

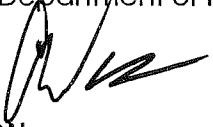


**CITY of NOVI CITY COUNCIL**

**Agenda Item L  
January 23, 2012**

**SUBJECT:** Acceptance of a sidewalk easement from Novi Hospitality, LLC as part of the Holiday Inn Express development located at 39675 12 Mile Road between Haggerty Road and M-5 (parcel 22-13-200-034).

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division <sup>RA</sup> <sub>BAC</sub>

**CITY MANAGER APPROVAL:** 

**BACKGROUND INFORMATION:**

A sidewalk was constructed along the south side of 12 Mile Road across the frontage of the approved site plan for Holiday Inn Express located at 39675 12 Mile Road (as shown on the attached location map). As part of the site plan review process, two segments of the sidewalk were planned and constructed outside of the right-of-way to avoid existing facilities and to improve the safety of the pathway. Therefore, Novi Hospitality, LLC, has prepared a sidewalk easement for the portion of the constructed sidewalk that is located outside of the existing right-of-way for 12 Mile Road and requests acceptance by the City.

The enclosed easement has been favorably reviewed by Engineering staff as well as the City Attorney (Beth Kudla's July 8, 2009 letter, attached) and is recommended for approval.

**RECOMMENDED ACTION:** Acceptance of a sidewalk easement from Novi Hospitality, LLC as part of the Holiday Inn Express development located at 39675 12 Mile Road between Haggerty Road and M-5 (parcel 22-13-200-034).

	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Casey				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Wrobel				



Cabot Dr

# HOLIDAY INN EXPRESS

## Location Map

Twelve Mile Rd

Two Sidewalk Easement Segments

Holiday Inn Express  
Sidewalk Easements  
50-22-13-200-034  
39675 Twelve Mile Road

Map Author: Aaron J. Staup  
Date: January 5, 2012  
Project: Holiday Inn Express  
Version #: 1

### Sidewalk Easements

#### MAP INTERPRETATION NOTICE

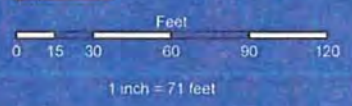
Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate 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.

### Map Legend

- Road Classification  Novi Tax Parcel BSA
- Major Streets  Novi 2010 Aerial Photograph
- Minor Streets  RGB
- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3
- City of Novi Boundary



**City of Novi**  
Engineering Division  
Department of Public Services  
26300 Delwal Drive  
Novi, MI 48375  
cityofnovi.org





July 8, 2009

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

Elizabeth M. Kudln  
Direct: 248-539-2846  
bkudln@secretwardle.com

Rob Hayes, Public Services Director  
CITY OF NOVI  
45175 West Ten Mile Road  
Novi, Michigan 48375-3024

**Re: Holiday Inn Express, SP06-18  
Utilities Review for Acceptance  
Our File No. 660109.NOV1**

Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the following documents regarding the Holiday Inn Express Property, located in Section 13 of the City:

1. Water System Easement
2. Bill of Sale
3. Sidewalk Easement
4. Declaration of Easement (Cross Access Easement)
5. Agreement for Indemnity (Construction Liens)
6. Title Policy
7. Maintenance and Guarantee Bond

We have the following comments relating to the above-named documents:

Novi Hospitality, LLC, Bank seeks to convey water facilities, as well as a corresponding easement for operation, maintenance, and repair upon the subject property in Section 13 of the City, to the City of Novi. Our office has reviewed and approves the format and language of the Water System Easement. The City's Consulting Engineer has reviewed and approved the legal description. As such, we recommend acceptance of the Easements and Bill of Sale.

The Maintenance and Guarantee Bond is in the City's standard form and the amount has been approved by the City's Consulting Engineer.

A Sidewalk Easement in the City's standard format has been reviewed and approved by our office and the City's Consulting Engineer.

The Declaration of Easement providing cross access between Holiday Inn Express and Ruby Tuesday's is sufficient for the purpose provided. The legal

Rob Hayes, Public Services Director  
July 9, 2009  
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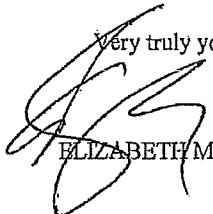
descriptions attached have been reviewed and approved by the City's Consulting Engineer.

