates, and its and their respective officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, "Grantor Parties") from and against any and all losses, costs, damages, liabilities (including, without limitation, reasonable attorneys' fees) and/or injuries, whether contingent, direct, consequential, liquidated or unliquidated, that may be asserted against the Grantor and/or Grantor Parties (other than to the extent any such claims arise from the conduct of the Grantor and/or Grantor Parties), arising out of or resulting from, relating to or connected with any act or omission of the Grantee, its officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, the "Grantee Parties") at or on the Easement Area to the extent permitted by law. Grantee agrees to have its contractors protect, indemnify, defend and hold harmless Grantor and/or the Grantor Parties from and against any and all losses, costs, damages, liabilities (including, without limitation, reasonable attorneys' fees) and/or injuries, whether contingent, direct, consequential, liquidated or unliquidated, that may be asserted against the Grantor and/or Grantor Parties (other than to the extent any such claims arise from the conduct of the Grantor and/or Grantor Parties), arising out of or resulting from, relating to or connected with any act or omission of the Grantee and/or the Grantee Parties at or on the Easement Area. Each permitted assignee of the Easement, if any, agrees to indemnify and hold harmless Grantor and/or Grantor Parties in the same manner provided above. This indemnity shall apply to any claim, however caused, or regardless of the legal grounds and basis. The provisions of this paragraph shall survive the termination or abandonment of the Easement.

7. Environmental Protection.

- a.** Grantee covenants and agrees that Grantee shall conduct its operations on the Easement Area in compliance with all applicable Environmental Laws (as hereinafter defined) and further covenants that neither Grantee, nor any of the Grantee Parties, shall use, bring upon, transport, store, keep or cause or allow the discharge, spill or release (or allow a threatened release) of any Hazardous Substances (as hereinafter defined) in, on, under or from the Easement Area in violation of any and all applicable Environmental Laws. Without limiting any other indemnification obligations of Grantee contained herein, Grantee hereby agrees to protect, indemnify, defend (with counsel reasonably acceptable to Grantor) and hold harmless the Grantor and/or Grantor Parties from and against any and all losses and claims (including, without limitation, (i) reasonable attorneys' fees, (ii) liability to third parties for toxic torts and/or personal injury claims, (iii) fines, penalties and/or assessments levied, assessed or asserted by any governmental authority or court, and (iv) assessment, remediation and mitigation costs and expenses and natural resource

damage claims) arising out of, resulting from or connected with any Hazardous Substances used, brought upon, transported, stored, kept, discharged, spilled or released by the Grantee or any of the Grantee Parties in, on, under or from the Easement Area. For purposes of this Agreement, the term "Hazardous Substances" shall mean all toxic or hazardous substances, materials or waste, petroleum or petroleum products, petroleum additives or constituents or any other waste, contaminant or pollutant regulated under or for which liability may be imposed by any Environmental Law. "Environmental Law" shall mean all federal, provincial, state and local environmental laws (including common law) regulating or imposing standards of care with respect to the handling, storage, use, emitting, discharge, disposal or other release of Hazardous Substances, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., the Clean Air Act, 42 U.S.C. §§7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 1101, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 960 I, et seq., the Toxic Substances Control Act. 15 U.S.C. §§2601, et seq., the Oil Pollution Control Act, 33 U.S.C. §§2701, et seq., any successor statutes to the foregoing, or any other comparable local, state or federal statute, ordinance or common law pertaining to protection of human health, the environment or natural resources, including without limitation the preservation of wetlands, and all regulations pertaining thereto, as well as applicable judicial or administrative decrees, orders or decisions, authorizations or permits.

- b. Grantee shall provide Grantor with prompt written notice upon Grantee's obtaining knowledge of any potential or known release or threat of release of any Hazardous Substances in violation hereof affecting the Easement Area.
- c. This Section shall survive the expiration or other termination of the Easement.

