



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

**SUBJECT:** Approval of a Storm Drainage Facility Maintenance Easement Agreement from Carvana, LLC for Carvana located south of I-96 and west of Novi Road (parcel 50-22-15-478-008).

**SUBMITTING DEPARTMENT:** Department of Public Works, Engineering Division

**BACKGROUND INFORMATION:** Carvana 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, July 13, 2020) and the City Engineering consultant (Spalding DeDecker, June 11, 2020), and is recommended for approval.

**RECOMMENDED ACTION:** Approval of a Storm Drainage Facility Maintenance Easement Agreement from Carvana, LLC for Carvana located south of I-96 and west of Novi Road (parcel 50-22-15-478-008).



# Carvana SDFMEA

## Location Map



Carvana  
50-22-15-478-008

Adell Center Dr

Map Author: Kate Richardson  
Date: 08/14/2020  
Project: Carvana SDFMEA  
Version: 1.0

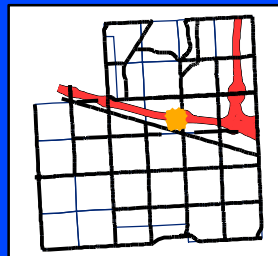
Amended By:  
Date:  
Department:

#### 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.

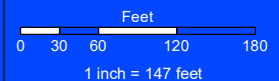
#### Legend

 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

July 13, 2020

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

**Re: Re: Carvana JSP 18-47  
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 Carvana 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  
July 13, 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)  
Jeffrey Evans, Carvana (w/Enclosures)  
Thomas R. Schultz, Esquire (w/Enclosures)

**STORM DRAINAGE FACILITY**  
**MAINTENANCE EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between CARVANA, LLC, an Arizona limited liability company, whose address is 1930 W. Rio Salado Parkway, Tempe, Arizona 85281 (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 15 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 Commercial development on the Property.
  
- B. The Commercial development, shall contain certain storm drainage, detention and/or retention facilities, including but not limited to, a detention/sedimentation basin, for the collection, conveyance, storage, 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, detention and retention facilities, including all wetlands which are part of the system, 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 D**.

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, detention and retention 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 in **Exhibit B** and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate or necessary with respect to the detention/sedimentation basin within the Detention/Sedimentation Basin Easement Area described and depicted in **Exhibit C**, 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.

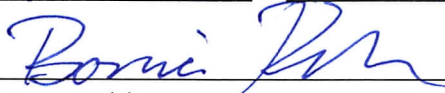
OWNER  
CARVANA, LLC,  
an Arizona limited liability company



By: Paul Breaux  
Its: General Counsel

STATE OF ARIZONA            )  
  ) ss.  
COUNTY OF MARICOPA    )

The foregoing instrument was acknowledged before me this 2 day of June, 2020, by Paul Breaux, as the General Counsel of Carvana LLC.



Notary Public  
Acting in Maricopa County, Arizona  
My Commission Expires: March 4, 2024



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 \_\_\_\_\_ 2020, 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

Land in the City of Novi, Oakland County, MI, described as follows:

FEE PARCEL: Unit No. 8, ADELL CENTER, a Condominium according to the Master Deed recorded in Liber 52318, Page 378, as amended by First Amendment to Master Deed recorded in Liber 52367, page 70, Second Amendment to Master Deed recorded in Liber 52426, page 470, and Amended and Restated Master Deed recorded in Liber 52692, page 721, Oakland County Records, as amended, and designated as Oakland County Condominium Subdivision Plan No. 2254, together with rights in the general common elements and the limited common elements as set forth in the aforementioned Master Deed and as described in Act 59 of the Public Acts of Michigan of 1978, as amended.

EASEMENT PARCEL: Together with non-exclusive easement(s) as created, limited and defined in Section 6.13(d) and Section 6.13(e) of the Amended and Restated Master Deed as disclosed by instrument recorded in Liber 52692, page 721, Oakland County Records.

