

CITY COUNCIL ACTION REPORT

RECEIVED

DEC 05 2008

CITY OF TROY
CITY MANAGER'S OFFICE

TO: ^{PN} Phillip L. Nelson, City Manager

FROM: Charles Craft, Chief of Police *Charles C*
David Livingston, Lieutenant, Troy Police Department *DL #307*

SUBJECT: License Agreement with St. Joseph Catholic Chaldean Church

Background:

- St. Joseph Catholic Chaldean Church, located at 2442 E. Big Beaver, is a growing community and several large events are hosted at their place of worship each year. These events attract huge crowds that have precipitated the involvement of the Troy Police Department to conduct traffic details at these events for the last several years.
- Several steps have been taken to minimize the traffic congestion that occurs in this area during these special services, predominantly during Christmas and Easter celebrations, where overflow traffic often spills over to the nearby Wexford Condominiums, located west of the church, and the Morel East residential subdivision, located east of the church.
- One step that was taken three years ago was to allow the church to use the City owned property located just south of the church property to accommodate the overflow parking.
- A license agreement was reached between the City of Troy and St. Joseph Catholic Chaldean Church to allow the church to use the property for overflow parking for a period of three (3) years.
- The current agreement expired October 17, 2008 and the church has an interest in renewing it.

Financial Considerations:

- The licensee (St. Joseph Church) will pay \$ 1.00 for the use of the property.
- The use of the property for overflow parking reduces the number of police personnel needed to police these events thereby minimizing overtime costs often associated with these details.
- St. Joseph Church will pay one-half of the overtime costs incurred by the Troy Police Department to service these events.

Legal Considerations:

- The City of Troy attorney's office has reviewed the current license agreement between the City and St. Joseph Catholic Chaldean Church and has made the necessary changes and updates for a renewal of the license agreement.

- There is also an easement on the property belonging to the Henry-Graham Drain Drainage District.
- A license agreement between St. Joseph Catholic Chaldean Church and the Henry-Graham Drain Drainage District was approved and signed by a representative from St. Joseph Catholic Chaldean Church. The agreement is to be sent to the Oakland County Water Resources Commissioner for his signature upon City Council approval of the license agreement between the City of Troy and St. Joseph Catholic Chaldean Church.

Policy Considerations:

- By allowing for the orderly parking of overflow vehicles at these events traffic congestion is minimized, allowing for safer use of the roadway (Big Beaver).
- The use of the property for overflow parking has greatly reduced parking problems in the Wexford Condominium complex and in the Morel East subdivision. Previously, cars would park illegally in these areas to the point where fire apparatus would not be able to effectively respond to a fire scene to any homes in those areas.
- The use of the property for overflow parking will enhance the health and safety of the community.

Options:

- The City of Troy Police Department recommends the renewal of this license agreement for a period of three years.

Reviewed and approved as to legality:



Lori Grigg Bluhm, City Attorney



November 24, 2008

John P. McCulloch
DRAIN COMMISSIONER
OAKLAND COUNTY

Lieutenant David Livingston
Special Operations Section, Troy Police Dept.
500 West Big Beaver Rd.
Troy, Michigan 48084

Kevin R. Larsen
CHIEF DEPUTY
DRAIN COMMISSIONER

RE: **ST. JOSEPH CHALDEAN CATHOLIC CHURCH;
EASEMENT USE AGREEMENT-HENRY GRAHAM DRAIN
DRAINAGE DISTRICT**

Dear Lt. Livingston:

Please be advised that the Drainage Board for the Henry-Graham Drain Drainage District approved the limited seasonal use of the District's easement as requested by the church. This approval is subject to the church entering into a License Agreement, between the church and the District, and the conditions contained therein.

