CITY of NOVI CITY COUNCIL



Agenda Item 3 June 3, 2019

SUBJECT: Approval of permanent sanitary sewer easements and temporary construction easements on city property, known as Rotary Park, for the construction and operation of the Huron Rouge Sewage Disposal System Sanitary Retention Facility (parcels 50-22-35-176-019 and 50-22-200-008).

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

CITY MANAGER APPROVAL:

BACKGROUND INFORMATION:

The design for the Huron Rouge Sewage Disposal System (HRSDS) Sanitary Retention Facility is underway. The purpose of this project is to address the periodic contract flow exceedances the city has experienced over the past several years. The attached December 19, 2018 Memorandum from Water & Sewer Senior Manager Ben Croy can be referenced for additional background related to this project. A 10-foot wide walking path, along with additional landscaping, will be installed in this area once the facility is constructed.

Novi's sanitary sewer contract for the HRSDS District is with the Oakland County Water Resource Commissioner's Office, who in turn has a contract with Wayne County for the conveyance and treatment of Novi's flow. Since Oakland County is the entity named in the contract, they are managing the design and construction of this retention facility, with Novi staff involved throughout the process. The facility will be operated and maintained by Oakland County personnel; however, Novi's DPW Water and Sewer Division will also monitor the system operations. The enclosed permanent sanitary sewer easements and the temporary construction easements will allow Oakland County to operate and maintain the facility.

The City Attorney's Office has reviewed and approved the easements. The current schedule for the project (attached) anticipates construction beginning in November of 2019, and completion in approximately one year.

RECOMMENDED ACTION: Approval of permanent sanitary sewer easements and temporary construction easements on city property, known as Rotary Park, for the construction and operation of the Huron Rouge Sewage Disposal System Sanitary Retention Facility (parcels 50-22-35-176-019 and 50-22-200-008).



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EASEMENT

Parcel No. 1 Project: HRSDS SRF

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF NOVI, a Michigan Municipal Corporation, GRANTOR(S), whose address is 45175 Ten Mile Road, Novi, Michigan 48375, for and in consideration of the sum of ONE DOLLAR (\$1.00) receipt of which is hereby acknowledged, paid to them by the County of Oakland, a Michigan Constitutional Corporation, by and through the Oakland County Water Resources Commissioner, in his capacity as "County Agency" for the HURON-ROUGE SEWAGE DISPOSAL SYSTEM, pursuant to 1939 P.A. 342, as amended and 1957 P.A. 185, as amended, GRANTEE whose address is the Office of the Oakland County Water Resources Commissioner, One Public Works Drive, Bldg. 95 West, Waterford, Michigan 48328-1907, GRANTOR does hereby grant to GRANTEE the right to construct, operate, maintain, repair or replace a sanitary sewer system, in accordance with the terms and conditions set forth herein:

RECITALS:

A. The GRANTOR is the owner of certain real property described as follows (the "Premises"):

A parcel of land of part of the Northwest ¹/₄ of the Northeast ¹/₄ of Section 35, T.01N., R.08E., City of Novi, Oakland County, Michigan, being more particularly described as follows: BEGINNING at a point on the north line of Section 35, said point being N. 89°02'35"E., 70.88 ft. from the North ¹/₄ corner of Section 35; thence continuing along said north line, N. 89°02'35"E., 258.18 ft.; thence S. 00°20'21"E., 610.04 ft.; thence S. 89°02'35"W., 258.18 ft.; thence N. 00°20'21"W., 610.04 ft. to the point of beginning. *Sidwell No. 22-35-200-008*

and,

B. The GRANTEE desires to acquire from the GRANTOR certain rights to the Premises in order to construct, operate, maintain, repair or replace a sanitary sewer system.

IT IS THEREFORE AGREED:

1. <u>Grant of Temporary Easement</u>. Grantor hereby grants to Grantee a temporary easement for the construction of a sanitary sewer system, described as follows, and which shall terminate upon completion of construction of the system:

The West 80.00 ft. of the South 482.00 ft. of the above-described parcel excepting therefrom the below-described Permanent Easement.

2. <u>Grant of a Permanent Easement</u>. Grantor hereby grants to Grantee a perpetual easement described as follows:

The West 60.00 ft. of the South 450.00 ft. of the above-described parcel.

3. **<u>Purpose of the Easements</u>**. The temporary easement granted herein shall be used only for the initial construction of the system in accordance with the plans and specifications approved by the GRANTEE. The temporary easement may be used to move workers and equipment and to store materials and equipment. The permanent easement granted herein shall be used for the purpose of the operation, maintenance, repair or replacement of the system constructed in accordance with the plans and specifications approved by the GRANTEE.

