



**CITY OF NOVI CITY COUNCIL
AUGUST 31, 2020**

SUBJECT: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Novi Real Estate Group, LLC for Chick-Fil-A located north of I-96 and east of Novi Road (parcel 50-22-14-100-050).

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

BACKGROUND INFORMATION: The developer of Chick-Fil-A, Novi Real Estate Group, requests approval of the Storm Drainage Facility Maintenance Easement Agreement (SDFMEA) for the storm water management system associated with the project.

The SDFMEA is a Storm Water Management Ordinance requirement and details the responsibilities of the property owner to properly maintain their privately owned on-site storm water system.

The enclosed agreement has been favorably reviewed by the City Attorney (Beth Saarela, June 12, 2020) and the City Engineering consultant (Spalding DeDecker, June 12, 2020), and is recommended for approval.

RECOMMENDED ACTION: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Novi Real Estate Group, LLC for Chick-Fil-A located north of I-96 and east of Novi Road (parcel 50-22-14-100-050).

Chick-Fil-A SDFMEA

Location Map



Chick-Fil-A
50-22-14-100-050

Map Author: Kate Richardson
Date: 08/11/2020
Project: Chick-Fil-A SDFMEA
Version: 1.0

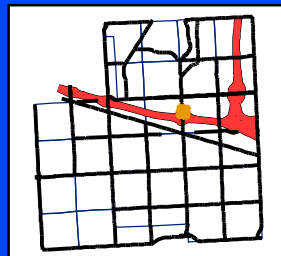
Amended By:
Date:
Department:

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

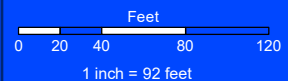
Legend

 Subject Parcel



City of Novi

Engineering Division
Department of Public Works
26300 Lee BeGole Drive
Novi, MI 48375
cityofnovi.org



ELIZABETH KUDLA SAARELA
esaarela@rsjalaw.com

27555 Executive Drive, Suite 250
Farmington Hills, Michigan 48331
P 248.489.4100 | F 248.489.1726
rsjalaw.com



ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

June 12, 2020

Jeffrey Herczeg, Director of Public Works
City of Novi
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: *Chick-Fil-A JSP 18-0075*
Storm Drainage Facility Maintenance Easement Agreement

Dear Mr. Herczeg:

We have received and reviewed and enclosed please find the Storm Drainage Facility Maintenance Easement Agreement for storm water drainage facilities serving the Chick-Fil-A development. The Storm Drainage Facility Maintenance Easement Agreement is in the City's standard format and is acceptable as provided. The City's Consulting Engineer has reviewed and approved the attached exhibits. The Agreement appears to be in order and may be placed on an upcoming City Council Agenda for approval. Once approved and executed by the City, the Agreement should be recorded with Oakland County Records by the City Clerk's Office.

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

Enclosures

Jeffrey Herczeg, Director of Public Works
City of Novi
June 12, 2020
Page 2

C: Cortney Hanson, Clerk (w/Original Enclosure)
Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, City Planner (w/Enclosures)
Lindsay Bell, Planner (w/Enclosures)
Madeleine Kopko, Planning Assistant (w/Enclosures)
Angie Sosnowski, Community Development Bond Coordinator (w/Enclosures)
Kate Richardson, Plan Review Engineer (w/Enclosures)
Ben Croy, City Engineer (w/Enclosures)
Victor Boron, Civil Engineer (w/Enclosures)
Rebecca Runkel, Staff Engineer (w/Enclosures)
Sarah Marchioni, Community Development Building Project Coordinator (w/Enclosures)
Michael Freckelton/Taylor Reynolds/Ted Meadows, Spalding DeDecker (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Ellen Selle, GPD Group, Inc. (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 1st day of June, 2020, by and between Novi Real Estate Group, LLC, a Michigan limited liability company, whose address is 18400 Tara Drive, Clinton Township, MI 48036 (hereinafter the "Owner"), and the City of Novi, its successors, assigns, or transferees, whose address is 45175 Ten Mile Road, Novi, MI 48375 (hereinafter the "City").

