



**TO:** Members of Troy City Council  
**FROM:** Lori Grigg Bluhm, City Attorney  
Susan M. Lancaster, Assistant City Attorney  
**DATE:** June 25, 2008  
**SUBJECT:** City of Troy vs. Sunset Excavating Company and Eclipse  
Excavating, LLC

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During the time that the work was being done on the Crooks Road widening project, the City's water main at Crooks and Wattles was damaged. Sunset Excavating was the contractor on this Oakland County Road Commission project. Eclipse Excavating LLC was the sub-contractor.

The water main break of July 11, 2006 was caused by an employee of the sub-contractor, who turned off one of the pressure reducing valves. The City was not aware that the valve had been turned off until the next morning, after the water main break. The water main break required emergency repairs from several of our water and streets employees. The costs of the labor (including the required overtime) and the equipment costs totaled \$24,445.60.

The City initially asked for reimbursement of these amounts through the final accounting for the project. Unfortunately, the City was not the contractor of the project, and therefore had to recoup our costs by filing a claim with Zurich Insurance, who insured both the general contractor (Sunset Excavating) and also the sub-contractor (Eclipse Excavating). The City will continue its efforts to collect this reimbursement from Zurich. However, since this incident occurred in 2006, and Zurich has not timely responded to our claim, we are also seeking the authority to file a lawsuit at this time, which is still within the applicable statute of limitations. The lawsuit would necessarily be filed against both the general contractor and also the subcontractor.

A proposed resolution is attached for your consideration. If you have any questions concerning the above, please let us know.