



City of New Bedford
OFFICE OF THE CITY SOLICITOR

MIKAELA A. McDERMOTT
City Solicitor

JANE MEDEIROS FRIEDMAN
First Assistant City Solicitor

ERIC JAIKES
KREG R. ESPINOLA
Assistant City Solicitors

ERIC C. COHEN
JOHN E. FLOR
ELIZABETH LYDON
THOMAS J. MATHIEU
ELIZABETH TREADUP PIO
Associate City Solicitors

March 25, 2020

City Council President Joseph P. Lopes
Honorable Members of the City Council
Municipal Building
133 William Street
New Bedford, MA 02740

RE: Hathaway Road Triangle Improvements Project

Dear Council President Lopes and Members of the City Council:

On January 21, 2020, in accordance with your order of November 14, 2019, I submitted proposed Orders of Taking to acquire the permanent and temporary easements that are needed for the Hathaway Road Triangle Improvements Project, which were approved by the City and recorded at the Bristol County (S.D.) Registry of Deeds on February 3, 2020 at Book 13098, Page 117. I later became aware that the review appraisal for one of the affected parcels, shown on City of New Bedford Assessors Map 101, Lot 19, which is now or formerly owned by Millenium Grind II Realty LLC, included an incorrect damage amount. The damages listed on the original review appraisal were \$12,200.00, which was the amount included on the original order of taking. The correct damage amount should have been \$16,400.00. A copy of the corrected review appraiser summary is attached hereto.

In order to correct this error, please find attached for your consideration, a Confirmatory Order of Taking, which reflects the correct damage award, in the amount of \$16,400.00.

Please feel free to contact me if you have any questions regarding this matter.

Very truly yours,

Jane Medeiros Friedman
First Assistant City Solicitor

cc: Jamie Ponte, DPI Commissioner

CITY/TOWN: New Bedford
 OWNER: Millenium Grind II Realty LLC
 PROJECT NO.: 606718
 PROJECT: Upgrade and Realignment of Hathaway Triangle

P ARCEL NO.(S): TE-7 TE-8 E-2 U-8

x		iii. Special benefits to remainder, if any, justify
x		16. Analysis of Value; Correlation & Final Estimate of Damages
x		17. Appraisers Certification Statement, Assumptions & Limiting Conditions
x		18. Subject Property Deed
N/A		19. List of non-compensable (personal) property (if applicable)
N/A		20. Economic Rental, for Property Management purposes (if applicable)
x		21. Appraiser Contact Letter w/return receipt, Appraiser Affidavit properly filled out
x		22. Allocation of Damages
x		23. Mathematics (Office Checker)

FINAL DETERMINATION OF DAMAGES

Date	Recommended – Accepted & Approved as	Value Before	Appraiser	Reviewer
December 15, 2019	the basis for the establishment of the amount	Value After	N/A	N/A
	believed to be just compensation.	Estimate of Value	N/A	N/A
			\$16,400	\$16,400

Accepted – Meets all requirements, but not selected as recommended

Date: December 15, 2019



_____ Not Accepted (Include reason in comments)

Reviewing Appraiser's Signature GCS
 MA Certified General #1251

CITY OF NEW BEDFORD

IN CITY COUNCIL

April 7, 2020

CONFIRMATORY ORDER OF TAKING

The City of New Bedford, acting by and through the City Council, and under applicable provisions of Massachusetts General Laws, Chapter 79, and under any and every other power to it granted or implied, hereby takes for itself, by eminent domain, temporary and permanent easements, located in New Bedford as hereinafter described, for the purpose of altering and improving the Hathaway Road Triangle, including but not limited to roadway and sidewalk reconstruction, traffic signals, signs, pavement markings, and for all other uses incidental to said municipal purposes:

Permanent Easement E-2: An easement over a certain parcel of land being shown as E-2 on a plan entitled "Easement Plan of Land, Hathaway Road, Mt. Pleasant Street And Nauset Street, New Bedford, MA (Bristol County)", dated December 23, 2019, prepared by Surveying and Mapping Consultants, Braintree, MA, recorded herewith (the "Plan"), said easement being more particularly bounded and described as follows:

Beginning at a point in the southerly sideline of Nauset Street, thence N 79° 24' 43" E 115.96 feet along the southerly sideline of Nauset Street to a point in the westerly sideline of Mt. Pleasant Street, thence

S 22° 02' 08" E a distance of 14.48 feet by the westerly sideline of Mt. Pleasant Street, to a point, thence

By a non-tangent curve to the left, having a radius of 17.00 feet and an arc length of 17.45 feet to a point, thence

S 79° 24' 43" W 47.58 feet to a point, thence

By a curve to the right, having a radius of 271.00 feet and an arc length of 57.13 feet to the point of beginning.