Because there are two construction liens on the property (general labor, swimming pool), the property owner has provided an agreement to indemnify the City for any legal expenses incurred in the event that suit is filed on the liens and the City is named as a party holding an interest in the subject property.

Based on all of the above, the Water System Easement may be accepted by *Affidavit of the City Engineer*. The Sidewalk Easement may be placed on an upcoming City Council Agenda for acceptance. The Declaration of Easement does not require acceptance by the City and may be recorded with the Oakland County Register of Deeds without any further action. The Bill of Sale, Maintenance and Guarantee Bond, and title work should be maintained in the City Clerk's File.

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

Very truly yours,



ELIZABETH M. KUDLA

EMK

Enclosures

C: Maryanne Cornelius, Clerk (w/Original Enclosures)  
Marina Neumaier, Assistant Finance Director (w/Enclosures)  
Charles Boulard, Building Official (w/Enclosures)  
Barb McBeth, Deputy Community Development Director (w/Enclosures)  
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)  
Taylor Reynolds and Byron Hanson, Spalding DeDecker (w/Enclosures)  
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)  
Sue Troutman, City Clerk's Office (w/Enclosures)  
Larry Osiecki, Novi Hospitality, LLC (w/Enclosures)  
Thomas R. Schultz, Esquire (w/Enclosures)

SIDEWALK EASEMENT

NOW ALL MEN BY THESE PRESENTS, that NOVI HOSPITALITY, LLC, whose address is 39675 12 mi. Rd, Novi, Michigan 48377, for and in consideration of One (\$1.00) Dollar, receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, being exempt pursuant to MCLA 207.505(a), and MCLA 207.526 (a) a permanent easement for a public walkway over across and through property located in Section 13, T.1N., R.8E., City of Novi, Oakland County, State of Michigan, more particularly described as follows:

{See attached and incorporated Exhibit A -- Property Description Exhibit}

The permanent easement for the public walkway is more particularly described as follows:

{See attached and incorporated Exhibit B -- Sidewalk Easement Area}

Grantee may enter upon sufficient land adjacent to said easement for the purpose of exercising the rights and privileges granted herein.

Grantee may install, repair, replace, improve, modify and maintain the easement area as shown in the attached and incorporated Exhibit B.

Grantor agrees not to build or to convey to others permission to build any structures or improvements on, over, across, in, through, or under the above-described easement.

This instrument shall run with the land first described above and shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective heirs, representatives, successors and assigns.

This easement shall allow public pedestrian and non-motorized traffic and shall permit maintenance, repair and replacement of the paving in the easement area.

Exempt pursuant to MCLA 207.505(a) and MCLA 207.526(a)

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This instrument shall be binding and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns.

Dated this 16th day of June, 2009.

Signed by:

Novi Hospitality, LLC, a  
Michigan CORPORATION.

By: [Signature]

STATE OF MICHIGAN )  
                                  ) SS  
COUNTY OF WAYNE )

The foregoing instrument was acknowledged before me this 16th day of JUNE, 2009 by RAAD AYAR, the MEMBER OF NOVI HOSPITALITY, LLC on behalf of the company.

[Signature]  
Notary Public  
Wayne County, Michigan  
My Commission Expires:

LAWRENCE OSIECKI  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES JANUARY 30, 2016  
ACTING IN THE COUNTY OF Wayne

Drafted by:  
Elizabeth M. Kudla  
30903 Northwestern Hwy  
Farmington Hills, MI 48334

When recorded return to:  
Maryanne Cornelius, Clerk  
City of Novi  
45175 W. Ten Mile Rd  
Novi, MI 48375

CONSENT TO EASEMENT

As the holder of a mortgage interest in and to the property referenced in the Sidewalk Easement, dated June 16, 2009, attached hereto and incorporated as Exhibit A, whereby Novi Hospitality, LLC grants and conveys said easement to the City of Novi, the undersigned hereby evidences its consent to the grant, conveyance, existence, and recordation of said easement, which easement is hereby acknowledged and agreed to be superior to the interest of the undersigned and shall bind the undersigned and the heirs, successors, and assigns of the undersigned.

