



CITY of NOVI CITY COUNCIL

Agenda Item P
August 13, 2018

SUBJECT: Approval of (1) a Resolution Concerning Acquisition of Property and Approving Declaration of Necessity and Taking and Authorization of Offer to Purchase, and (2) a Declaration of Taking, for the purpose of making a good faith offer in the amount of \$1,909, for a temporary grading permit over parcel 50-22-29-400-025 (47900 Nine Mile), for the construction of sanitary sewer as part of the project to extend sewer along Nine Mile Road from Kensington Road to Evergreen Court.

SUBMITTING DEPARTMENT: Department of Public Works, Water and Sewer Division

CITY MANAGER APPROVAL: 

EXPENDITURE REQUIRED	\$ 1,909
AMOUNT BUDGETED	\$ 4,151,581 (FY 2017-18 Budget Rollover)
APPROPRIATION REQUIRED	N/A
LINE ITEM NUMBER	592-592.00-976.029

BACKGROUND INFORMATION:

The Nine Mile Gravity Relief Sanitary Sewer Project involves the construction of sewer along Nine Mile from Kensington Road to Evergreen Court. Staff identified the project as high priority to eliminate the concern for redundancy of the Park Place pump station. Given the current proximity of the Park Place station, which is 1.6 miles from the closest gravity outlet (near Kensington Drive), a failure on the existing force main could result in sanitary service interruption and/or a major sewage overflow.

This project requires the acquisition of several easements prior to construction. During the design process, one temporary easement was identified from 47900 Nine Mile (parcel 50-22-29-400-025). The enclosed letter was sent to the property owner requesting a donation of the temporary grading permit. The letter also informed the property owner they are entitled to just compensation for the fair market value of the requested easements.

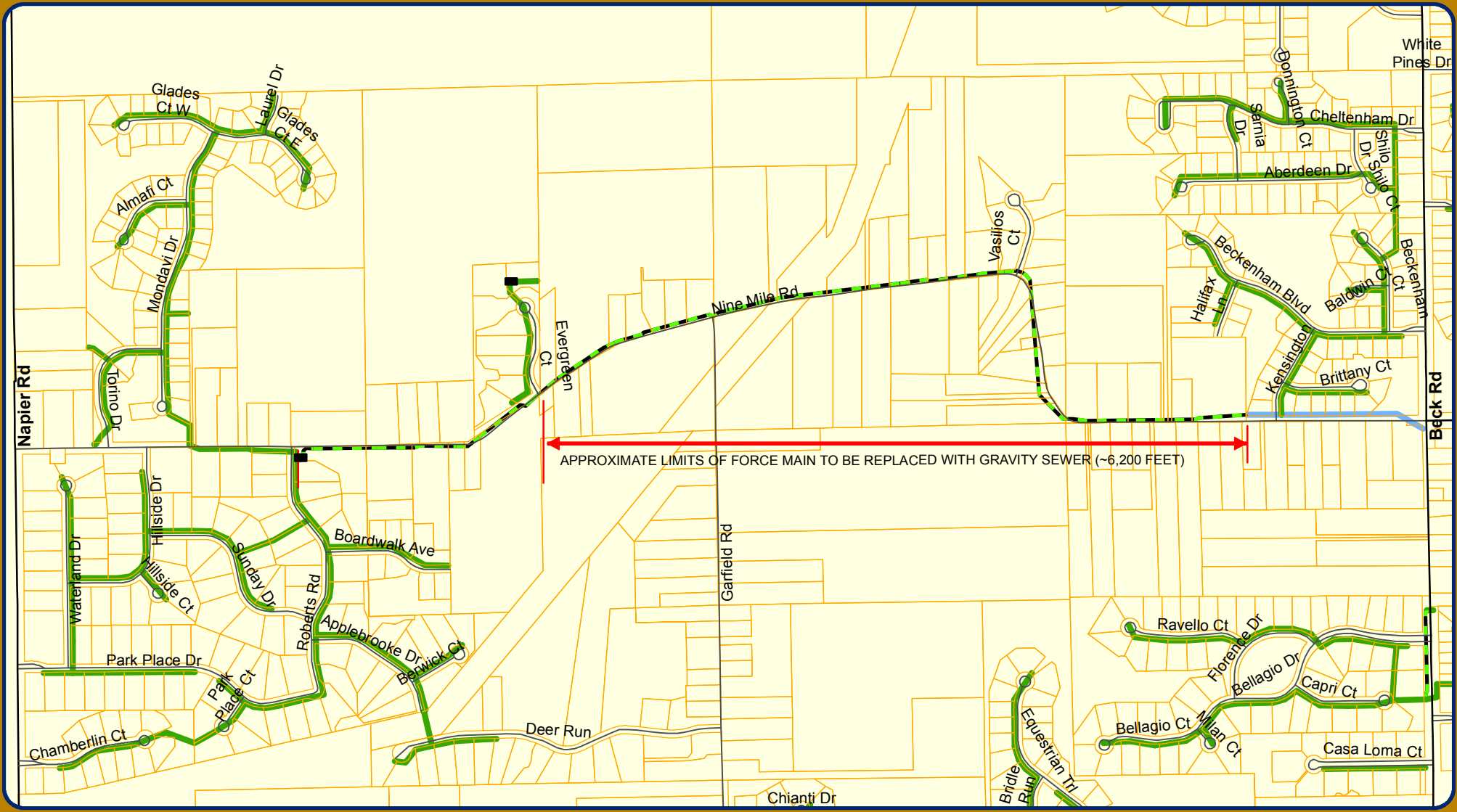
To formalize the valuation in the form of an offer, staff has worked with the City Attorney to prepare a *Resolution Concerning Acquisition of Property and Approving Declaration of Necessity and Taking*, and a *Declaration of Taking* to allow the City to begin proceedings to acquire the easements through eminent domain since the City has been unable to acquire the easements for the amounts stated in the offer letter.