Said easement contains an area of 615 square feet, more or less.

Temporary Easement TE-7

Beginning at a point in the easterly line of land now or formerly Michel El-Khoury which is also the northeasterly corner of TE-3, thence

Easterly along Permanent Utility Easement U-8 118 feet more or less, thence

Southeasterly along Permanent Utility Easement U-8 2 feet more or less, thence

Westerly by land now or formerly of Millenium Grind II Realty, LLC 125 feet more or less, thence

Northeasterly by land now or formerly of Michel El-Khoury 11 feet more or less to the point of beginning, said Temporary Easement comprises an area of 620 square feet, more or less.

Temporary Easement TE-8

Beginning at a point in the westerly sideline of Mt. Pleasant Street, thence

Southeasterly along the westerly sideline of Mt. Pleasant Street 65 feet more or less, thence

Southwesterly by land now or formerly of Millenium Grind II Realty, LLC 6 feet more or less, thence

Northwesterly by land now or formerly of Millenium Grind II Realty, LLC 58 feet more or less, thence

Northwesterly along Permanent Utility Easement U-8 16 feet more or less, thence

Northeasterly along Permanent Utility Easement U-8 2 feet more or less, thence

Southeasterly along Permanent Easement E-2 by a curve to the right a distance of 13 feet more or less to the point of beginning, said Temporary Easement comprises an area of 448 square feet, more or less.

Permanent Easement U-8: An easement over a certain parcel of land being shown as U-8 on a plan entitled "Easement Plan of Land, Hathaway Road, Mt. Pleasant Street And Nauset Street, New Bedford, MA (Bristol County)", dated December 23, 2019, prepared by Surveying and Mapping Consultants, Braintree, MA, recorded herewith (the "Plan"), said easement being more particularly bounded and described as follows:

Beginning at a point in the southerly sideline of Nauset Street said point being the northeasterly corner of land now or formerly Michel El-Khoury and the northeasterly corner of easement U-6, thence

N 79° 24' 43" E 10.73 feet along the southerly line of Nauset Street to a point, thence

By a curve to the left, having a radius of 271.00 feet and an arc length of 57.13 feet along the southerly line of Permanent Easement E-2 to a point, thence

N 79° 24' 43" E a distance of 47.58 feet along the southerly line of Permanent Easement E-2 to a point, thence

By a curve to the right, having a radius of 17.00 feet and an arc length of 4.56 feet along the southerly line of Permanent Easement E-2 to a point which is the northwesterly corner of Temporary Easement TE-8, thence

S 27° 24' 28" W 1.66 feet along Temporary Easement TE-8 to a point, thence

S 34° 54' 26" E 16.33 feet along Temporary Easement TE-8 to a point, thence

S 55° 47' 04" W 6.00 feet to a point, thence

N 34° 54' 26" W 14.00 feet to a point which is the northeasterly corner of Temporary Easement TE-8, thence

S 82° 46' 33" W 118.24 feet along the northerly line of Temporary Easement TE-7 to a point at land now or formerly Michel El-Khoury, thence

N 25° 56' 43" E a distance of 6.86 feet to the point of beginning.

Said parcel contains an area of 652 square feet, more or less

The amount awarded as damages sustained by the Owner or Owners of said easements, in accordance with the provisions of G.L. c.79, § 6, as amended and to any other person or corporation having an interest therein is \$16,400.00.

This Confirmatory Order of Taking is executed to correct and confirm the Order of Taking recorded on February 3, 2020 with said Registry of Deeds at Book 13098, Page 117 (the "Prior Order"), and to clarify that, as of the date the Prior Order was recorded, the damage award for the property shown as Lot 19 on City of New Bedford Assessor's Map 101, which is subject to the foregoing easements ("Easement E-2", "Temporary Easement TE-7", "Temporary Easement TE-8" and "Utility Easement U-8") was \$16,400.00. The Prior Order inadvertently listed the amount of the damage award as \$12,200.00. Nothing herein shall impair or otherwise affect the rights and easements acquired by the City of New Bedford pursuant to the Prior Order.

AND BE IT FURTHER ORDERED, that the City Clerk cause a copy of this order of taking herein made, certified by him, to be recorded on behalf of the City of New Bedford in the Registry of Deeds for the Southern District of Bristol County, and to give such other notices as are required by General Laws.