Please find enclosed the agreement to be executed by the appropriate representatives for the church. Please return this document along with proof of insurance and written permission from the City of Troy as required by items 6 and 13, respectively, of the agreement. Upon our receipt of the executed document, the Water Resources Commissioner (formerly Drain Commissioner) will execute on behalf of the District. A copy of this document will be returned to you or the church.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

OAKLAND COUNTY WATER RESOURCES COMMISSIONER

By: 

Paul E. Dove, Right-of-Way Supervisor

Phone: (248) 858-0984

PED/kmb

Enclosure



One Public Works Drive
Building 95 West
Waterford, MI 48328-1907
www.oakgov.com/drain
P 248.858.0958
F 248.858.1066

LICENSE AGREEMENT FOR LIMITED ACTIVE USE OF EASEMENT

THIS LICENSE AGREEMENT entered into this _____ day of November, 2008, between **ST. JOSEPH CHALDEAN CATHOLIC CHURCH**, whose address is **2442 E. Big Beaver, Troy, Michigan** (“Licensee”) and the **HENRY-GRAHAM DRAIN DRAINAGE DISTRICT**, a Michigan Statutory Corporation, acting through the Drainage Board for the **HENRY-GRAHAM DRAIN** pursuant to Act No. 40 of the Public Acts of 1956 (“**Drain Code**”), as amended, whose address is the Office of the Oakland County Water Resources Commissioner, One Public Works Drive, Bldg. 95 West, Waterford, Michigan 48328-1907, (“**District/Licensors**”).

WITNESSETH

WHEREAS the **District/Licensors** has an easement over the parcel of property described as follows:

T.2N., R.11E., Section 25 part of the Northeast ¼ of the Northwest ¼ beginning at a point S. 00°01'28"W., 968.66 ft. and N. 89°28'44"E., 1305.52 ft. and N. 00°13'40"W., 956.34 ft. and S. 89°38'09"E., 869.24 ft. and S. 00°12'46"E., 673.50 ft. and N. 89°31'04"E., 113.43 ft. from the Northwest section corner; thence N. 89°31'04"E., 325.00 ft.; thence S. 00°16'19"E., 700.00 ft.; thence S. 89°31'04"W., 325.00 ft.; thence N. 00°16'19"W., 700.00 ft. to the Point of Beginning. Said easement described on **Attachment “A”**.

AND WHEREAS the **District/Licensors** at this time has no immediate plan to utilize its easement area, and all parties are willing to enter into a license agreement whereby the **Licensee** will be entitled to use and maintain the above-described easement.

NOW THEREFORE, in consideration of the mutual covenants herein contained, it is expressly agreed that:

1. The parties hereto intend and hereby agree to enter into a License Agreement covering the above-described easement. Said Agreement is to commence upon the execution hereof and approval by the **District/Licensors** and is to run to for a term of three years. The **Licensee** understands and agrees that this Agreement does not change or extinguish the existing easement rights of the **Licensors** with regard to entering upon this property to inspect, maintain, repair or improve its facilities, with no compensation paid to the **Licensee**, within this area which this agreement is subject to.

2. Anything in this Agreement to the contrary notwithstanding, the **District/Licensors** may terminate this Agreement at any time for any reason upon written notice to the **Licensee** by certified mail. The **Licensee** may terminate the Agreement by giving notice to the **District/Licensors** by certified mail at least thirty (30) days prior to the expiration date. Upon termination of this agreement, the **Licensee** will immediately vacate the premises without further court action.

3. In full consideration of this Agreement, the **Licensee** will pay **\$1.00**. Additionally, **Licensee** shall not utilize said easement in any manner that could interfere with the operation of the Drain or increase the cost to the **District/Licensors** of performing any of its work thereon. **Licensee** shall reimburse the **District/Licensors** for any such costs.

B.K.

4. The **Licensee** hereby recognizes and agrees that it may utilize the easement only for the specific use set forth herein and that the authorized use is subservient to the easement of the **District/Licensor**. Further, that the said use of the easement by **Licensee** shall be subject to the paramount rights of the **District/Licensor**; and should said use interfere with the operation, maintenance, repair or improvement of the Drain, then upon written notice, the **Licensee** shall immediately terminate its use of the easement.