8. Insurance.

- a. Grantee and the Grantee's contractors, at their own expense, must each maintain a general liability insurance policy that is reasonably satisfactory to Grantor in form and substance and as described herein.
- b. Grantee shall assure that Grantee and any person acting on Grantee's behalf under this Easement carries the following insurance with one or more insurance carriers at any and all times such party or person is on or about the Easement Area or acting pursuant to this Easement, in the following amounts:
 - i. Workers Compensation and Employer's Liability with limits of \$1 million each accident, \$1 million each employee, and \$1 million disease.
 - ii. General Liability: \$2 million each occurrence, \$4 million in the aggregate
 - iii. Business Auto: \$1 million per accident
 - iv. Environmental Liability: \$1 million each occurrence

The Grantee shall provide Grantor with current Certificates of Insurance. Grantee shall provide immediate notice to Grantor if it receives any notice of cancellation or non-renewal from its insurer. The insurance policies required under this section shall be primary, shall cover the Grantor as an additional insured with regard to the Easement Area, and shall state that the insurer has waived any right of subrogation against the Grantor. Failure to comply

with this Insurance section shall be basis of default and all operations and activities conducted pursuant the Easement shall cease immediately.

9. Termination and Abandonment.

- a. Grantee's Termination.** Grantee may terminate the Easement at any time upon providing written notice of termination to Grantor. Grantee, at Grantee's expense, agrees to prepare and record the appropriate documentation of such termination with the recorder's office of the county where the Easement is located.
- b. Abandonment.** If Grantee has not commenced construction of the Drainage Pipe within twelve (12) months following the date that this Agreement is signed by Grantor, the Easement shall be deemed abandoned. If Grantor believes that the Easement has been abandoned, it shall provide written notice thereof to Grantee through the designated contact person maintained by Grantee under this Agreement, said notice to be sent by certified mail and facsimile. Unless Grantee has responded within thirty (30) calendar days after such notice has been sent, providing evidence to counter the facts as presented by Grantor regarding abandonment, then Grantor may proceed to record an affidavit providing notice of abandonment and termination of the Easement with the recorder's office of the county where the Easement is located. Grantee hereby agrees that such notice shall constitute abandonment and termination of the Easement.
- c. Grantor's Termination.** If Grantee fails to maintain the Drainage Pipe and Easement Area in good condition, Grantor shall have the right to terminate this Easement. If Grantor believes that the Grantee has failed to maintain the Drainage Pipe or Easement Area in good condition, it shall provide written notice thereof to Grantee through the designated contact person maintained by Grantee under this Agreement, said notice to be sent by certified mail and facsimile. Unless Grantee has responded within thirty (30) calendar days after such notice has been sent, providing evidence to counter the facts as presented by Grantor regarding the condition of the Drainage Pipe or Easement Area, then Grantor may proceed to record an affidavit providing notice of termination of the Easement with the recorder's office of the county where the Easement is located. Grantee hereby agrees that such notice shall constitute termination of the Easement.
- d. Non Use.** If the rights granted pursuant to this Easement are not used by Grantee for a consecutive period of five (5) years, then in such event, all right and interest hereby conveyed shall automatically terminate and revert in Grantor, its successors and assigns.
- e.** There shall be no refund of consideration paid to Grantor for this Easement by reason of termination, lack of development, or for any other reason

10. Default. Breach or violation by either party of any of its covenants, conditions, duties or obligations pursuant to this Agreement to be kept, observed and performed by such party which continues for more than thirty (30) days (or such longer time period as may be reasonably necessary provided such curing party continuously and diligently endeavors to cure such breach or violation) after written notice from the other party, shall constitute an event of default ("Event of Default") under this Agreement.