This project is expected to begin construction later this fall or winter.

RECOMMENDED ACTION: Approval of (1) a Resolution Concerning Acquisition of Property and Approving Declaration of Necessity and Taking and Authorization of Offer to Purchase, and (2) a Declaration of Taking, for the purpose of making a good faith offer in the amount of \$1,909, for a temporary grading permit over parcel 50-22-29-400-025 (47900 Nine Mile), for the construction of sanitary sewer as part of the project to extend sewer along Nine Mile Road from Kensington Road to Evergreen Court.

NINE MILE GRAVITY SEWER PROJECT




Location Map



APPROXIMATE LIMITS OF FORCE MAIN TO BE REPLACED WITH GRAVITY SEWER (~6,200 FEET)

Map Author: Croy
 Date: 4/28/17
 Project: Nine Mile Gravity Sewer
 Version #: v1.0

Map Legend

-  6" Sanitary Force Main
-  8" Gravity Sanitary Sewer
-  12" Gravity Sanitary Sewer

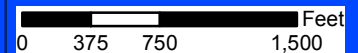
MAP INTERPRETATION NOTICE

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
 26300 Lee BeGole Drive
 Novi, MI 48375
cityofnovi.org



**RESOLUTION CONCERNING THE ACQUISITION
OF PROPERTY AND APPROVING DECLARATION OF NECESSITY AND TAKING**

City of Novi
County of Oakland, Michigan

Minutes of a _____ Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall in said City on _____, 2018, at 7:00 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, present conditions in the City of Novi, Oakland County, Michigan, necessitate the construction of a sanitary sewer extension along the frontage of Parcel No. 22-29-400-025 (the "Improvements"), in the City of Novi, Oakland County, State of Michigan, to-wit:

PARCEL DESCRIPTION (50-22-29-400-025)
(Per Oakland County Tax Rolls)