IN WITNESS WHEREOF the undersigned has caused its signature to be placed on the 7th day of JULY, 2009.

ZIONS FIRST NATIONAL BANK, a Utah Corporation

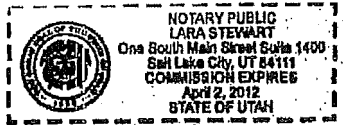
*[Handwritten Signature]*

By: Richard Cannon

Its: AVP

STATE OF UT  
COUNTY OF SALT LAKE

The foregoing Consent to Easement was acknowledged before me this 7th day of JULY, 2009 by RICHARD CANNON, the AVP of Zions First National Bank, a Utah Corporation



*[Handwritten Signature]*  
Notary Public

Salt Lake County, UT

My Commission Expires: April 2, 2012

**A R Decker & Associates**  
Consulting Engineers  
Civil - Structural  
920 East Long Lake Road  
Troy, Michigan 48085  
Telephone (248) 528-3779  
Facsimile (248) 528-3548  
DRAFTER: JASON SUTTON, P.E.

EXHIBIT 'A'  
LEGAL DESCRIPTION

NOTE: NO FIELD WORK DONE  
AS PART OF THIS PLAN.  
ALL EASEMENT INFORMATION  
IS BASED ON BOUNDARY  
SURVEY BY MILLETICS AND  
ASSOCIATES, JOB No.  
98-011, DATED 3-20-98.

DATE: 12-21-2006

LEGAL DESCRIPTION:

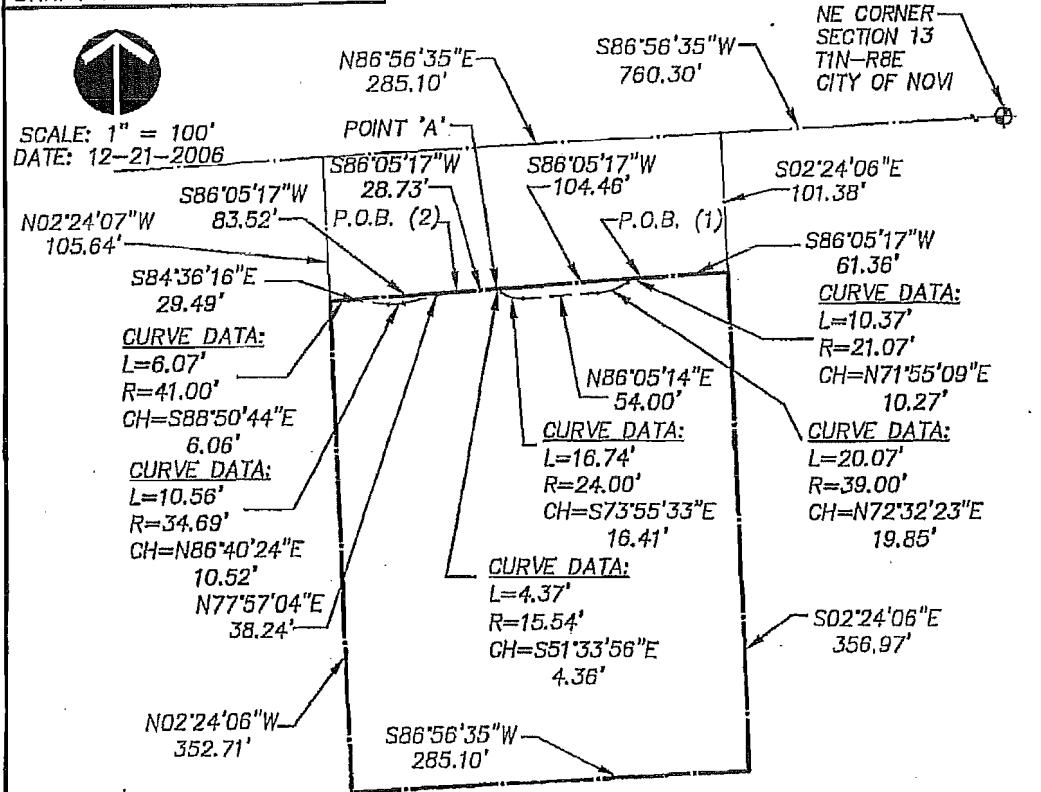
PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4, OF SECTION 13, T1N-R8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING FURTHER DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION; THENCE S 86° 56' 35" W, 760.30 FEET, ALONG THE NORTH SECTION LINE; THENCE S 02° 24' 06" E, 101.38 FEET, TO THE SOUTH RIGHT OF WAY LINE OF 12 MILE ROAD, AND THE POINT OF BEGINNING; THENCE S 02° 24' 06" E, 356.97 FEET; THENCE S 86° 56' 35" W, 285.10 FEET; THENCE N 02° 24' 06" W, 352.73 FEET, TO THE SOUTH RIGHT OF WAY LINE OF 12 MILE ROAD; THENCE N 86° 05' 17" E, 285.18 FEET, TO THE POINT OF BEGINNING, CONTAINING 2.32 ACRES MORE OR LESS. SUBJECT TO ANY AND ALL EASEMENTS AND/OR RIGHT OF WAY, WHETHER USED, IMPLIED OR OF RECORD.



