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 $1,846, for a permanent sanitary sewer easement over parcel 50-22-29-400-012 (47950 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 $1,846
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 permanent easement was identified from 47950 Nine Mile (parcel 50-22-29-400-012). The enclosed letter was sent to the property owner requesting a donation of the permanent sanitary sewer easement. 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 $1,846, for a permanent sanitary sewer easement over parcel 50-22-29-400-012.
(47950 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 Legend
- 6" Sanitary Force Main
- 8" Gravity Sanitary Sewer
- 12" Gravity Sanitary Sewer
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. 22-29-400-012
(the “Improvements”), in the City of Novi, Oakland County, State of Michigan, to-wit:

PARCEL DESCRIPTION (50-22-29-400-012)
(Per Oakland County Tax Rolls)

PARCEL
A PARCEL OF LAND SITUATED IN THE SE 1/4 OF SECTION 29, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS:

BEGINNING AT POINT DISTANT EAST 800.25 FEET FROM THE SOUTH 1/4 CORNER OF SAID SECTION 29; THENCE N 00°04’52″ W 325.0 FEET; THENCE EAST 154.0 FEET; THENCE S 00°04’52″ E 325.0 FEET; THENCE WEST 154.0 FEET TO THE POINT OF BEGINNING. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

PERMANENT EASEMENT
A PARCEL OF LAND 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 SOUTH 1/4 CORNER OF SAID SECTION 29; THENCE EAST 800.25
FEET; THENCE N 00°04’52″ W 33.0 FEET; THENCE EAST 25.74 FEET ALONG THE
NORTH RIGHT OF WAY LINE OF WEST NINE MILE ROAD TO THE POINT OF BEGINNING; THENCE N 00°04'52"11 W 10.0 FEET; THENCE EAST 40.0 FEET; THENCE S 00°04'52" E 10.0 FEET; THENCE WEST 40.0 FEET ALONG THE NORTH RIGHT OF WAY LINE OF WEST NINE MILE ROAD TO THE POINT OF BEGINNING. CONTAINS 400 SQUARE FEET OR 0.009 ACRES OF LAND, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

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 permanent Sanitary Sewer System 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 Eight Hundred and Forty-Six ($1,846.00) 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. 22-29-400-012 (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 Eight Hundred and Forty-Six ($1,846.00) Dollars for a permanent Sanitary Sewer System 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 Permanent Sanitary Sewer 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 ($1,846.00) 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. 22-29-400-012 (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 permanent Sanitary Sewer System 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 (50-22-29-400-012)**
*(Per Oakland County Tax Rolls)*

**PARCEL**
A PARCEL OF LAND SITUATED IN THE SE 1/4 OF SECTION 29, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS:

BEGINNING AT POINT DISTANT EAST 800.25 FEET FROM THE SOUTH 1/4 COMER OF SAID SECTION 29; THENCE N 00°04'52" W 325.0 FEET; THENCE EAST 154.0 FEET; THENCE S 00°04'52" E 325.0 FEET; THENCE WEST 154.0 FEET TO THE POINT OF BEGINNING. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

**PERMANENT EASEMENT**
A PARCEL OF LAND 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 SOUTH 1/4 COMER OF SAID SECTION 29; THENCE EAST 800.25 FEET; THENCE N 00°04'52" W 33.0 FEET; THENCE EAST 25.74 FEET ALONG THE NORTH RIGHT OF WAY LINE OF WEST NINE MILE ROAD TO THE POINT OF BEGINNING; THENCE N 00°04'52" W 10.0 FEET; THENCE EAST 40.0 FEET; THENCE S 00°04'52" E 10.0 FEET; THENCE WEST 40.0 FEET ALONG THE NORTH RIGHT OF WAY LINE OF WEST NINE MILE ROAD TO THE POINT OF BEGINNING. CONTAINS 400 SQUARE FEET OR 0.009 ACRES OF LAND, MORE OR LESS. 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: Thomas J. Starr and Judith A. Starr, husband and wife

3. Names of each person, other than the Owners, having a potential interest in the property: Board of County Road Commissioners, County of Oakland, Detroit Edison Company, Ameritech, Time Warner

4. Value of Easements based on Valuation of the Property from assessing records:
   
   Permanent Sanitary Sewer Easement: $1,846.00

5. The City of Novi reserves it 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: _______________
SANITARY SEWER SYSTEM EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Thomas J. Starr and Judith A. Starr, Husband and wife, whose address is 47950 Nine Mile Road, Novi, MI 48374, (hereinafter referred to as “Grantor”), being title holder to the following described parcel of land, to-wit:

[See attached and incorporated Exhibit A]

Tax Identification Number: 50-22-29-400-012

for and in consideration of One ($1.00) Dollar, receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the City of Novi, a Michigan municipal corporation, whose address is 45175 W. Ten Mile, Novi, Michigan 48375, (hereinafter referred to as "Grantee"), a nonexclusive perpetual easement for sanitary sewer, over, upon, across, in, through, and under the following described real property, to-wit:

[See attached and incorporated Exhibit B]

and to enter upon sufficient land adjacent to said sanitary sewer easement for the purpose of exercising the rights and privileges granted herein.

