

cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item M
July 7, 2008

SUBJECT: Approval of an Agreement for Emergency Connection to Public Water with the City of Wixom for secondary emergency water connection on Beck Road.

SUBMITTING DEPARTMENT: Engineering *Ry*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The Pontiac Trail Water Main Extension project, which is being considered as a separate item on this agenda, will construct 7,400 lineal feet of 12-inch diameter water main to complete a loop and provide reliable water service to the northwestern portion of the City. The completion of this loop will provide water service to several properties that are currently served by adjacent communities such as Wixom and Walled Lake.

In discussions with the City of Wixom representatives on this issue, we made the request to keep the connection between the two communities intact with valves to keep the water systems separate except in emergency situations. Wixom was agreeable to the request and approved the attached agreement at their May 27, 2008 City Council meeting.

The agreement was drafted and has been reviewed by the City Attorney's office (see Beth Kudla's letter, attached).

RECOMMENDED ACTION: Approval of an Agreement for Emergency Connection to Public Water with the City of Wixom for secondary emergency water connection on Beck Road.

| | 1 | 2 | Y | N |
|-------------------------|---|---|---|---|
| Mayor Landry | | | | |
| Mayor Pro Tem Capello | | | | |
| Council Member Crawford | | | | |
| Council Member Gatt | | | | |

| | 1 | 2 | Y | N |
|-------------------------|---|---|---|---|
| Council Member Margolis | | | | |
| Council Member Mutch | | | | |
| Council Member Staudt | | | | |

June 30, 2008

30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secrestwardle.com

Brian Coburn, Civil Engineer
CITY OF NOVI
45175 West Ten Mile Road
Novi, Michigan 48375-3024

Elizabeth M. Kudla
Direct: 248-539-2846
bkudla@secrestwardle.com

Re: **Agreement for Emergency Connection to Public Water**
(Wixom)
Our File No. 55142 NOV

Dear Mr. Coburn:

We have received and reviewed the Agreement for Emergency Connection to Public Water which has been executed by the City of Wixom. The Agreement provides for the operation and maintenance of a two-valve closed connection between the City of Wixom and City of Novi public water systems at the intersection of Beck Road and Ardmore Court. In the event of an emergency within either city, including, but not limited to, severe low water pressure, a need for additional water pressure for fire suppression, a system break or failure, or some other loss of capacity or flow, the cities may provide treated water service to each other by way of opening the valve connections. Pursuant to the Agreement, each city has the authority and the responsibility, at its expense, to own and maintain its own valve connection. The charge for any treated water service provided by one party to the other shall be the prevailing rate set by each party. The Agreement may be terminated by either party with one year's written notice.

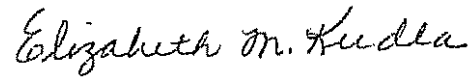
We note that the Agreement indicates that the Agreement will become effective upon the public acceptance of the water main. We believe that this language regarding "acceptance" was carried over from a similar agreement with Farmington Hills. Though we can recommend approval of the language of the Agreement overall, we would recommend crossing out that statement regarding "acceptance" so that the Agreement will become effective at the time of signature alone. Wixom may wish to initial the crossed out language acknowledging the change.

With the minor modification, we can recommend placement of this Agreement on the next available City Council Agenda for approval. Once approved, an original should be executed. Once executed, the Agreement should be maintained in the City Clerk's Office, with a copy to be provided to the DPW.

Brian Coburn, Civil Engineer
June 30, 2008
Page 2

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

Very truly yours,



ELIZABETH M. KUDLA

EMK

C: Maryanne Cornelius, Clerk
Tim Sikma, Water and Sewer Manager
Thomas R. Schultz, Esquire

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June 2, 2008

Mr. Brian T. Coburn, P.E.
City of Novi
45175 W. Ten Mile Road
Novi, Michigan 483375

Re: Pontiac Trail Water Main Extension – City of Novi

Dear Mr. Coburn:

Per your request, enclosed please find two (2) original agreements for an emergency connection to public water, which was approved at the May 27, 2008 City Council meeting. Once executed, please return an original to my attention.

Should you have any questions, please feel free to contact me at 248.624.4664.

Sincerely,

A handwritten signature in cursive script that reads "Deanna Murphy".

Deanna Murphy, Secretary
Department of Public Services

cc: Anthony W. Nowicki, Assistant City Manager
Linda Kirby, City Clerk

AGREEMENT FOR EMERGENCY CONNECTION TO PUBLIC WATER

THIS AGREEMENT is made this ____ day of _____, 200_, by and between the City of Wixom, a Michigan municipal corporation, located at 49045 Pontiac Trail, Wixom, MI 48393-2567 (“Wixom”) and the City of Novi a Michigan municipal corporation, located at 45175 W. Ten Mile Road, Novi, MI 48375 (“Novi”), herein together called the “Parties”.