RECITATIONS:

- A. Owner is the owner and developer of a certain parcel of land situated in Section 14 of the City of Novi, Oakland County, Michigan, described on the attached and incorporated **Exhibit A** (the "Property"). Owner has received final site plan approval for construction of a Chick-fil-A restaurant development (Exhibit B) on the Property.
- B. The Chick-fil-A restaurant development, shall contain certain storm drainage facilities, including but not limited to, a water quality unit for treatment and/or discharge of storm water from the Property in accordance with all approved plans, and all applicable ordinances, laws and regulations.

NOW, THEREFORE, the Owner hereby covenants and agrees that the Owner shall, at its own expense, perpetually preserve, maintain, and repair all storm drainage and water quality units, to insure that the same continue to function as intended. The Owner shall establish a regular and systematic program of maintenance (the "Schedule of Maintenance") for such facilities and areas to insure that the physical condition and intended function of such areas and facilities shall be preserved and maintained. The Schedule of Maintenance and the annual estimated costs for maintenance and repairs for the first three (3) years are described in the attached **Exhibit C**.

In the event that the Owner shall at any time fail to carry out the responsibilities specified within this agreement, and/or in the event of a failure to preserve and/or maintain the storm water drainage and water quality facilities in reasonable order and condition, the City may serve

written notice upon the Owner setting forth the deficiencies in maintenance and/or preservation along with a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place for a hearing before the City for the purpose of allowing Owner an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken or properly fulfilled. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following such hearing, the person conducting the hearing shall determine that the obligation has not been fulfilled or failure corrected within the time specified in the notice, as determined by the City in its reasonable discretion, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter the Property through the Ingress/Egress Easement Area as described and depicted in **Exhibit D** and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate or necessary for the purposes described above. The cost and expense of making and financing such actions by the City, including notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in an amount equivalent to twenty-five (25%) percent of the total of all such costs and expenses incurred, shall be paid by Owner within thirty (30) days of a billing to the Owner. All unpaid amounts may be placed on the delinquent tax roll of the City as to the Property, and shall accrue interest and penalties, and shall be collected as, and deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Owner, and, in such event, the Owner shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

The Owner, its agents, representatives, successors, and assigns shall defend, indemnify, and hold harmless the City and the City's, elected officials, agents and employees, from any and all costs, claims, suits, actions, losses, damages, or demands, including court costs and attorneys' fees, relating in any way to or arising out of the design, construction, use, inspection, maintenance, repair, or operation (or omissions in such regard) of the storm drainage system which is the subject of this Agreement.

The parties hereto make this Agreement on behalf of themselves, their heirs, successors, assigns and transferees, and hereby warrant that they have the authority and capacity to execute this Agreement and bind the property as described in the terms and conditions of this agreement.

Invalidation of any of these covenants or conditions by Judgment or Court Order shall in no way affect the validity of any other provision which shall remain in full force and effect.

This agreement shall run with the land and be binding upon all owners, their agents, heirs, successors, assigns and transferees.

IN WITNESS WHEREOF, Owner has executed this Agreement as of the day and year first above set forth.

OWNER

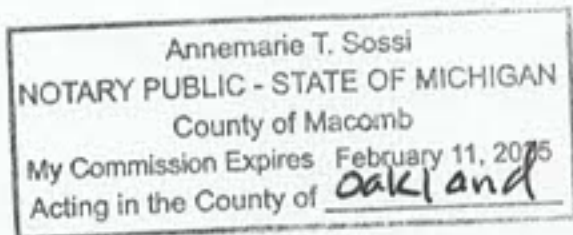
Novi Real Estate Group, LLC
a Michigan limited liability company

[Handwritten Signature]

By: Peter Zingas
Its: Manager

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 1st day of June, 2020, by Peter N. Zingas, as the Manager of Novi Real Estate Group, LLC.