Grantee may install, repair, replace, improve, modify and maintain the sanitary sewer lines, and all necessary appurtenances thereto, within the easement herein granted.

Grantor agrees not to build or to convey to others permission to build any permanent structures on, over, across, in, through, or under the above-described easement, except that, subject to Grantee’s approval as part of an approved site plan, the Grantor may construct and/or install surface improvements to the property, including paved driveways, parking and/or walkways; landscaping; utilities and/or similar improvements, which improvements do not interfere with use, operation, maintenance, repair and replacement of the sanitary sewer in the easement areas shown on the attached and incorporated Exhibit B.

This instrument shall run with the land first described above and shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective heirs, representatives, successors and assigns.
SANITARY SEWER EASEMENT SKETCH

Exhibit "A"

EAST 154.0'

WEST 154.0'

SANITARY SEWER EASEMENT

PART OF THE SE 1/4 OF SECTION 29
T.1N., R.8E., CITY OF NOVI, OAKLAND COUNTY

TAX ID NO.: 50-22-29-400-012

THOMAS STARR
47950 NINE MILE RD.
NOVI, MI 48374

LEGEND

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

SCALE: 1" = 40'

REVISED 06-07-18

OHM
34000 Plymouth Road | Livonia, MI 48150
p (734) 522-6711 | f (734) 522-6427

Advancing Communities
PARCEL DESCRIPTION (50-22-29-400-012)  
(BASED ON OAKLAND COUNTY TAX ROLLS)

A parcel of land situated in the SE 1/4 of Section 29, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Beginning at point distant East 800.25 feet from the South 1/4 corner of said Section 29; thence N 00°04'52" W 325.0 feet; thence East 154.0 feet; thence S 00°04'52" E 325.0 feet; thence West 154.0 feet to the Point of Beginning. Subject to all easements and restrictions of record, if any.

SANITARY SEWER EASEMENT

A parcel of land 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 South 1/4 corner of said Section 29; thence East 800.25 feet; thence N 00°04'52" W 33.0 feet; thence East 25.74 feet along the North right of way line of West Nine Mile Road to the Point of Beginning; thence N 00°04'52" W 10.0 feet; thence East 40.0 feet; thence S 00°04'52" E 10.0 feet; thence West 40.0 feet along the North right of way line of West Nine Mile Road to the Point of Beginning.

Contains 400 square feet or 0.009 acres of land, more or less. Subject to all easements and restrictions of record, if any.
IN WITNESS WHEREOF, the undersigned Grantor has affixed their signature this _____

day of ________________, 2017.

GRANTOR:

________________________________________
Thomas J. Starr

________________________________________
Judith A. Starr

STATE OF MICHIGAN )
COUNTY OF OAKLAND)

On this ______ day of ____________________, 2017, before me, personally
appeared the above named Thomas J. Starr and Judith A. Starr, husband and wife, to me known

to be the person described in and who executed the foregoing instrument and acknowledged

that they executed the same as his free act and deed.

_______________________________
Notary Public
______________ County, MI
My commission expires ____________

THIS INSTRUMENT DRAFTED BY:

Elizabeth K. Saarela, Esquire
JOHNSON ROSATI SCHULTZ & JOPPICH, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331

AND WHEN RECORDED RETURN TO:

Cortney Hanson, Clerk
45175 Ten Mile
Novi, Michigan 48375
June 12, 2018

Thomas Starr
47950 Nine Mile Road
Novi, MI 48374

RE: Nine Mile Sanitary Sewer Project

Dear Mr. Starr:

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 permanent easement along the Nine Mile frontage of your property. For your reference, the proposed easement has been enclosed for your review. Based on recent modifications to the design, this easement has been reduced from the version previously provided to you. An aerial photo with the easement shown has also been provided to help illustrate the location of the easement.

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 this 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 permanent easements are set at 50% of that value. The valuation for the easement being requested over your property is valued at $1,846. 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 easement, please return one signed, notarized copy of the document for approval by our City Council and subsequent recording with the Register of Deeds. If you choose not to donate the easement for the project, please contact me by June 26th at 248-735-5635 to discuss purchase of the easement. Please feel free to contact me to further discuss the project or easement, and to address any questions or concerns you may have.

Sincerely,

Ben Croy
Water and Sewer Senior Manager

Enclosures