- 11. Remedies.** Upon the occurrence of an Event of Default, either party may exercise any one or more of the following remedies (which remedies shall survive the expiration or termination of this Agreement):
- a.** take any and all corrective actions the non-defaulting party deems necessary or appropriate to cure such default and charge the cost thereof to the defaulting party, together with (i) interest thereon at the rate of two percent (2%) over the Corporate Base Rate of Interest (as announced by Citibank, N.A. (or its successors) from time to time); or
 - b.** any other remedy available at law or in equity to the non-defaulting party, but subject to the limitations set forth in the last sentence of this paragraph, including without limitation specific performance of such obligations hereunder. The defaulting party shall be liable for and shall reimburse the other party upon demand for all reasonable attorneys' fees and costs incurred by the non-defaulting party in enforcing the defaulting party's obligations under this Agreement, whether or not the non-defaulting party files legal proceedings in connection therewith. No delay or omission of a party to exercise any right or power arising from any default shall impair any such right or power or be construed to be a waiver of any such default or any acquiescence therein. No waiver of any breach of any of the covenants of this Agreement shall be construed, taken or held to be a waiver of any other breach, or as a waiver, acquiescence in or consent to any further or succeeding breach of the same covenant. The acceptance of payment by Grantor of any of the fees or charges set forth in this Agreement shall not constitute a waiver of any breach or violation of the terms or conditions of this Agreement.
- 12. Liens, etc.** Grantee hereby covenants and agrees that it will not cause or permit any lien (including, without limitation, any mechanic's lien) or claim for lien to be assessed against the Easement Area or any interest therein, whether such lien or claim for lien results from or arises out of any act or omission of Grantee or its employees, agents, consultants, representatives, contractors, subcontractors or materialmen, or otherwise. In the event any such lien or claim for lien is filed, Grantee will promptly pay and release, or bond over the same. In the event such lien or claim of lien is not released and removed within thirty (30) days after notice from Grantor, Grantor, at its sole option and in addition to any of its other rights and remedies, may take any and all action reasonably necessary to release and remove such lien or claim of lien, and Grantee shall promptly upon notice thereof reimburse Grantor for all reasonable sums, costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Grantor in connection with such lien or claim of lien. Grantee hereby agrees to indemnify, defend and hold harmless Grantor from and against any and all liens or claims for lien arising out of or in any way connected with Grantee's use and occupancy of the Easement Area.
- 13. Notices.** Whenever notice is required to be given pursuant to this Easement, the same shall be in writing, and either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses as follows:

If to Grantor:

International Transmission Company
27175 Energy Way
Novi, MI 48377
Attn: Real Estate Manager

If to Grantee:

City of Novi
45175 West Ten Mile
Novi, Michigan 48375

or at such other addresses as any party, by written notice in the manner specified above to the other party hereto, may designate from time to time. Unless otherwise specified to the contrary in this Easement, all notices shall be deemed to have been given upon receipt (or refusal of receipt) thereof.

14. Other; Miscellaneous.

- a. Title/Encumbrances.** The Easement is granted without any warranties or covenants of title and is subject to all now-existing easements, restrictions, and encumbrances affecting the Easement Area to which this Easement would be subordinate under the recording acts or other applicable laws of the State of Michigan.
- b. Successors/Assignments.** This Easement shall run with the land and shall be binding upon and inure to and be applicable to Grantor and Grantee and their respective heirs, representatives, successors and permitted assigns. Grantee shall not assign this Easement without the prior written consent of Grantor, with Grantor's consent not to be unreasonably withheld or delayed; provided, however, that in the event of any assignment by Grantee or any successive Grantee, the assignee shall remain fully responsible for all obligations, responsibilities and liabilities of Grantee under this Agreement (including, but not limited to, requirements as to indemnity and insurance).
- c. Entire Agreement.** This Agreement, the exhibits and addenda, if any, contain the entire agreement between Grantor and Grantee regarding the subject matter hereof, and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.
- d. No Oral Change.** This Easement cannot be changed orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to waive, change, modify or discharge it in whole or in part unless the same is in writing and is signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.
- e. Governing Law, Venue.** The terms and provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Michigan. With respect to any suit, action or proceeding relating to this Agreement (each a "Proceeding"), the parties hereto each irrevocably: (a) agree that any such Proceeding shall be commenced, brought, tried, litigated and consummated in the courts of the State of Michigan located in the County of Macomb or, as applicable,

the United States District Court for the Eastern District of Michigan, (b) submit to the exclusive jurisdiction of the courts of the State of Michigan located in the County of Macomb and the United States District Court for the Eastern District of Michigan, and (c) waive any objection which they may have at any time to the laying of venue of any Proceeding brought in any such court, waive any claim that any Proceeding brought in any such court has been brought in an inconvenient forum, and further waive the right to object, with respect to such Proceeding, that any such court does not have jurisdiction over such party.

- f. Severability.** In the event that any governmental or regulatory body or any court of competent jurisdiction determines that any covenant, term or condition of this Agreement as applied to any particular facts or circumstances is wholly or partially invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect such covenant, term or condition as applied to other facts or circumstances (unless the effect of such determination precludes the application of such covenant, term or condition to other facts or circumstances) or the validity, legality or enforceability of the other covenants, terms and conditions of this Agreement. In the event any provision of this Agreement is held to be invalid, illegal or unenforceable, the parties shall promptly and in good faith negotiate new provisions in substitution therefor to restore this Agreement to its original intent and effect.
- g. Counterparts.** This Agreement may be executed by the parties in counterparts. Each such counterpart shall be deemed an original and all such counterparts, taken together, shall constitute one and the same Agreement.
- h. No Third Party Beneficiaries.** Grantor and Grantee agree and acknowledge that, except as expressly set forth herein, there are no intended third party beneficiaries of the Easement or any of the rights and privileges conferred herein.
- i. Due Authorization.** The undersigned warrants that he or she is duly authorized and empowered to execute this Easement on behalf of the Grantor, and that the Grantor has taken all necessary action to approve the grant of this Easement to Grantee.