Annemarie T. Sossi
Notary Public
Acting in Oakland County, Michigan
My Commission Expires: 2-11-25

CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this ____ day of _____ 201__, by _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Acting in Oakland County, Michigan
My Commission Expires: _____

Drafted by:
Elizabeth Kudla Saarela
Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331

And when recorded return to:
Cortney Hanson, City Clerk
City of Novi
45175 Ten Mile Rd
Novi, MI 48375

EXHIBIT A
LEGAL DESCRIPTION OF THE LAND

The Westerly 1.397 acres of Lot 1, of "TWELVE OAKS NO. 1", according to the plat thereof as recorded in Liber 158 of Plats, pages 35 through 47, Oakland County Records, also described as: Commencing at the Northwest corner of Section 14, Town 1 North, Range 8 East, City of Novi, County of Oakland, State of Michigan, and proceeding thence South 00 degrees 03 minutes 00 seconds East 2009.59 feet along the West line of said Section 14 and North 89 degrees 57 minutes 00 seconds East 80.00 feet to the point of beginning; proceeding thence 64.49 feet along the arc of a curve to the right having a radius of 87.90 feet passing through a central angle of 42 degrees 02 minutes 21 seconds with a long chord bearing North 68 degrees 55 minutes 49 seconds East 63.06 feet; thence North 89 degrees 57 minutes 00 seconds East 151.49 feet; thence South 00 degrees 03 minute 00 seconds East 345.49 feet; thence South 89 degrees 57 minutes 00 seconds West 59.35 feet; thence North 45 degrees 03 minutes 00 seconds West 213.55 feet; thence North 00 degrees 03 minutes 00 seconds West 171.87 feet to the point of beginning, together with a non-exclusive easement for ingress and egress as contained in the Plat of Twelve Oaks Subdivision, as recorded in Liber 158, pages 35 through 47, inclusive, Oakland County Records.

The above legal description is now known as:

Lot 1, of AMENDED PLAT OF LOT NO. 1 "TWELVE OAKS NO. 1", according to the plat thereof as recorded in Liber 170 of Plats, page 6, Oakland County Records.

EASEMENT PARCEL:

Together with a non-exclusive easement as created, limited and defined in Declaration of Easement recorded in Liber 7262, page 418, and as amended by Amendment to Declaration of Easement recorded in Liber 14494, page 394, Oakland County Records.

EASEMENT PARCEL:

Together with a non-exclusive easement as created, limited, and defined in Easement and Agreement recorded in Liber 14494, page 374, Oakland County Records.