4. <u>General Conditions</u>.

a. GRANTOR agrees not to build or convey to others permission to build any permanent structures on the above-described permanent easement. Examples of permanent structures include, but are not limited to, fixtures, structures with footings, culverts, dams, bridges and structures of a similar nature.

b. Except as otherwise agreed in writing between the GRANTOR and GRANTEE, GRANTEE may remove all trees and shrubbery within the temporary easement during the initial construction of the system and shall remove all trees and shrubbery within the permanent easement. GRANTEE shall be required to replace trees and shrubbery removed based on a landscape plan approved by GRANTOR.

c. Except as otherwise provided herein, if the Premises shall be disturbed by GRANTEE, then the Premises shall be restored to substantially the condition that existed prior to entering upon said Premises by the GRANTEE, its contractors, agents or assigns.

d. GRANTOR retains, reserves, and shall continue to enjoy the use of the permanent easement for any and all purposes which do not interfere with, obstruct the use of or prevent the use by GRANTEE. Any unauthorized use or obstruction may be removed by GRANTEE. e. It is understood that the easement, rights, and privileges granted herein are nonexclusive, and GRANTOR reserves and retains the right to convey similar easements and rights to such other persons as GRANTOR may deem proper provided such similar easements do not affect GRANTEE'S easement.

f. This Easement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, representatives, successors and assigns.

g. A map of the above-described Easement is attached hereto and made a part thereof.

h. This instrument contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect. Any modification of this Easement must be in writing and must be signed by the party to be charged.

i. This Easement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Easement is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any party.

j. It is further understood and agreed between the Parties that the terms and conditions herein are contractual and are not a mere recital, and there are no other agreements, understandings, contracts, or representations between GRANTOR and GRANTEE in any way related to the subject matter hereof, except as expressly stated herein.

k. If any provision of this Easement or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Easement shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.

1. It is understood and agreed between the Parties that a failure by either Party to fulfill a condition or term set forth in this Easement shall not result of extinguishment of the easement rights granted herein or constitute a waiver of such term or condition.

(Remainder of this page intentionally left blank)

IN WITNESS	WHEREOF, the	GRANTO	R has hereun	to affixed their
signatures this	day of			, 2019.
WITNESSES:		CITY OF N a Michigan	OVI, Municipal Co	orporation
		By :		(L.S.)
		Rob	ert J. Gatt	
		It's:	Mayor	
		By :		(L.S.)
		Cor	tney Hanson	
		It's:	: Clerk	
	ACKNOWL	EDGEMEN	<u>NT</u>	

STATE OF MICHIGAN))SS. COUNTY OF OAKLAND)

On this ______ day of ______, 2019, before me, a Notary Public in and for said County, personally appeared **Robert J. Gatt** and **Cortney Hanson** to me personally known, who being by me duly sworn did say that they are the **Mayor** and **Clerk** of the **CITY OF NOVI**, a **Michigan Municipal Corporation**, a corporation created and existing under the laws of the **State of Michigan**, and that the said Easement Grant was signed and sealed on behalf of said corporation by authority of its City Council, and the said **Mayor** and **Clerk** acknowledged the said instrument to be the free act and deed of the said Corporation.

Notary Public
County,
My Commission Expires:
Acting in the County of

This instrument drafted by:

Jeffrey S. Parrott, Office of the Oakland County Water Resources Commissioner Building 95 West One Public Works Drive Waterford, Michigan 48328-1907

JSP/kmb Kimberly Brown's files\documents/HSDS SRF EASEMENTS\City of Novi'19.P1 (3-21-2018)

EASEMENT SKETCH

NOTE: NO FIELD WORK PERFORMED DESCRIPTION TAKEN FROM RECORD.