PARCEL

T1N, R8E, SEC 29 PART OF SE 1/4 BEG AT PT DIST E 952.25 FT FROM S 1/4 COR, TH N 00-04-52 W 325 FT, TH W 154 FT, TH N 00-04-52 W 314 FT, TH E 560 FT, TH S 00-04-52 E 639 FT, TH W 406 FT TO BEG 7.06 A5-21-90 FR 011

TEMPORARY EASEMENT

A PARCEL OF AND SITUATED IN THE SE 1/4 OF SECTION 29, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE S 1/4 CORNER OF SAID SECTION 29; THENCE EAST 952.25 FEET; THENCE N 00°04'52" W 33.0 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 00°04'52" W 15.0 FEET; THENCE EAST 190.53 FEET; THENCE S 00°04'52" E 15.0 FEET; THENCE WEST 190.53 FEET TO THE POINT OF BEGINNING. CONTAINS 0.066 ACRES OF LAND.
SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

WHEREAS, plans for the improvements are on file with the City Clerk's Office; and

WHEREAS, it has been determined that said improvements are necessary for the use and benefit of the public; and

WHEREAS, in order to construct said improvements, it is necessary that the City acquire a Temporary Construction Easement to the above-described real estate.

WHEREAS, the City has caused a valuation of the subject property to be prepared;

WHEREAS, value of the easement over the subject property is One Thousand Nine Hundred and Nine (\$1,909.00) Dollars.

WHEREAS, the City has determined that it is in the best interests of the City to offer to purchase the easement over the subject property from the owner of such property, and to take such other actions as are deemed necessary to acquire the subject property for the purposes of constructing the improvements;

NOW, THEREFORE, BE IT RESOLVED, by the authority vested in the City of Novi by law, that it is hereby declared and determined that it is necessary to construct a sanitary sewer extension along the frontage of Parcel No. 22-29-400-025 (the "Improvements") under and through the above-described property within the City of Novi in accordance with the plans prepared by the City, and that said improvements are necessary for the use and benefit of the public; and

BE IT FURTHER RESOLVED, that the Mayor of the City is hereby authorized to execute, on behalf of the City, a good faith Offer to Purchase, a copy of which is attached hereto as Exhibit A, calling for the payment of One Thousand Nine Hundred and Nine (\$1,909.00) Dollars for a Temporary Construction Easement over the subject property. The above amounts have been established as just compensation for the acquisition of the property, based upon a valuation of the property and the desire to complete the sale short of litigation.

BE IT FURTHER RESOLVED, that after the execution of the good faith Offer to Purchase by the Mayor, the good faith Offer to Purchase shall be submitted to the owners of the property;

BE IT FURTHER RESOLVED, that in the event the Sellers fail to accept the good faith Offer to Purchase within fourteen (14) days of the date of delivery, the City Manager is hereby authorized to execute the Declaration of Taking, which is attached hereto;

BE IT FURTHER RESOLVED, that in the event the offer is not accepted as set forth above, the Mayor, City Clerk, and City Attorney are authorized to take all actions required to obtain a Temporary Construction Easement in the subject property by eminent domain.

BE IT FURTHER RESOLVED, that in the event the offer is not accepted as set forth above, and the Declaration is executed, the City finance officer is authorized and directed to place an amount equal to the amount contained in the good faith offer that was made to the property owners (\$1,909.00) into a separate account and to hold such money on deposit as the estimated amount of just compensation to be paid in connection with the eminent domain proceedings.

BE IT FURTHER RESOLVED, that all resolutions and part of resolutions insofar as they conflict with the provisions of this Resolution be and the same hereby are rescinded.

AYES: Councilmembers _____

NAYES: Councilmembers _____

RESOLUTION DECLARED ADOPTED.

CORTNEY HANSON, 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 at _____ meeting held this _____ day of _____, 2018.

CORTNEY HANSON, CITY CLERK

DECLARATION OF TAKING

A Resolution of Necessity having been adopted by the City of Novi setting forth that present conditions necessitate the construction of a sanitary sewer extension along Nine Mile Road along the frontage of Parcel No. 22-29-400-025 (the "Improvements") in the City of Novi, Oakland County, Michigan, in the interest of the public health, safety, and welfare, and that it is necessary to acquire a Temporary Construction Easement over the property within the City of Novi for said Improvements, and that a good faith written offer to purchase said property will be made.