Exhibit B

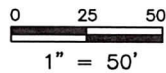
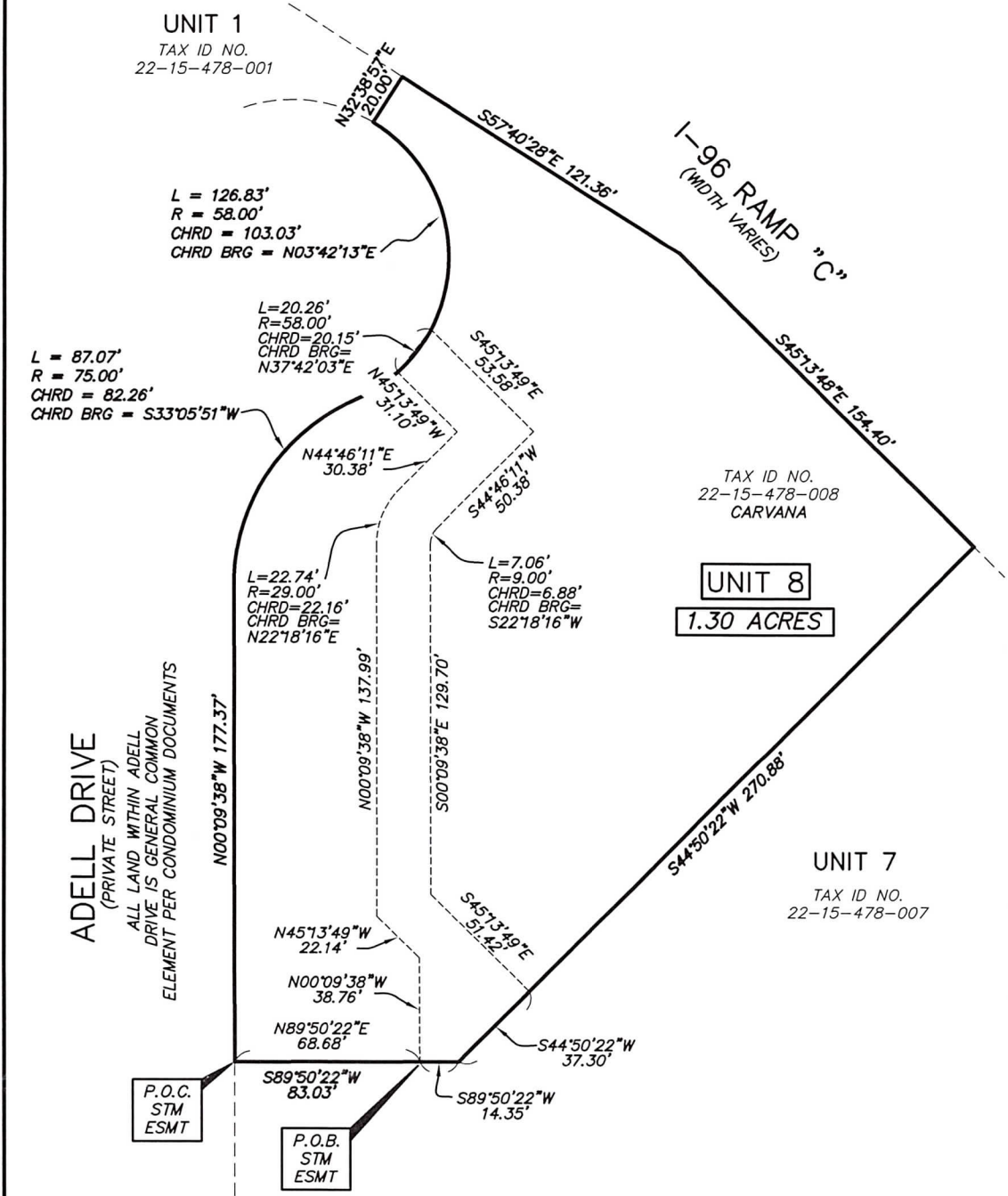
Part of the Southeast 1/4 of Section 15, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, being more particularly described as:

Commencing at the SW corner of Unit No. 8, of "ADELL CENTER", Oakland County Condominium Subdivision Plan No. 2254, thence N89°50'22"E, 68.68 feet to the POINT OF BEGINNING; thence N00°09'38"W, 38.76 feet; thence N45°13'49"W, 22.14 feet; thence N00°09'38"W, 137.99 feet; thence 22.74 feet along a curve to the right, having a radius of 29.00 feet, chord bearing N22°18'16"E, 22.16 feet; thence N44°46'11"E 30.38 feet; thence N45°13'49"W, 31.10 feet; thence 20.26 feet along a curve to the left, having a radius of 58.00 feet, chord bearing N37°42'03"E, 20.15 feet; thence S45°13'49"E, 53.58 feet; thence S44°46'11"W, 50.38 feet; thence 7.06 feet along a curve to the left, having a radius of 9.00 feet, chord bearing S22°18'16"W, 6.88 feet; thence S00°09'38"E, 129.70 feet; thence S45°13'49"E, 51.42 feet; thence S44°50'22"W, 37.30 feet; thence S89°50'22"W, 14.35 feet to the POINT OF BEGINNING.

# EXHIBIT 'C'

## STORM SEWER EASEMENT

ADELL CENTER, UNIT 8  
TAX ID. #22-15-478-008



<p><b>MERIDIAN</b> LAND SURVEYING</p>		<p>300 E. FIRST ST. - STE 200 FLINT, MI 48502 TEL: 810-339-6605 gmcandle@meridianls.com</p>
DATE: 03-27-2019	FLD/OFCE: JM/RR/VG	
JOB No. 2018103	SHEET: 1 of 2	



## Exhibit D

### Schedule of Maintenance

Per the Contech Engineered Solutions CDS Inspection and Maintenance guide, the water quality structure (D2) of the Utility plan, should be inspected a minimum of two (2) times per year, one in the spring and one in the fall. The estimated cost of each inspection is \$150 per visit.

The water quality structure shall be cleaned when the sediment level has reached 75% capacity in the isolated sump or when an appreciable level of hydrocarbons and trash has accumulated. Contech recommends cleaning of the structures one (1) time per year. Cleaning of the structure should be done during dry weather conditions when no flow is entering the system. A vacuum truck is to be used for removing the pollutants and cleaning the system. It is estimated that each cleaning will cost \$500 per visit.

### Maintenance Required by Year

- Year 1: two (2) inspections + one (1) cleaning = \$800
- Year 2: two (2) inspections + one (1) cleaning = \$800
- Year 3: two (2) inspections + one (1) cleaning = \$800

Total maintenance costs for the first 3 years are estimated to be \$2,400

June 11, 2020

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

Re: Carvana - Acceptance Documents Review  
Novi # JSP18-47  
SDA Job No. NV19-211

Dear Mr. Herczeg:

We have reviewed the Acceptance Document Package received by our office on April 4, 2019 against the Final Site Plan (Stamping Set) approved on May 21, 2019. We offer the following comments:

**Initial Acceptance Documents:**

1. On-Site Water System Easement – Exhibits Approved.
2. On-Site Sanitary Sewer MH Easement – Exhibits Approved.
3. Storm Drainage Facility / Maintenance Easement Agreement – Exhibits A, B, C & D Approved.

**Final Acceptance Documents**

Upon completion of construction, the above easement descriptions will be reviewed against the as-built plans. Any revisions will be required as necessary. Additionally, 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.

4. Bills of Sale: Sanitary Sewer System and Water Supply System – SUPPLIED – 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 January 25, 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**



Mike Freckelton, EIT  
Engineer

Cc (via Email):  
Madeleine Kopko, City of Novi  
Cortney Hanson, City of Novi  
Sarah Marchioni, City of Novi  
Ted Meadows, Spalding DeDecker  
Taylor Reynolds, Spalding DeDecker  
Beth Saarela, Johnson Rosati, Schultz, Amtsbuechler  
Kate Richardson, City of Novi  
Angie Sosnowski, Community Development Bond Coordinator  
Victor Boron, City of Novi