SCALE: 1 = 100

NORTH 1/4

Ν

NINE MILE ROAD CORNER **SECTION 35** T. 01 N., R. 08 E. 258.18' NORTH LINE OF SECTION 35 33' RIGHT-OF-WAY LINE 80.00' .00' 6Ó 22-35-200-008 610.04610.04 482.00'-450.00 258.18'



EASEMENT

Parcel No. 2 Project: HRSDS SRF

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF NOVI, a Michigan Municipal Corporation, GRANTOR(S), whose address is 45175 10 Mile Road, Novi, Michigan 48375, for and in consideration of the sum of ONE DOLLAR (\$1.00) receipt of which is hereby acknowledged, paid to them by the County of Oakland, a Michigan Constitutional Corporation, by and through the Oakland County Water Resources Commissioner, in his capacity as "County Agency" for the HURON-ROUGE SEWAGE DISPOSAL SYSTEM, pursuant to 1939 P.A. 342, as amended and 1957 P.A. 185, as amended, GRANTEE whose address is the Office of the Oakland County Water Resources Commissioner, One Public Works Drive, Bldg. 95 West, Waterford, Michigan 48328-1907, GRANTOR does hereby grant to GRANTEE the right to construct, operate, maintain, repair or replace a sanitary sewer system, in accordance with the terms and conditions set forth herein:

RECITALS:

A. The GRANTOR is the owner of certain real property described as follows (the "Premises"):

A parcel of land located in Section 35, T.01N., R.08E., City of Novi, Oakland County, Michigan, is described as follows: Commencing at the southwest corner of said Section 35, thence along the west line of Section 35, N. 02°48'41" W., 1,701.81 ft., thence along the northerly line of "CHASE ARMS SUBDIVISION", (recorded in Liber 213 of Plats, Pages 4 through 13, Oakland County Records), N. 87°11'19" E., 260.00 ft. to the **POINT OF BEGINNING**, thence N. 02°29'38" W., 172.28 ft., thence N. 87°11'19" E., 55.61 ft., thence N. 42°52'45" E., 127.95 ft., thence N. 78°44'24" E., 393.65 ft., thence N. 42°50'38" E., 231.66 ft., thence N. 20°20'44" E., 339.04 ft. thence N. 25°36'12" E., 201.95 ft., thence N. 33°26'49" E., 208.56 ft., thence N. 25°37'22" E., 192.50 ft., thence N. 07°56'59" W., 175.50 ft., thence N. 08°14'23" W., 324.59 ft., thence N. 65°08'24" W., 114.13 ft., thence along the southerly line of Ashbury Drive (60 feet wide) the following four (4) courses (1) thence 253.92 ft. along a non-tangent curve to the right (having a central angle of 61°54'34", a Radius of 235.00 ft. and a

chord bearing N. 55°48'42" E., 241.75 ft.), thence N. 86°46'00" E., 256.52 ft., thence 369.56 ft. along a tangent curve to the left (having a central angle of 81°26'24", a Radius of 260.00 ft. and a chord bearing N. 46°02'48" E., 339.23 ft.), thence N. 05°19'36" E., 42.38 ft., thence N. 87°07'47" E., 669.56 ft., thence S. 12°45'20" W., 298.44 ft., thence S. 35°55'47" W., 216.97 ft., thence S. 22°59'51" W., 553.93 ft., thence S. 41°35'43" W., 210.00 ft., thence S. 60°01'43" W., 221.36 ft., thence S. 40°58'42" W., 186.24 ft., thence S. 54°05'09" W., 377.71 ft, thence S. 16°13'56" W., 645.32 ft. thence S. 66°17'56" W., 444.20 ft., thence N. $50^{\circ}49'09''$ W., 166.72 ft., thence S. $72^{\circ}33'26''$ W., 190.63 ft., thence S. $87^{\circ}11'19''$ W., 215.32 ft. (recorded as 215.36 feet) to the Point of Beginning. Also, Commencing at the North ¹/₄ corner of said Section 35, thence along the north section line, S. 89°32'25" W., 329.12 ft., thence S. 00°20'13" E., 610.04 ft. to the POINT OF BEGINNING, thence S. 00°20'13" E., 706.65 ft., thence N. 89°23'47"E., 329.18 ft., thence N. 89°08'54"E., 329.05 ft., thence N. 00°20'21"W., 706.42 ft., thence S. 89°02'35" W., 329.06 ft., thence S.89°32'25" W., 329.14 ft. to the Point of Beginning. Sidwell No. 22-35-176-019

and,

B. The GRANTEE desires to acquire from the GRANTOR certain rights to the Premises in order to construct, operate, maintain, repair or replace a sanitary sewer system.