Tax Parcel No. 50-22-14-100-050

Commonly Known as: 27750 Novi Road Novi, Michigan 48337

EXHIBIT C

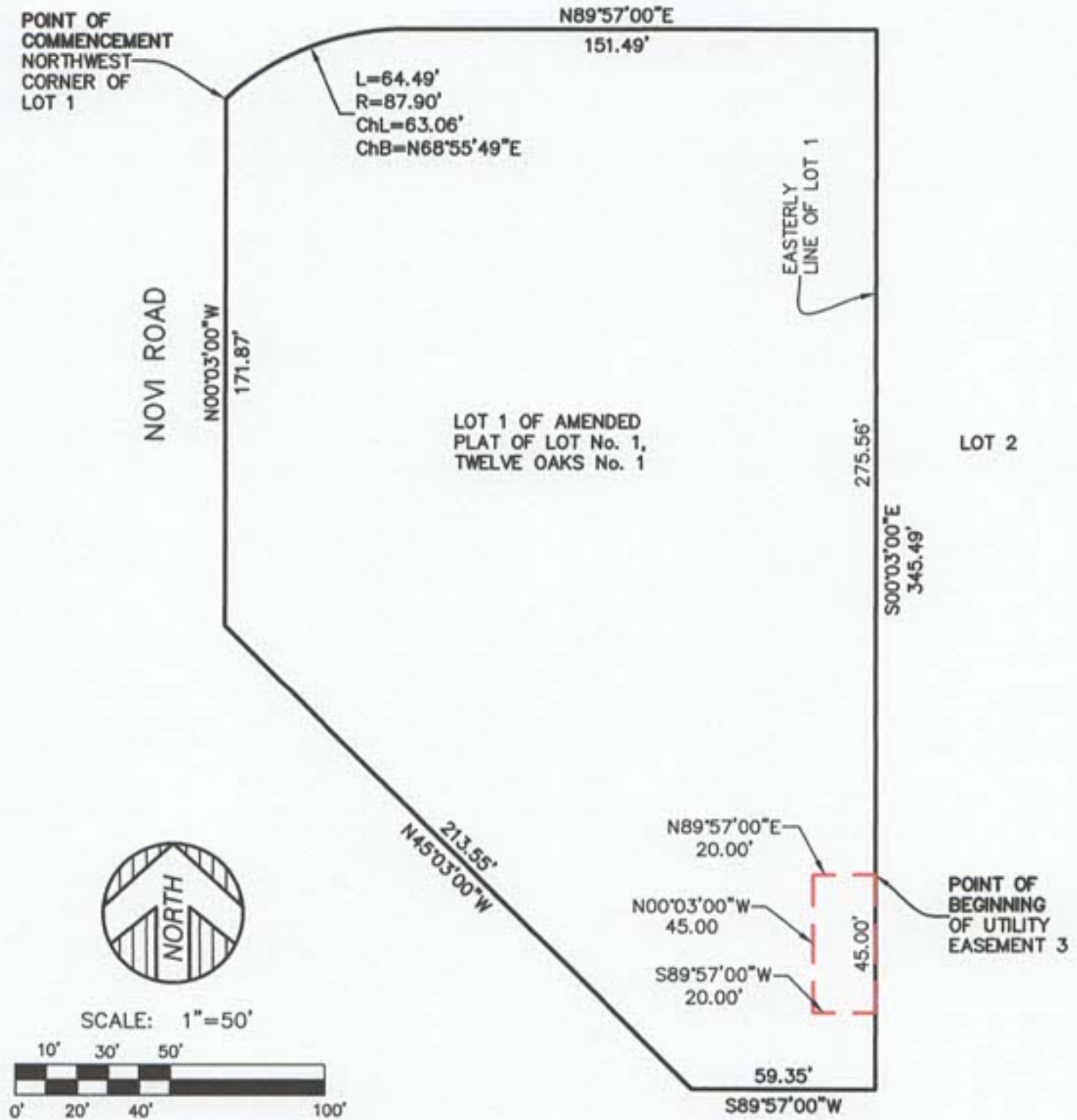
Storm Drainage Facility Maintenance Easement Agreement

| | | <u>Annual Estimated cost for Maintenance & Repair</u> | | | |
|------------------------------|--|---|-----------------|-----------------|-----------------|
| <u>Storm Water Facility</u> | <u>Maintenance Action</u> | <u>Corrective Action</u> | <u>1st Year</u> | <u>2nd Year</u> | <u>3rd Year</u> |
| Storm water pipes | After each storm that meets or exceeds a 10-year storm event, check for debris inside catch basins. Ensure inlets are not clogged, cracked or collapsed. | Remove sediment and debris from catch basins and storm water openings. Replace damaged or missing catch basin grates. | \$250 | \$300 | \$500 |
| Water Quality Treatment Unit | Inspect whenever the upstream catch basins and storm water pipes are inspected. Annual inspection should be conducted before the storm season begins to ensure system is functioning properly. | Ensure that there is no accumulation of debris on netting or screening basket. Replace nets or screening baskets when they appear 1/2 - 2/3 full. If only trash and floatables need to be removed, netting configuration or removable screening basket is utilized. When oil removal / sediment removal is needed a vacuum truck or similar equipment would be needed. | \$1,500 | \$1,500 | \$2,800 |
| Total | | | \$1,750 | \$1,800 | \$3,300 |

EXHIBIT D

UTILITY EASEMENT No. 3 DESCRIPTION:

PART OF LOT 1, AMENDED PLAT OF LOT 1, TWELVE OAKS NO. 1, A SUBDIVISION OF PART OF THE NORTH 1/2 OF SECTION 14, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOV, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 170 OF PLATS, PAGE 6, OAKLAND COUNTY RECORDS, DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE 64.49 FEET ALONG A NON-TANGENT ARC TO THE RIGHT, RADIUS OF 87.90, CHORD BEARING OF NORTH 68 DEGREES 55 MINUTES 49 SECONDS EAST, 63.06 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 00 SECONDS EAST, 151.49 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 1; THENCE ALONG SAID EASTERLY LINE, SOUTH 00 DEGREES 03 MINUTES 00 SECONDS EAST, 275.56 FEET TO THE POINT OF BEGINNING OF SAID UTILITY EASEMENT; THENCE CONTINUING ALONG SAID EASTERLY LINE, SOUTH 00 DEGREES 03 MINUTES 00 SECONDS EAST, 45.00 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 00 SECONDS WEST, 20.00 FEET; THENCE NORTH 00 DEGREES 03 MINUTES 00 SECONDS WEST, 45.00 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 00 SECONDS EAST, 20.00 FEET TO THE POINT OF BEGINNING.



| | | | | |
|--|---|---|---|--|
| <b style="font-size: 1.2em; vertical-align: middle;">KEM-TEC | | | | PROFESSIONAL ENGINEERING, SURVEYING & ENVIRONMENTAL SERVICES |
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| PREPARED FOR: GPD GROUP | | | | |
| FIELD SURVEY: N/A | | DATE: JUNE 27, 2019 | | |
| DRAWN BY: JV | | SHEET: 1 OF 1 | | |
| SCALE: 1" = 50' | | JOB NO.: 18-04151C | | |

June 12, 2020

Jeff Herczeg
City of Novi
26300 Lee BeGole Drive
Novi, Michigan 48375

Re: Chick-Fil-A - Acceptance Documents Review
Novi # JSP18-0075
SDA Job No. NV19-227
FINAL DOCUMENTS APPROVED

Dear Mr. Herczeg:

We have reviewed the Acceptance Document Package received by our office on June 8, 2020 against the Final Site Plan (Stamping Set) approved on September 13, 2019 and against our as-built field records. We offer the following comments:

Final Acceptance Documents

The following items must be provided prior to the issuance of a Temporary Certificate of Occupancy. All documents must be completed using black ink as the County will reject them otherwise.

1. On-Site Water System Easement – (executed 6/17/19; exhibit dated 9/13/19) Legal Description Approved.
2. Sanitary Manhole Access Easement – (executed 6/17/19; exhibit dated 6/27/19) Legal Description Approved.
3. Storm Drainage Facility / Maintenance Easement Agreement – (executed 6/17/19; exhibit dated 6/27/19) Exhibits Approved.
4. Bills of Sale: Sanitary Sewer System and Water Supply System – (unexecuted: exhibit dated 6/27/19) Legal Description Approved.
5. Full Unconditional Waivers of Lien from contractors installing public utilities – SUPPLIED – APPROVED.
6. Sworn Statement signed by Developer - SUPPLIED – APPROVED.

Unless otherwise stated above, the documents as submitted were found to be acceptable by our office pending review by the City Attorney. Legal review will not occur until a current title policy is submitted to the City. For those documents which require revisions, please forward those revised documents to the City for further review and approval.

The City Attorney's Office will retain the original documents in their files until such time as they are approved and ready (notarized and executed properly) for the Mayor's signature.

It should be noted that the Plan Review Center Report dated August 2, 2019 contains all documentation requirements necessary prior to construction and occupancy of the facility.

If you have any questions regarding this matter, please contact this office at your convenience.

Sincerely,

SPALDING DEDECKER



Taylor E. Reynolds, PE
Project Coordinator

Cc (via Email): Victor Boron, City of Novi
Courtney Hanson, City of Novi
Madeleine Kopko, City of Novi
Sarah Marchioni, City of Novi
Ted Meadows, Spalding DeDecker
Kate Richardson, City of Novi
Beth Saarela, Johnson, Rosati, Schultz, Joppich
Angie Sosnowski, City of Novi
Mike Freckelton, Spalding DeDecker