5. The limited active use of the described easement, temporary vehicular parking in conjunction with the **Licensee's** use of the adjacent property as a religious facility, will be permitted for the term of this License. The use of the easement is limited to the time of the Christmas and Easter religious events. No storage of equipment or materials will be allowed. All other uses not specifically allowed are prohibited. The **Licensee** will not construct any type of temporary or permanent buildings or structures on the described easement. The **Licensee** also agrees that they will not alter the existing grade nor change current drainage.

6. The **Licensee** will assume all liability for injury, death, damages, and all other claims and hold the **District/Licensor** harmless for any such claims, including the cost of defense against such claims, which are a result of this License Agreement, to both persons and property arising out of or occurring on the easement. **Licensee** shall obtain and maintain General Liability Insurance with minimum limits of \$500,000 per occurrence and \$500,000 aggregate protecting the **District/Licensor** from any and all claims arising from the **Licensees** or its guests, invitees, and employees use of the easement. **Licensee** shall name **District/Licensor** as an additionally insured party for the term of this Agreement.

6. **CONT'D.** This insurance policy will contain the standard **30-day** cancellation clause, which shall notify the **District/Licensor** regarding pending cancellation or material alteration of the coverage. **Licensee** will provide a copy of the insurance policy to the **District/Licensor**.

7. This Agreement shall automatically terminate without further notice in the event **Licensee** moves from, vacates, or sells their adjacent premises, or in the event that the **Licensor** elects to terminate this Agreement for any purpose. This Agreement shall also automatically terminate without further notice in the event that **Licensee** does not maintain liability insurance as outlines in Paragraph 6 of this Agreement or in any other way fails to meet the terms and conditions of this Agreement. **Licensee** bears the burden to notify the **District/Licensor** immediately by certified mail of their intent to move from, vacate or sell their adjacent premises. Furthermore, this Agreement is not assignable from the **Licensee** to another party.

8. During the continuance of this Agreement, the **Licensor** reserves the right to go upon the easement at all times to inspect, maintain, repair or improve its Drain. If the **District/Licensor** must remove any improvements or landscaping which **Licensee** has installed upon the easement for this purpose, **Licensee** understands and agrees that no compensation will be paid to them for the damage and/or removal of improvements made by the **Licensee** upon the easement. The **Licensee** also agrees to hold all public agencies and utility companies harmless, if any **Licensee-installed** improvement is damaged and/or removed by someone other than **Licensee**.

10. If at any time during the term of this Agreement the easement area is damaged, the **Licensee** agrees to restore the property to an acceptable condition per **District/Licensor** specifications.



11. If there is failure upon the part of **Licensee** to meet the terms and conditions of this License Agreement, **Licensee** agrees to reimburse to the **District/Licensor** all costs for attorney and/or litigation fees if it should become necessary in order to gain compliance with the terms and conditions of this mutual agreement. This will include all costs in the event of any future claims at a future time as a result of this License Agreement and/or the construction, maintenance, and/or demolition and renovation, if any, of the proposed drive upon this **City-owned** property.

12. This Agreement may be renewed for additional three (3) year terms upon request by the **Licensee** if all conditions of compliance to the Agreement are met by the **Licensee** and circumstances at the site have not changed significantly. The Agreement and any renewals of the Agreement are subject to final approval by the **District/Licensor**.

13. **Licensee** acknowledges that the subject property, which includes the easement area, is owned by the City of Troy. As part of this Agreement, **Licensee** shall obtain written permission from the City to use the subject property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on DECEMBER 3, _____, 2008.

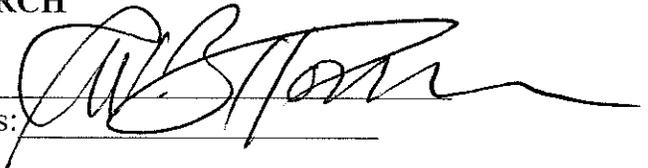
WITNESSETH:

ST. JOSEPH CHALDEAN CATHOLIC CHURCH

Donal Livingston

By: _____

Its: _____



By: _____

Its: _____



STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day of _____
_____ A.D., 2008, by _____ and _____

Notary Public, _____ County, Michigan
My Commission Expires: _____

WITNESSETH:

**HENRY-GRAHAM DRAIN
DRAINAGE DISTRICT**

**JOHN P. McCULLOCH, Chairman of
the Drainage Board for the Henry-Graham
Drainage District**

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day
of _____, A.D., 2008 by **JOHN P. McCULLOCH,**
**Oakland County Water Resources Commissioner, Chairman of the Drainage
Board for the HENRY-GRAHAM DRAINAGE DISTRICT.**



**DESCRIPTION OF HENRY-GRAHAM
DRAINAGE EASEMENT**

Beginning at a point on the West parcel line distant North 255 ft. from the Southwest parcel corner; thence Northerly along the West parcel line 805 ft. to the Westerly Northwest parcel corner; thence Easterly along the parcel line 40 ft.; thence Southerly parallel to and 40 ft. East of the West parcel line 817 ft.; thence Southeasterly to a point on the South parcel line distant East 70 ft. from the Southwest parcel corner; thence Westerly along the South parcel line 56 ft.; thence Northwesterly to the Point of Beginning.

Part of Sidwell No. 20-25-126-018

PED/kmb

Kimberly Brown's files\D:\dove\LicenseAgree(Limited)\08.Eas\HenryGraham(StJoseph)\08.03-(11/10/08)

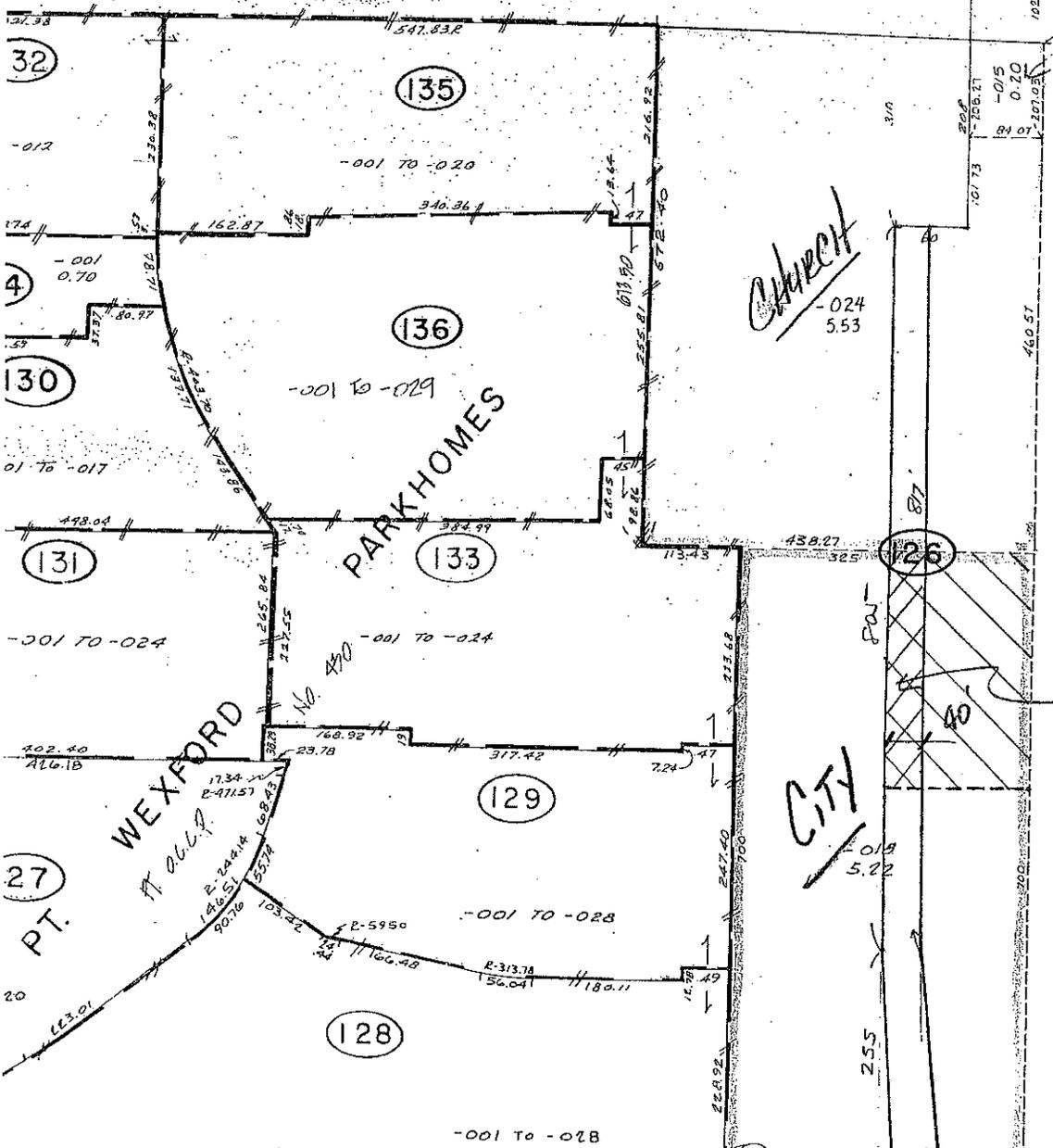
DESCRIPTION OF PARCEL 88-20-25-126-018 (Taken from County Tax Roll):