This easement is exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to the provisions of MCLA 207.526(f).

[SIGNATURES ON NEXT PAGE]

GRANTOR:

INTERNATIONAL TRANSMISSION COMPANY, a
Michigan corporation

By: _____
Jean Kim D'Anna
Its: Vice President

Acknowledged before me in Oakland County, Michigan, this ____ day of _____, 2022, by Jean Kim D'Anna, Vice President of International Transmission Company, a Michigan corporation.

_____, Notary Public
_____, Michigan
Acting in Oakland County
My Commission Expires:

GRANTEE:

CITY OF NOVI

By: _____

Its:

Acknowledged before me in Oakland County, Michigan, on this ____ day of _____, 2022,
by _____, the _____ of the City of Novi, for the City.

_____, Notary Public
_____ County, Michigan
Acting in _____ County
My Commission Expires: _____

Prepared by:

Matthew S. Hetzner (P73044)
ITC Holdings Corp.
27175 Energy Way
Novi, Michigan 48377

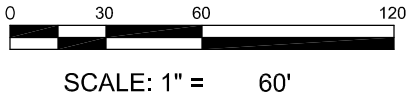
When recorded, return to:

Real Estate Manager
ITC Holdings Corp.
27175 Energy Way
Novi, Michigan 48377

EXHIBIT A

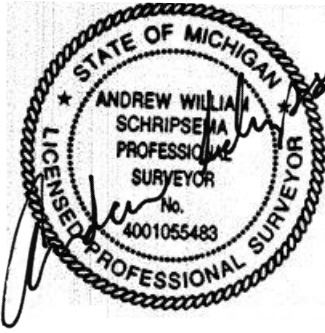
SANITARY SEWER EASEMENT SKETCH

Exhibit "A"

