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 $3,552, for a temporary grading permit over parcel 50-22-29-326-024 (48380 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 $ 3,552
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 were identified from 48380 Nine Mile (parcel 50-22-29-326-024). 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 $3,552, for a temporary grading permit over parcel 50-22-29-326-024 (48380 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

City of Novi
Engineering Division
Department of Public Services
26300 Lee Bego1e 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. 22-29-326-024
(the “Improvements”), in the City of Novi, Oakland County, State of Michigan, to-wit:

PARCEL DESCRIPTION (50-22-29-326-024)
(Per Oakland County Tax Rolls)

Parcel
T1N, R8E, SEC 29 PART OF SW 1/4 BEG AT PT DIST S 00-23-00 E 1423.14 FT & S 00-
16-00 E 763.18 FT FROM CEN OF SEC, TH S 87-08-00 W 165.57 FT, TH S 09-55-00 E
195.76 FT, TH S 34-46-00 E 233.76 FT, TH N 00-16-00 W 393.15 FT TO BEG 0.90 A

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

Commencing at Center said Section 29; thence S 00°23'00'' E 1423.14 feet; thence S
00°16'00'' E 763.18 feet; thence S 87°08'00'' W 117.20 feet to the Point of Beginning;
thence S 09°55'00'' E 179.25 feet; thence S 34°46'00'' E 153.66 feet; thence S
00°16'00'' E 26.48 feet; thence N 34°46'00'' W 178.79 feet; thence N 09°55'00'' W
184.41 feet; thence N 87°08'00” E 15.11 feet to the Point of Beginning. Contains 0.120 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 Three Thousand Five Hundred and Fifty Two ($3,552.00) 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. 22-29-326-024 (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 Three Thousand Five Hundred and Fifty-Two ($3,552.00) 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 ($3,552.00) 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.
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. 22-29-326-024 (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 (50-22-29-326-024)  
(Per Oakland County Tax Rolls)**

**PARCEL**

T1N, R8E, SEC 29 PART OF SW 1/4 BEG AT PT DIST S 00-23-00 E 1423.14 FT & S 00-16-00 E 763.18 FT FROM CEN OF SEC, TH S 87-08-00 W 165.57 FT, TH S 09-55-00 E 195.76 FT, TH S 34-46-00 E 233.76 FT, TH N 00-16-00 W 393.15 FT TO BEG 0.90 A

**TEMPORARY EASEMENT**

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

COMMENCING AT CENTER SAID SECTION 29; THENCE S 00°23'00" E 1423.14 FEET; THENCE S 00°16'00" E 763.18 FEET; THENCE S 87°08'00" W 117.20 FEET TO THE POINT OF BEGINNING; THENCE S 09°55'00" E 179.25 FEET; THENCE S 34°46'00" E 153.66 FEET; THENCE S 00°16'00" E 26.48 FEET; THENCE N 34°46'00" W 178.79 FEET; THENCE N 09°55'00" W 184.41 FEET; THENCE N 87°08'00" E 15.11 FEET TO THE POINT OF BEGINNING. CONTAINS 0.120 ACRES OF LAND.

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

2. Names of Property Owner:    Jack Kamon

3. Names of each person, other than the Owners, having a potential interest in the property:    Citibank, N.A

4. Value of Easements based on Valuation of the Property from assessing records:

   **Temporary Construction Easement:** $ 3,552.00

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: ________________________________
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: ________________
TEMPORARY GRADING PERMIT

I, ________________________________, as the Owner of the property described as 48380 Nine Mile Road, Novi, MI 48374 (parcel 22-29-326-024) grant the City of Novi and its contractor (or subcontractors) permission to access, move men and equipment on and through, the right to store materials and excavated earth, remove vegetation and alter the underlying land in, over, upon and through the properties described above in the particular areas shown in Exhibit A, attached.

The work will include:

Construction activities related to the installation of a gravity sanitary sewer and sewer service leads along the Nine Mile Road corridor from Evergreen Court to a sewer connection point west of Kensington Road. The specific work may include grading, tree removals, modifications to driveway approaches, and related construction activities required for the proposed sanitary sewer work in accordance with the approved plans. All work is contained in the set of construction plans entitled “Nine Mile Road Sanitary Sewer” by OHM Advisors.

All portions of the Premises damaged or disturbed by Novi’s exercise of temporary easement rights shall be reasonably restored by Novi to the condition that existed prior to the damage or disturbance.

I understand this only grants permission to the Contractor to perform work directly relating to the listed project and upon completion of required grading operations the property will be fully restored.

_______________________________________   ______________________________________
By:   Its:     Date

_______________________________________   ______________________________________
Contact Mailing Address     City, State, Zip

_______________________________________   ______________________________________
Phone Number       Email Address

STATE OF MICHIGAN )
) SS
COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this _________ day of __________________, 20__, by
_______________________________________, the Owner of 48380 Nine Mile Road, Novi, MI 48374.

________________________________
Notary Public
Oakland County, Michigan
My Commission Expires:

Drafted by:
Kyle Selter
OHM Advisors
34000 Plymouth Road
Livonia, MI 48150
May 17, 2018

Jack Kamon
48380 Nine Mile Road
Novi, MI 48374

RE: Nine Mile Sanitary Sewer Project

Dear Mr. Kamon:

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 $3,552. 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,

Ben Croy
Water and Sewer Senior Manager

Enclosures