T2N, R11E, Sec 25 Part of the NE 1/4 of the NW 1/4 Beginning at a point South 00 degrees 01 minutes 28 seconds West, 968.66 feet & North 89 degrees 28 minutes 44 seconds East, 1305.52 feet & North 00 degrees 13 minutes 40 seconds West, 956.34 feet & South 89 degrees 38 minutes 09 seconds East, 869.24 feet & South 00 degrees 12 minutes 46 seconds East, 673.50 feet & North 89 degrees 31 minutes 04 seconds East, 113.43 feet from the NW Section Corner; Thence North 89 degrees 31 minutes 04 seconds East, 325.00 feet; Thence South 00 degrees 16 minutes 19 seconds East, 700.00 feet; Thence South 89 degrees 31 minutes 04 seconds West, 325.00 feet; Thence North 00 degrees 16 minutes 19 seconds West, 700.00 feet to the point of beginning. Containing 5.22 acres.

DESCRIPTION OF PARKING EASEMENT AT PARCEL 88-20-25-126-018

Part of the Northeast ¼ of the Northwest ¼ of Section 25, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan. Being described as: Commencing at the Northwest Corner of said Section 25; thence South 00 degrees 01 minutes 28 seconds West 968.66 feet and North 89 degrees 28 minutes 44 seconds East, 1305.52 feet and North 00 degrees 13 minutes 40 seconds West 956.34 feet and South 89 degrees 38 minutes 09 seconds East 869.24 feet and South 00 degrees 12 minutes 46 seconds East 673.50 feet and North 89 degrees 31 minutes 04 seconds East 287.43 feet to the Point of Beginning; thence continuing North 89 degrees 31 minutes 04 seconds East 151.00 feet; thence South 00 degrees 16 minutes 19 seconds East 265.98 feet; thence South 89 degrees 31 minutes 04 seconds West 154.00 feet; thence North 00 degrees 18 minutes 51 seconds East 266.00 feet to the Point of Beginning. Containing 40,561 Square Feet or 0.931 Acres, more or less.