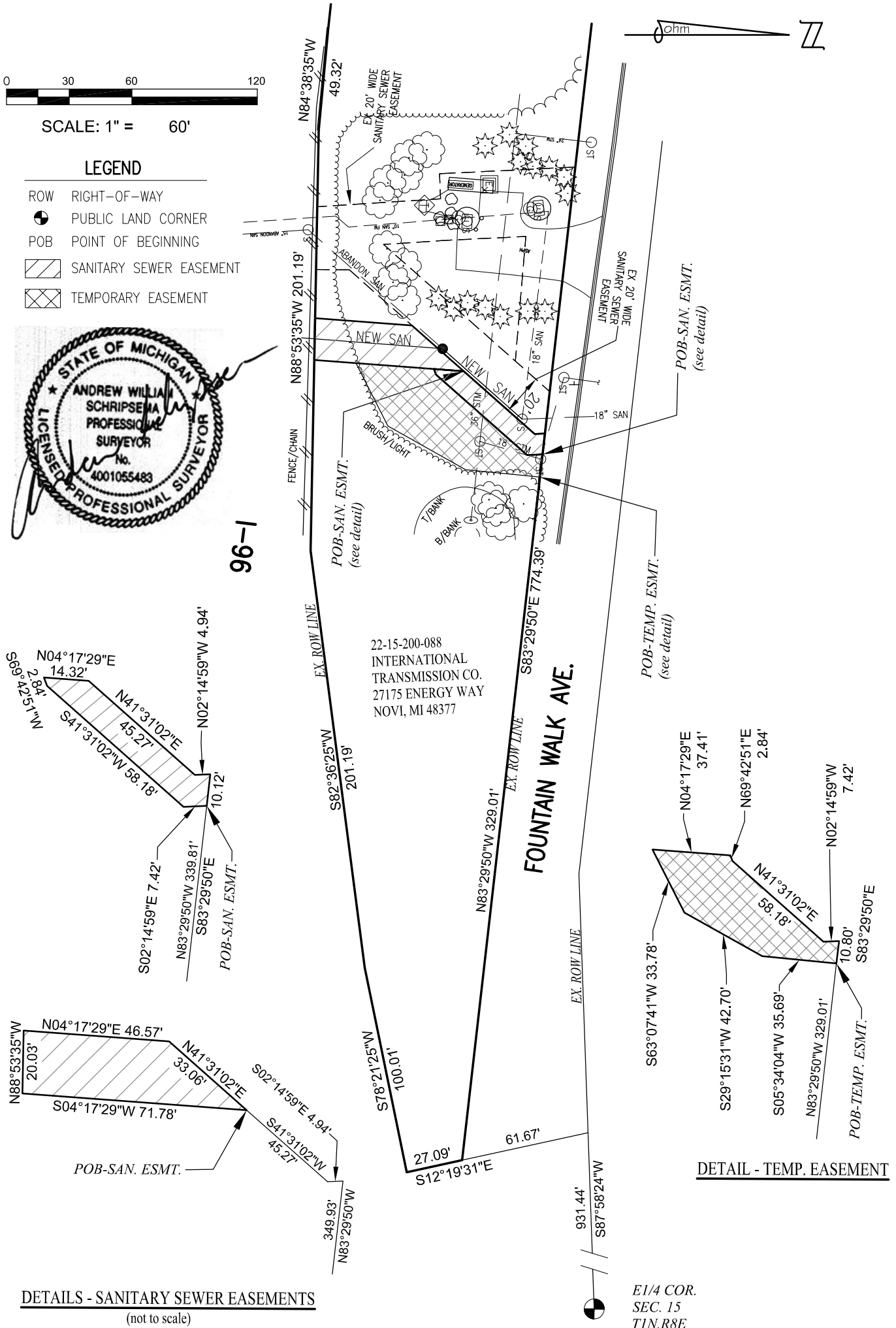


LEGEND

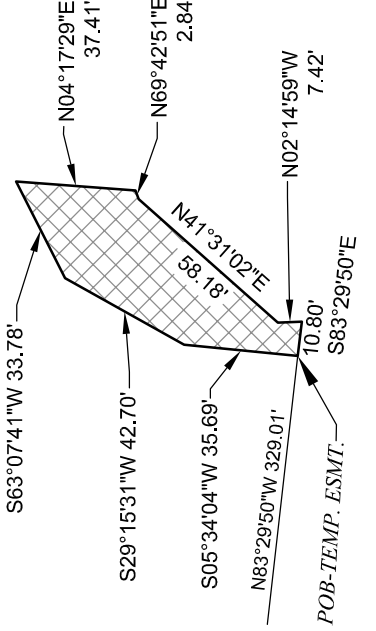
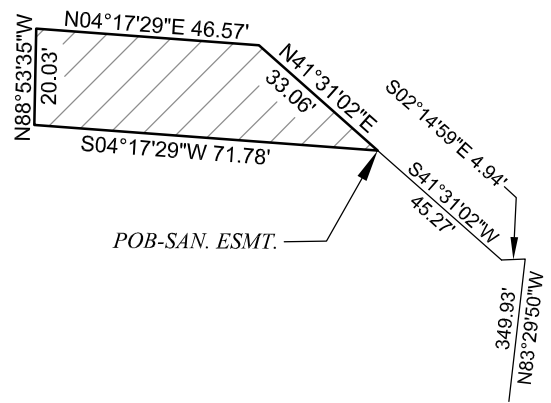
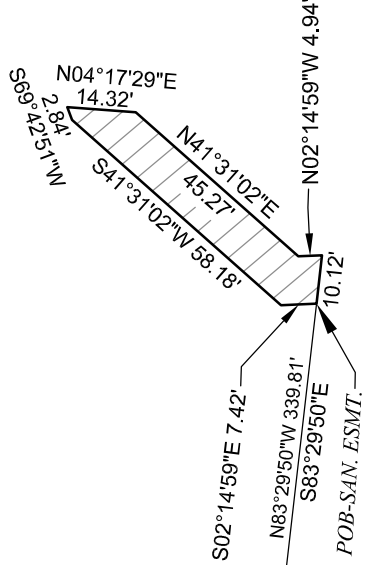
- ROW RIGHT-OF-WAY
- PUBLIC LAND CORNER
- POB POINT OF BEGINNING
- SANITARY SEWER EASEMENT
- TEMPORARY EASEMENT