WITNESSETH:

WHEREAS, Novi and Wixom each own and operate a system for water supply which serves that City, and

WHEREAS, the Parties receive water from the same source, and

WHEREAS, from time to time water pressure to each City’s main may be lost due to a break in a public water main within either Novi or Wixom, and

WHEREAS, it is in the interest of the public health, safety and welfare, for the Parties to install and maintain a connection between their system consisting of a closed valve with a connection between the two water supply systems, so that each could supply treated water to the other on a temporary basis in the event of an emergency, and

WHEREAS, Novi and Wixom desire to enter into an intergovernmental agreement to provide for the interconnection of their respective water systems, and to specify their respective rights and responsibilities once the systems are connected.

The Intergovernmental Contracts Between Municipal Corporations Act, MCL 124.1 et seq., grants any municipal corporation the power to join with any other municipal corporation by contract for the joint operation of any property, facility, or service which each would have the power to own, operate, or perform separately.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, Novi and Wixom agree as follows:

1. That Novi shall be permitted to make a closed valve connection to the water main of the Wixom public water system, in the location described on Exhibit A.
2. Novi shall obtain all necessary governmental permits and approvals for the interconnection of the two systems.
3. All infrastructure installed in Wixom shall be owned and maintained by Wixom. All infrastructure installed in Novi shall be owned and maintained by Novi. The parties hereby grant the necessary repair and maintenance easements over the infrastructure sites.
4. Each Party shall have the authority and the responsibility, at its expense, to own and maintain its own valve connection. In the event of an emergency, either Party may make repairs to the other Party's infrastructure including the valve and improvements surrounding the valve without notice and/or prior approval.
5. Upon reasonable advance notice, the parties hereby agree and do hereby grant the necessary easements to access any meter that may be installed for purposes of meter reading.
6. The Parties shall have the right to inspect, test and approve all interconnections between its water system and that of the other Party prior to either Party providing treated water service to the other.
7. In the event of an emergency within either City, including but not limited to severe low water pressure, a need for additional water pressure for fire suppression, a system break or failure, or some other loss of capacity or flow, the Parties agree to act in good faith with one another by providing treated water service to each other by way of opening the valve connections.
8. Upon reasonable notice, the Parties each specifically reserve the right to terminate the supply of treated water to the other if deemed necessary to protect the public health, safety and welfare within its own geographic limits. Any water obtained under this Agreement shall be used and provided to persons or entities solely within the recipient City's geographic limits.
9. The charge for any treated water service provided by one party to the other shall be the prevailing rate set by each party. Any charge for emergency usage shall be paid by the City receiving the emergency service within thirty (30) days of receipt of an invoice from the City providing the emergency service. This rate shall be reviewed by the parties every two (2) years during the term of this Agreement. If the water service provided is not metered, the Parties shall bill each other on the basis of a reasonable estimate made and agreed to by both parties based on historical data for water usage for that area.

10. Neither City makes any representation as to the quality of the treated water that it will provide in the event of an emergency, other than that the water that is provided will be treated and will be of the same quality that the City provides to its own customers.
11. To the fullest extent permitted by law, Wixom and Novi mutually agree to indemnify, defend and hold the other harmless for any losses, claims, causes of action, or other liabilities, including any costs, expenses and attorney fees incurred by the other, which arise from the tortious acts or omissions of the other related to this Agreement, with the exception of any gross negligence or intentional acts. The Parties enter into this Agreement to further the public health, safety and welfare within their communities and do not intend to confer any benefit or privilege upon any party other than themselves.
12. This Agreement may be terminated for any reason by either Party upon one (1) year's written notice to the other.
13. This Agreement shall be binding upon signature and effective upon acceptance of the subject water main by the City of Novi.
14. No waiver of any breach of this Agreement shall be construed to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as in addition to any other remedy provided by law or ordinance.
15. This Agreement shall be construed under the laws of the State of Michigan. If any part, term, or provision is held to be illegal or in conflict with any law of the State of Michigan or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

IN WITNESS WHEREOF, the parties have executed this Agreement on the ___ day of _____, 200_.

In the presence of:

CITY OF WIXOM

Anna Pottermord
Anna Pottermord

BY Kevin W. Ninkley
Kevin W. Ninkley, Mayor

BY Linda Kirby
Linda Kirby, City Clerk

CITY OF NOVI

BY _____
David Landry, Mayor

BY _____
Maryanne Cornelius, Clerk

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

On this 28 day of May, 2008, before me, a Notary Public in and for said Oakland County, Michigan personally appeared Kevin W. Hinkley and Linda Kirby to me personally known, who, being by me duly sworn executed the within instrument by authority of its City Council; and said Kevin W. Hinkley and Linda Kirby acknowledged said instrument to be the free act and deed of said municipal corporation.