BEAVER 20-24F RD. 83.80



H-G. ESMT

 DARKING AREA

286-003 125	285-004 62	284-005 62	283-006 60	176-007 282	281-008 "	280-009 "	279-010 "	278-011 60	277-012 75	175-002 125	276-001 75	275-002 125	274-003 125	177-004 60	177-005 51	177-006 60	177-007 60	177-008 60	177-009 60	177-010 60	177-011 60	177-012 60	177-013 60	177-014 60	177-015 60	177-016 60	177-017 60	177-018 60	177-019 60	177-020 60	177-021 60	177-022 60	177-023 60	177-024 60	177-025 60	177-026 60	177-027 60	177-028 60	177-029 60	177-030 60	177-031 60	177-032 60	177-033 60	177-034 60	177-035 60	177-036 60	177-037 60	177-038 60	177-039 60	177-040 60	177-041 60	177-042 60	177-043 60	177-044 60	177-045 60	177-046 60	177-047 60	177-048 60	177-049 60	177-050 60	177-051 60	177-052 60	177-053 60	177-054 60	177-055 60	177-056 60	177-057 60	177-058 60	177-059 60	177-060 60	177-061 60	177-062 60	177-063 60	177-064 60	177-065 60	177-066 60	177-067 60	177-068 60	177-069 60	177-070 60	177-071 60	177-072 60	177-073 60	177-074 60	177-075 60	177-076 60	177-077 60	177-078 60	177-079 60	177-080 60	177-081 60	177-082 60	177-083 60	177-084 60	177-085 60	177-086 60	177-087 60	177-088 60	177-089 60	177-090 60	177-091 60	177-092 60	177-093 60	177-094 60	177-095 60	177-096 60	177-097 60	177-098 60	177-099 60	177-100 60
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20-25C

CERTIFICATE OF INSURANCE

Scan Code
CERT

FARM BUREAU MUTUAL INSURANCE COMPANY OF MICHIGAN
 FARM BUREAU GENERAL INSURANCE COMPANY OF MICHIGAN
 Lansing, Michigan 48909

Name and Address of Certificate Holder:

AMENDED

Named Insured and Address:

CITY OF TROY
500 W. BIG BEAVER
TROY, MI. 48084

ST JOSEPH CHALDEAN CATHOLIC CHURCH
2442 E. BIG BEAVER
TROY, MI. 48083

Issue Date: **09/16/2008**

This is to certify that the following policy(ies) of insurance has (have) been or will be issued by the Company to the Named Insured. This certificate is not a guarantee that the policy(ies) will remain in effect until its (their) stated expiration date. In the event of cancellation of any of the insurance policies before the expiration date, the Company will endeavor to mail notice of such cancellation to the Certificate Holder designated above at their last known address, but failure to mail such notice shall impose no obligation or liability of any kind upon the Company. This certificate is issued as a matter of information only and confers no rights upon the Certificate Holder. This certificate does not amend, extend, or alter the coverage afforded by the policy(ies) of insurance indicated below. The information conveyed in this Certificate of Insurance is only valid for the indicated policy periods. Certificates of Insurance for subsequent policy periods must be requested by the Certificate Holder.

Type of Insurance	Policy Number	Policy Period	Limits of Liability
Business Auto Liability • Specifically Described Autos (Symbol 7) <input type="checkbox"/> Hired Auto (Symbol 8) <input type="checkbox"/> Non-Owned Auto (Symbol 9)		Eff. Exp.	Combined Single Limit Each Accident \$
Worker's Disability Compensation		Eff. Exp.	Coverage A - Statutory Coverage B - Bodily Injury by Accident \$ Each Accident (Employer's Liab.) Bodily Injury by Disease \$ Each Employee Bodily Injury by Disease \$ Policy Limit
Comprehensive General Liability or Commercial Package <input checked="" type="checkbox"/> Including <input type="checkbox"/> Excluding Products-Completed Operations <input type="checkbox"/> Hired Auto <input type="checkbox"/> Non-Owned Auto <input type="checkbox"/> CERTIFICATE HOLDER is an Additional Insured on the Comprehensive General Liability Policy. <input type="checkbox"/> Excluding:	S-2701284	Eff. 07/17/2008 Exp. 07/17/2009	Each Occurrence \$ 1,000,000 Products Aggregate \$ 2,000,000 General Aggregate \$ 2,000,000
Owners' or Contractors' Protective Liability		Eff. Exp.	Each Occurrence \$ General Aggregate \$
Products - Completed Operations Liability		Eff. Exp.	Each Occurrence \$ Products Aggregate \$
Umbrella Liability		Eff. Exp.	Limit \$
Farmowners Liability Including Products Business Pursuits <input type="checkbox"/> Excluded <input type="checkbox"/> Included		Eff. Exp.	Limit \$ Type: Describe:
Other		Eff. Exp.	

X *Steve Obero* (S/O)
 Authorized Signature

4105
 Agent No.

(248) 656-3388
 Agent Phone Number