96-1



22-15-200-088
INTERNATIONAL
TRANSMISSION CO.
27175 ENERGY WAY
NOVI, MI 48377



DETAIL - TEMP. EASEMENT

E1/4 COR.
SEC. 15
T1N,R8E

DETAILS - SANITARY SEWER EASEMENTS
(not to scale)

SANITARY SEWER EASEMENT
PART OF THE WEST 1/2 & EAST 1/2 OF SECTION 15
T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN
PARCEL ID# 22-15-200-088

SCALE H: 1"=60'
SHEET 1
OF 2



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SANITARY SEWER EASEMENT DESCRIPTION

Exhibit "A"

PARCEL DESCRIPTION (22-15-200-088)

Part of the West 1/2 & East 1/2 of Section 15, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Beginning at a point distant North 76.41 feet from the Center of said Section 15; thence North 166.81 feet; thence N 79°33'30" W 905.36 feet; thence S 37°10'00" E to N'ly right of way line of I-696; thence along a curve concave NE'ly, radius 7489.44 feet, chord bears S 80°19'40" E 313.22 feet, distant of 313.24 feet; thence S 81°31'30" E 422.46 to the Point of Beginning, ALSO, beginning at point distant S 87°58'24" W 931.44 feet and S 12°19'31" E 61.67 feet from the E 1/4 corner of said Section 15; thence S 12°19'31" E 27.09 feet to N'ly right of way line I-96; thence along said N'ly line of I-96, S 78°21'25" W 100.01 feet and S 82°36'25" W 201.19 feet & N 88°53'35" W 201.19 feet & N 84°38'35" W 49.32 feet & N 83°29'50" W 1226.35 feet to point on N-S 1/4 line of said Section 15; thence N 02°00'00" W 166.84 feet; thence S 83°29'50" E 1001.93 feet; thence S 01°53'38" E 40.43 feet; thence S 83°29'50" E 774.39 feet to the Point of Beginning. Subject to all easements and restrictions of record, if any.

SANITARY SEWER EASEMENT

Parcels of land being part of the West 1/2 & East 1/2 of Section 15, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the E 1/4 corner of said Section 15; thence S 87°58'24" W 931.44 feet; thence S 12°19'31" E 61.67 feet; thence N 83°29'50" W 349.93 feet along the Southerly right of way line of Fountain Walk Avenue; thence S 02°14'59" E 4.94 feet; thence S 41°31'02" W 45.27 feet to the Point of Beginning; thence S 04°17'29" W 71.78 feet; thence N 88°53'35" W 20.03 feet along the Northerly right of way line of I-96; thence N 04°17'29" E 46.57 feet; thence N 41°31'02" E 33.06 feet to the Point of Beginning,

ALSO,

Commencing at the E 1/4 corner of said Section 15; thence S 87°58'24" W 931.44 feet; thence S 12°19'31" E 61.67 feet; thence N 83°29'50" W 339.81 feet to the Point of Beginning; thence S 02°14'59" E 7.42 feet; thence S 41°31'02" W 58.18 feet; thence S 69°42'51" W 2.84 feet; thence N 04°17'29" E 14.32 feet; thence N 41°31'02" E 45.27 feet; thence N 02°14'59" W 4.94 feet; thence S 83°29'50" E 10.12 feet to the Point of Beginning.

All contains 1,780 square feet or 0.041 acres of land, more or less. Subject to all easements and restrictions of record, if any.

TEMPORARY CONSTRUCTION EASEMENT

A parcel of land being part of the West 1/2 & East 1/2 of Section 15, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the E 1/4 corner of said Section 15; thence S 87°58'24" W 931.44 feet; thence S 12°19'31" E 61.67 feet; thence N 83°29'50" W 329.01 feet to the Point of Beginning; thence S 05°34'04" W 35.69 feet; thence S 29°15'31" W 42.70 feet; thence S 63°07'41" W 33.78 feet; thence N 04°17'29" E 37.41 feet; thence N 69°42'51" E 2.84 feet; thence N 41°31'02" E 58.18 feet; thence N 02°14'59" W 7.42 feet; thence S 83°29'50" E 10.80 feet to the Point of Beginning.

Contains 2,215 square feet or 0.051 acres of land, more or less. Subject to all easements and restrictions of record, if any.