NOW, THEREFORE, by virtue of the authority vested in the City of Novi, by Act 279 of the Public Acts of 1909, as amended, and/or Act 149 of the Public Acts of 1911, as amended, or other applicable statutes, and in accordance with the provisions of Act 87 of Public Acts of 1980, as amended, it is now declared and determined that the easement property hereinafter described shall be taken for the purpose of constructing a sanitary sewer, in accordance with prepared plans showing said Improvements which are on file with the City Clerk's Office.

A statement of the estate of interest in the property being taken; a description of the property to be acquired, sufficient for its identification; the name of each known owner of said property; the name of each known person, other than the owner, having an interest in said property; a statement of the sum of money estimated by the City of Novi as just compensation for the property being acquired; and a statement whether the City of Novi reserves or waives its

rights to bring federal or state cost recovery actions against the present owner of the property are as follows:

1. Statement of the Estate of Interest Being Taken and Description of the Property.

PARCEL DESCRIPTION (50-22-29-400-025)
(Per Oakland County Tax Rolls)

PARCEL

T1N, R8E, SEC 29 PART OF SE 1/4 BEG AT PT DIST E 952.25 FT FROM S 1/4 COR, TH N 00-04-52 W 325 FT, TH W 154 FT, TH N 00-04-52 W 314 FT, TH E 560 FT, TH S 00-04-52 E 639 FT, TH W 406 FT TO BEG 7.06 A5-21-90 FR 011

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SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

Subject to all easements and restrictions of record, if any.

2. Names of Property Owner: Frank C. Denardo, Jr., a single man
3. Names of each person, other than the Owners, having a potential interest in the property: Morgan Stanley Private Bank, Board of County Road Commissioners, County of Oakland, Detroit Edison, Time Warner, Ameritech, and Michael Reyes and Sheryl Percha
4. Value of Easements based on Valuation of the Property from assessing records:
Temporary Construction Easement: \$ 1,909.00
5. The City of Novi reserves its rights to bring Federal or State cost recovery actions against the present owner of the property.

