



CITY OF NOVI CITY COUNCIL
AUGUST 9, 2021

SUBJECT: Approval of Release in Full provided by Travelers Insurance in connection with the claim against it's insured, Asphalt Specialists, Inc., in the amount of \$14,585.87.

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

BACKGROUND INFORMATION:

On December 3, 2020, Asphalt Specialists, Inc. (subcontracted paver to Merlo Construction, Inc., prime contractor on the 2020 Pathways and ADA Improvements project) were repaving the Hilton Sanitary Lift Station driveway, near 8 Mile and Haggerty Roads, when a sanitary sewer cover and casting was shifted off the manhole which allowed the newly applied asphaltic mixture to fall, settle and compact in the bottom of the structure.

The next day, December 4, 2020, our Water and Sewer Division received a call regarding a sanitary sewerage back-up from the Sheraton Hotel, located immediately upstream from the lift station. Our crews along with Metro Sewer Cleaners, Inc., worked tirelessly through the night jack-hammering and removing the hard, compacted asphalt from the structure until flow was restored.

The City immediately informed both the prime contractor and the paving subcontractor of the damage and was also witnessed by their representatives. Asphalt Specialists, Inc. agreed to reimburse the City completely for the emergency removal of asphalt from the sanitary structure. Travelers Insurance Company, on behalf of Asphalt Specialists, Inc. will issue the City a check in the full amount upon receiving a signed copy of the attached *Release in Full* form.

The City Attorney has reviewed the form and background information and recommends the City execute said form (per attached letter from Elizabeth Saarela dated July 28, 2021).

RECOMMENDED ACTION: Approval of Release in Full provided by Travelers Insurance in connection with the claim against it's insured, Asphalt Specialists, Inc., in the amount of \$14,585.87.

ELIZABETH KUDLA SAARELA
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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

July 28, 2021

Aaron Staup, Construction Engineering Coordinator
City of Novi
Department of Public Works
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

**Re: 2020 Pathway Gap
Release – Asphalt Specialists, Inc.**

Dear Mr. Staup:

We have received and reviewed a proposed Release in Full provided by Travelers Insurance Company in connection with the City's claim against its insured, Asphalt Specialists, Inc. (ASI) in the amount of \$14,585.87. ASI paved the Hilton Lift Station on December 3, 2020 resulting in asphalt entering a sanitary manhole. The City incurred the entire \$14,585.87 in removing the asphalt from the sanitary sewer. It appears that one sewer backup resulted from the asphalt in the sewer on December 4, 2020. However, no claims for sewer backup have been filed with the City as a result. Since claimants only have 45 days to file a sewer backup claim with the City under MCL 691.1419, there is little to no risk in the City agreeing to release the insured and insurer for any additional claims relating to this incident. We see no legal impediment to entering into this Release in Full in order to finalized payment of the claim to the City.

Please feel free to contact me with any questions or concerns in regard to this matter.

Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC

Elizabeth Kudla Saarela

EKS
Enclosure

- C: Cortney Hanson, Clerk (w/Enclosure)
Jeffrey Herczeg, Director of Public Works (w/Enclosure)
Ben Croy, City Engineer (w/Enclosure)
Scott Roselle, Water and Sewer Manager (w/Enclosure)
Lisa Demeo, Public Works Representative (w/Enclosure)
Barry Gates, OHM Advisers (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)



Marian Andoh
Claim Professional
Construction Claims
Hartford Claim Center

Travelers
P.O. Box 430
Buffalo, NY 14240

Office (860) 277-4654
Fax (844) 321-6431

RELEASE IN FULL

Know all Men by these Presents, That we, The City of Novi, for the sole consideration of Fourteen Thousand Five Hundred and Eighty-Five Dollars and Eighty Seven Cents (\$14,585.87) paid by The Phoenix Insurance Company (Travelers) released and discharged, and by these presents do for ourselves, our heirs, executors, administrators and assigns, release and forever discharge the said Travelers, Asphalt Specialists Inc, and all other persons, firms or corporations from all claims, demands, damages, actions, or causes of action, on account of damage to property, bodily injuries or death, resulting, or to result, from an incident which occurred on or Decemeber 3, 2020 at 21111 Haggarty Rd, Novi Michigan of and for all claims or demands whatsoever in law or in equity, which we, our heirs, executors, administrators, or assigns can, shall or may have by reason of any matter, cause or thing whatsoever prior to the date hereof.

We also hereby agree as an express condition of this settlement to indemnify and hold the Releasees harmless from, and to assume responsibility for and discharge any and all claims or liens, known or unknown including but not limited to, claims for reimbursement or insurance subrogation claims actions, suits, demands or proceedings including any claim brought against any and all of said Releasees by or on behalf of any person claiming to be the owner of the property, which claims arise or may arise out of or in connection with said incident.

It is Understood and Agreed that this is a full and final release of all claims of every nature and kind whatsoever, and releases claims that are known and unknown, suspected and unsuspected.

It is Further Understood and Agreed that any party hereby released admits no liability to the undersigned or any others, shall not be estopped or otherwise barred from asserting, and expressly reserves the right to assert any claim or cause of action such party may have against the undersigned or any others.

In Witness Whereof, I have hereunto set my hand and seal this _____ day
of _____, 2021.

Signature
FID#:

Date