ANNA RÖTTERMOND
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES MAR 9, 2011
ACTING IN COUNTY OF OAKLAND

Anna Rottermond
Notary Public Anna Rottermond
Oakland County, Michigan
My commission expires: 3-9-2011

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

On this _____ day of _____, 200_, before me, a Notary Public in and for said County, personally appeared David Landry, Mayor, and Maryanne Cornelius, City Clerk, to me personally known, who, being by me duly sworn, executed the within instrument by authority of its City Council; and said David Landry and Maryanne Cornelius acknowledged said instrument to be the free act and deed of said municipal corporation.

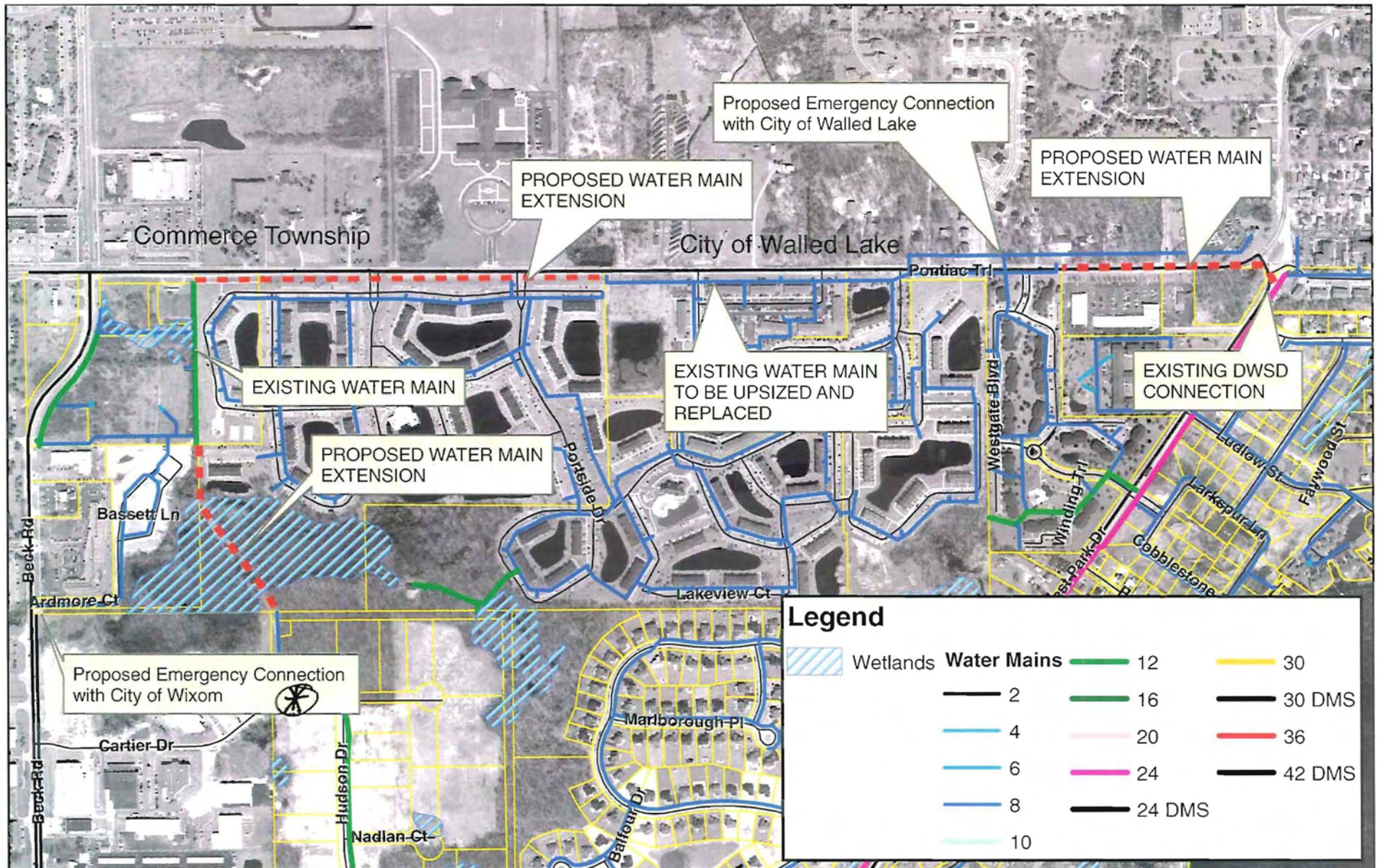
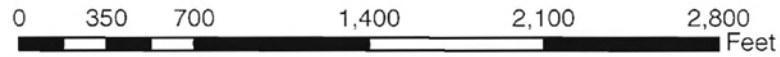
Notary Public

Notary Public
Oakland County, Michigan
My commission expires: _____



PROJECT LOCATION

PONTIAC TRAIL WATER MAIN EXTENSION



Legend

| | | | | | |
|--|----------|--|--------|--|--------|
| | Wetlands | | 12 | | 30 |
| | | | 16 | | 30 DMS |
| | | | 20 | | 36 |
| | | | 24 | | 42 DMS |
| | | | 24 DMS | | |
| | | | 10 | | |