IT IS THEREFORE AGREED:

1. <u>Grant of Temporary Easement</u>. Grantor hereby grants to Grantee a temporary easement for the construction and or repair of a sanitary sewer system, described as follows, and which shall terminate upon completion of construction of the system:

A TEMPORARY EASEMENT "A" DESCRIBED AS FOLLOWS:

Beginning at a point on the north parcel line, said point located distant N. 89°32'25" E., 329.14 ft. along the north parcel line and N. 89°02'35" E., 130.88 ft. along said north line from the northwest corner of said parcel; thence from said **POINT OF BEGINNING** continuing N. 89°02'35" E., 20.00 ft., along said north line; thence S. 00°20'21" E., 80.00 ft.; thence S. 89°02'35" W., 150.72 ft.; thence S. 89°32'30" W., 260.32 ft.; thence N. 00°20'13" W., 20.00 ft.; thence N. 89°02'33" E., 130.72 ft.; thence N. 00°20'21" W., 60.00 ft. to the point of beginning.

A TEMPORARY EASEMENT "B" DESCRIBED AS FOLLOWS:

Beginning at a point located S. 00°20'13" E., 240.00 ft. along the west parcel line from the northwest corner of the above-described parcel; thence from said **POINT OF BEGINNING** continuing S. 00°20'13" E., 165.00 ft. along said west line; thence N. 89°32'30" E., 34.00 ft.; thence N. 00°20'13" W., 165.00 ft.; thence S. 89°32'30" W., 34.00 to the point of beginning.

2. <u>Grant of a Permanent Easement</u>. Grantor hereby grants to Grantee a

perpetual easement described as follows:

Beginning at the northwest corner of the above-described parcel, thence from said **POINT OF BEGINNING** N. 89°32'30" E., 329.14 ft. along the north parcel line; thence N. 89°02'35" E., 130.88 ft. along said north line; thence S. 00°20'21" E., 60.00 ft.; thence S. 89°02'35" W., 130.72 ft.; thence S. 89°32'30" W., 260.30 ft.; thence S. 00°20'13" E., 180.00 ft.; thence S. 89°32'30" W., 69.00 ft. to the west parcel line; thence N. 00°20'13" W., 240.00 ft. to the point of beginning.

3. <u>**Purpose of the Easements</u>**. The temporary easement granted herein shall be used only for the initial construction of the system in accordance with the plans and specifications approved by the GRANTEE. The temporary easement may be used to move workers and equipment and to store materials and equipment. The permanent easement granted herein shall be used for the purpose of the operation, maintenance, repair or replacement of the system constructed in accordance with the plans and specifications approved by the GRANTEE.</u>

4. <u>General Conditions</u>.

a. GRANTOR agrees not to build or convey to others permission to build any permanent structures on the above-described permanent easement. Examples of permanent structures include, but are not limited to, fixtures, structures with footings, culverts, dams, bridges and structures of a similar nature.

b. Except as otherwise agreed in writing between the GRANTOR and GRANTEE, GRANTEE may remove all trees and shrubbery within the temporary easement during the initial construction of the system and may remove all trees and shrubbery within the permanent easement. GRANTEE shall be required to replace trees and shrubbery removed based on a landscape plan approved by GRANTOR.

c. Except as otherwise provided herein, if the Premises shall be disturbed by GRANTEE, then the Premises shall be restored to substantially the condition that existed prior to entering upon said Premises by the GRANTEE, its contractors, agents or assigns.

d. GRANTOR retains, reserves, and shall continue to enjoy the use of the permanent easement for any and all purposes which do not interfere with, obstruct the use of or prevent the use by GRANTEE. Any unauthorized use or obstruction may be removed by GRANTEE.

e. It is understood that the easement, rights, and privileges granted herein are nonexclusive, and GRANTOR reserves and retains the right to convey similar easements and rights to such other persons as GRANTOR may deem proper provided such similar easements do not affect GRANTEE'S Easement. f. This Easement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, representatives, successors and assigns.

g. A map of the above-described Easement is attached hereto and made a part thereof.

h. This instrument contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect. Any modification of this Easement must be in writing and must be signed by the party to be charged.

i. This Easement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Easement is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any party.

j. It is further understood and agreed between the Parties that the terms and conditions herein are contractual and are not a mere recital, and there are no other agreements, understandings, contracts, or representations between GRANTOR and GRANTEE in any way related to the subject matter hereof, except as expressly stated herein.

k. If any provision of this Easement or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Easement shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.

1. It is understood and agreed between the Parties that a failure by either Party to fulfill a condition or term set forth in this Easement shall not result of extinguishment of the easement rights granted herein or constitute a waiver of such term or condition.