SANITARY SEWER EASEMENT PART OF THE WEST 1/2 & EAST 1/2 OF SECTION 15 T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN PARCEL ID# 22-15-200-088		SCALE H: 1"=60'	
		SHEET 2 OF 2	
DATE: 09-21-2021	CLIENT: CITY OF NOVI	JOB # 0163-20-0090	
34000 Plymouth Road Livonia, MI 48150 P (734) 522-6711 F (734) 522-6427 WWW.OHM-ADVISORS.COM			
COPYRIGHT 2021 OHM ALL DRAWINGS AND WRITTEN MATERIALS APPEARING HEREIN CONSTITUTE THE ORIGINAL AND UNPUBLISHED WORK OF OHM AND THE SAME MAY NOT BE DUPLICATED, DISTRIBUTED, OR DISCLOSED WITHOUT PRIOR WRITTEN CONSENT OF OHM			

AGREEMENT TO GRANT EASEMENT

THIS AGREEMENT TO GRANT EASEMENT (this “Agreement”) is made as of this ___ day of August 2022 (the “Effective Date”), by and between International Transmission Company, a Michigan corporation d/b/a ITCTransmission, (“Grantor”), whose address is 27175 Energy Way, Novi, Michigan 48377 and the City of Novi, whose address is 45175 W 10 Mile Road, Novi, Michigan 48375 (“Grantee”).

RECITALS

- A. Grantor is the owner of certain consecutive parcels of land located in the **City** of Novi, Michigan as set forth in Exhibit A of the Easement Agreement (signed contemporaneously) and hereinafter referred to as the “Easement Parcel.”
- B. Grantee desires the right to enter onto the Easement Parcel for the purpose of constructing and maintaining a sanitary sewer (“Grantee’s Facilities”).

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein below, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement.
2. Easement. Contemporaneous with this Agreement, Grantor and Grantee shall enter into a non-exclusive ten (10) foot wide permanent easement and additional temporary construction rights in an easement entitled “Easement Agreement” (the “Easement”) (referenced above) on, over, under, across and through the Easement Parcel for Grantee’s Facilities. This Agreement is subject to all terms and conditions of the Easement and those terms are incorporated into this Agreement as if the same were restated herein.
3. Payment and Exhibit A. In exchange for the permanent Easement and temporary construction rights, Grantee shall pay Grantor ten-thousand Dollars (\$10,000) within thirty (30) days of the date that the Easement is executed by Grantor. To effectuate the Easement, please forward at this time an 8 ½” x 14” certified survey drawing and legal description of the proposed easement area to complete Exhibit A.
4. Miscellaneous.
 - (a) Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. To facilitate execution of this Agreement, the parties may exchange signatures by facsimile transmission or by electronic delivery of a PDF copy of the executed Agreement, which facsimile or PDF copy shall be deemed valid and binding.
 - (b) Severability. In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed in full force and effect.

- (c) Entire Agreement. This Agreement and the Pipeline and Temporary Construction Easement Agreement, and all exhibits and addenda, if any, contain the entire agreement between Grantor and Grantee regarding the subject matter hereof, and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.
- (d) Authorization. Each party represents and warrants that the undersigned is duly authorized and empowered to execute this Agreement, and that all necessary action required to approve this Agreement has been taken.
- (e) Controlling Agreement. To the extent any inconsistency is determined by a court of competent jurisdiction between this Agreement and the Easement, the Parties agree that the terms of the Easement will supersede the terms of this Agreement.
- (f) Recording. The parties agree this Agreement may not be recorded.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement as of the Effective Date.

GRANTOR
 INTERNATIONAL TRANSMISSION
 COMPANY,
 a Michigan corporation d/b/a *ITCTransmission*

GRANTEE
 CITY OF NOVI,
 a Michigan municipal corporation

By: _____
 Jean Kim D'Anna,
 Its: Vice President

By: _____
 [name]
 Its: _____

Its: _____

STATE OF MICHIGAN)
) ss.
 COUNTY OF OAKLAND)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20__, by _____, the _____ INTERNATIONAL TRANSMISSION COMPANY, a Michigan corporation d/b/a ITCTransmission.

 Notary Public
 Acting in Oakland County, MI
 My commission expires: _____

Its: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing Agreement was acknowledged before me this _____ day of _____, 20__, by Robert J. Gatt, Mayor, and Cortney Hanson, Clerk, of the City of Novi, on its behalf.

Notary Public
Acting in Oakland County, MI
My commission expires: _____