**A R Decker & Associates**  
 Consulting Engineers  
 Civil - Structural  
 920 East Long Lake Road  
 Troy, Michigan 48065  
 Telephone (248) 528-3779  
 Facsimile (248) 528-3548  
 DRAFTER: JASON SUTTON, P.E.

**EXHIBIT 'B'**  
 SIDEWALK EASEMENT

NOTE: NO FIELD WORK DONE  
 AS PART OF THIS PLAN.  
 ALL EASEMENT INFORMATION  
 IS BASED ON BOUNDARY  
 SURVEY BY MILLETICS AND  
 ASSOCIATES, JOB No.  
 98-011, DATED 3-20-98.



**SIDEWALK EASEMENT:**

PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4, OF SECTION 13, T1N-R8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING FURTHER DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION; THENCE S86°56'35"W, 760.30 FEET; THENCE S02°24'06"E, 101.38 FEET; THENCE S86°05'17"W, 61.36 FEET TO THE POINT OF BEGINNING (1); THENCE S86°05'17"W, 104.46 FEET TO A POINT ALSO KNOWN AS POINT 'A'; THENCE 4.37 FEET ALONG A CURVE TO THE RIGHT SAID CURVE HAVING A RADIUS OF 15.54 FEET AND A CHORD BEARING S51°33'56"E, 4.36 FEET; THENCE 16.74 FEET ALONG A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 24.00 FEET AND A CHORD BEARING S73°55'33"E, 16.41 FEET; THENCE N86°05'14"E, 54.00 FEET; THENCE 20.07 FEET ALONG A CURVE TO THE LEFT SAID CURVE HAVING A RADIUS OF 39.00 FEET AND A CHORD BEARING N72°32'23"E, 19.85 FEET; THENCE 10.37 FEET ALONG A CURVE TO THE RIGHT SAID CURVE HAVING A RADIUS OF 21.07 FEET AND A CHORD BEARING N71°55'09"E, 10.27 FEET TO THE POINT OF BEGINNING (1).

ALSO BEGINNING AT A POINT 'A'; THENCE S86°05'17"W, 28.73 FEET TO THE POINT OF BEGINNING (2); THENCE S86°05'17"W, 83.52 FEET; THENCE 6.07 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 41.00 FEET AND A CHORD BEARING S88°50'44"E, 6.06 FEET; THENCE S84°36'16"E, 29.49 FEET; THENCE 10.56 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 34.69 FEET AND A CHORD BEARING N86°40'24"E, 10.52 FEET; THENCE N77°57'04"E, 38.24 FEET TO THE POINT OF BEGINNING. SUBJECT TO ANY AND ALL EASEMENTS OR RESTRICTIONS OF RECORD.