(Remainder of this page intentionally left blank)

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IN WI	TNESS	WHEREOF,	the	GRA	NTOR	has h	ereunto	affixed	their
signatures this		day of						_, 2019.	
WITNESSES:)F NO igan N		pal Corj	poration	l
			E		Robert It's: M	t J. Gat	t	(L	.S.)
]	By :	Cortn It's: C	ey Har		(L.	S.)
						-			

ACKNOWLEDGEMENT

STATE OF MICHIGAN))SS. COUNTY OF OAKLAND)

On this ______ day of ______, 2019, before me, a Notary Public in and for said County, personally appeared **Robert J. Gatt** and **Cortney Hanson** to me personally known, who being by me duly sworn did say that they are the **Mayor** and **Clerk** of the **CITY OF NOVI**, a **Michigan Municipal Corporation**, a corporation created and existing under the laws of the **State of Michigan**, and that the said Easement Grant was signed and sealed on behalf of said corporation by authority of its City Council, and the said **Mayor** and **Clerk** acknowledged the said instrument to be the free act and deed of the said Corporation.

Notary Public
County,
My Commission Expires:
Acting in the County of

This instrument drafted by:

Jeffrey S. Parrott, Office of the Oakland County Water Resources Commissioner Building 95 West One Public Works Drive Waterford, Michigan 48328-1907

JSP/DL/kmb Kimberly Brown's files\documents/HRSDS SRF EASEMENTS\City of Novi'19.P2 (3-25-2018) (4-15-2019)



EASEMENT SKETCH

NOTE: NO FIELD WORK PERFORMED DESCRIPTION TAKEN FROM RECORD.

706.42'



329.06' .88 20.00' 260.30 130.72 80. 150.72 260.32 -20.00' TEMPORARY EASEMENT "A" <u>69.00'</u> **ROETHEL DRIVE** -34.00' TEMPORARY EASEMENT "B" 65. 706.65 22-35-176-019 -34.00' 329.05' -340.00' 298.44'-PROJECT: HURON ROUGE SEWAGE RETENTION FACILITY 04/15/2019

PERMANENT EASEMENT EASEMENT PARCEL NO. ____ DWG. ___ OF ___

 TEMPORARY EASEMENT
 SIDWELL NO.
 22-35-176-019

 Part of Section 35, T. 01 N., R. 08 E., City of Novi, Oakland County, Michigan JIM NASH OAKLAND COUNTY WATER RESOURCE COMMISSIONER Page 1 of 1 Rev.:07/30/13

MEMORANDUM



The design of the Huron Rouge Sewage Disposal System (HRSDS) Sanitary Retention facility project is underway, with construction of the facility anticipated to begin late 2019. This project, formerly known as the Eight Mile Equalization Basin, addresses the periodic contract exceedances of the city's sanitary sewer flow rate. This retention facility will temporarily detain a calculated volume and reduce the rate of release, resulting in a controlled flow from the city outlet into the HRSDS system.

The storage facility will be constructed east of Roethel Drive between Rotary Park and Nine Mile Road, as shown on the attached figure. The facility will consist of approximately 1,000 feet of box culvert pipe (10' x 15'), which is capable of storing one million gallons. This volume of storage was based on the future sanitary needs of Novi, taking into account planned and potential future development. An automated pump station will pump flow into the storage pipes at varying rates if the flow rate approaches the city's contractual rate of 20.48 cubic feet per second. The facility will be equipped with a flushing system to help clean the pipes following storage events and eliminate any odors.

The city's sanitary sewer system is comprised of three districts – the HRSDS District, the Walled Lake District, and the Commerce District. The Walled Lake and Commerce Districts (north end of city) will not contribute flow to the retention facility. The retention facility will control flows from only the HRSDS District, which encompasses 85% of the city's sanitary flow. Novi's sanitary sewer contract for the HRSDS District is with Oakland County (who in turn has a contract with Wayne County for the conveyance and treatment of Novi's flow). Since Oakland County is the entity named in the contract, they are managing the design and construction of the retention facility, with Novi staff involved throughout the process.

The current schedule for the project (attached) anticipates construction beginning in November of 2019, and completion in approximately one year. The facility will be operated and maintained by Oakland County personnel; however, Novi's Water and Sewer Division will monitor the system operations to ensure compliance with contract limitations.



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Oakland County Water Resources Commissioner Huron Rouge Sewage Disposal System - 1 MG Pipe Storage Facility Project Schedule

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Task Month A S O ND D J F M A M J T A S O ND F A M A M A M A M A M A M A M A M A M A		Calendar Year	~ ~ ~	2018					201	9						2()20			Η
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* - Deliverables by HRC. Owners return comments are expected within 2 weeks



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APPROVED CHECKED T. G.M. DRAWN T. W.R. T.G.M. DESIGNED