CITY OF NOVI

BY: _____
Peter Auger

City Manager

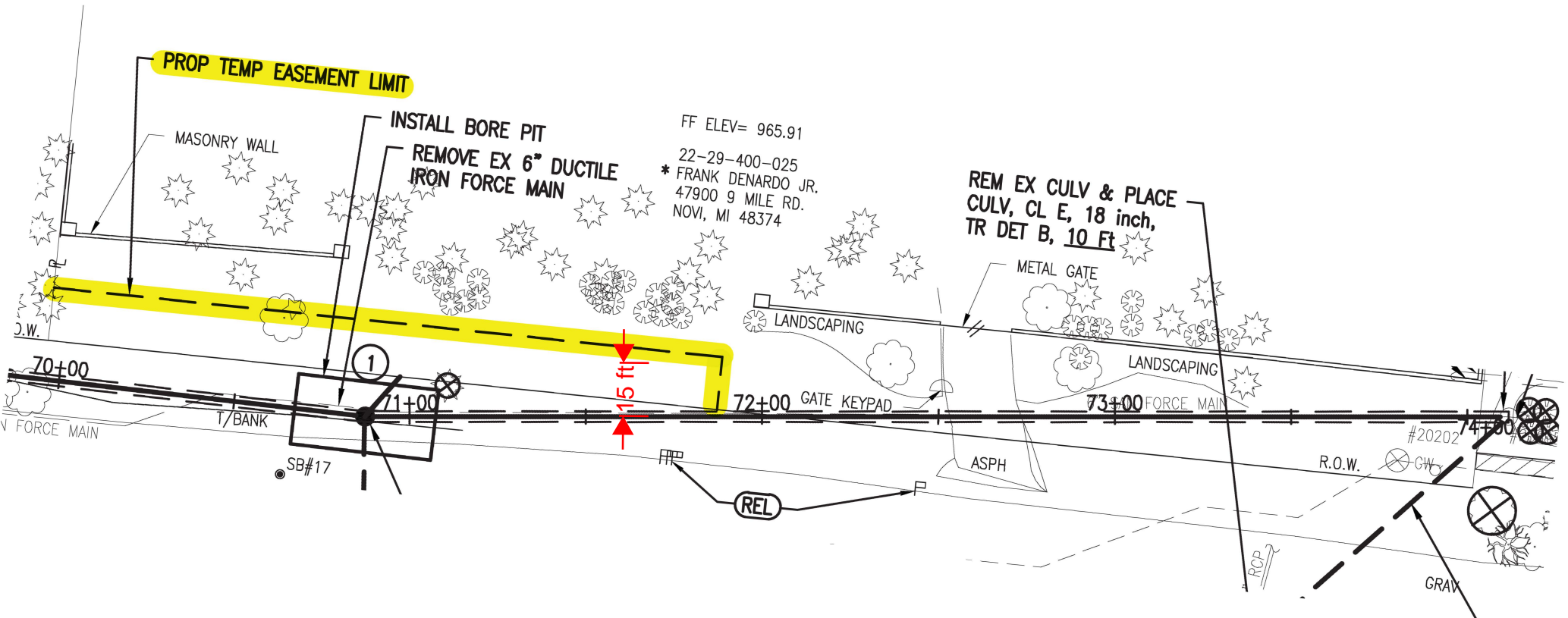
Dated: _____, 2018
STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing Declaration of Taking was acknowledged before me this ____ day of _____, 2018, by Peter Auger, as the City Manager, on behalf of the City of Novi.

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

Prepared by and when recorded return to:
Elizabeth K. Saarela (P 60265)
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331
Phone: (248) 489-4100
Tax Identification No: (50-22-29-400-025)

EXHIBIT A





May 17, 2018

Frank Denardo Jr.
47900 Nine Mile Road
Novi, MI 48374

CITY COUNCIL

Mayor
Bob Gatt

Mayor Pro Tem
Dave Staudt

Andrew Mutch

Wayne Wrobel

Laura Marie Casey

Gwen Markham

Kelly Breen

City Manager
Peter E. Auger

Engineering Senior Manager
George D. Melistas

Field Operations Senior Manager
Matt Wiktorowski

Fleet Asset Manager
Michael Rhatigan

Water & Sewer Senior Manager
Ben Croy, P.E.

RE: Nine Mile Sanitary Sewer Project

Dear Mr. Denardo:

As you are aware, the City is planning to construct a sanitary sewer main along Nine Mile between Kensington Road and Evergreen Court. To facilitate construction of the project, easements will be required along a portion of the project limits, including a temporary easement along the Nine Mile frontage of your property. For your reference, the proposed easement has been enclosed for your review.

To help limit the cost of the project, and since this project provides a benefit to the property owners on Nine Mile, we are asking that these easements be donated. However, for your information, we determined the fair market value of the easement, which was determined based on the value of the property per square foot on the basis of assessment records. Per federal guidelines, the valuation of temporary easements are set at 10% of that value. The valuation for the easements being requested over your property is valued at \$1,909. This is not a good faith offer at this point, but rather just a valuation for informational purposes.

If you are satisfied with the enclosed easement document, and choose to donate the easements, please return one signed, notarized copy for approval by our City Council and subsequent recording with the Register of Deeds. **If you choose not to donate the easements for the project, please contact me by May 31st at 248-735-5635 to discuss purchase of the easements.** Please feel free to contact me to further discuss the project or easements, and to address any questions or concerns you may have.

Sincerely,

Department of Public Services
Field Services Complex
26300 Lee BeGole Dr.
Novi, Michigan 48375
248.735.5640
248.735.5659 fax

Ben Croy
Water and Sewer Senior Manager

Enclosures

cityofnovi.org