

CITY of NOVI CITY COUNCIL

Agenda Item H
July 8, 2019

SUBJECT: Approval of a Storm Drainage Facility Maintenance Easement Agreement (SDFMEA) from Arrow Group LLC, for The Learning Experience development located on the northeast corner of Town Center Drive and Eleven Mile Road (parcel 50-22-14-376-017).

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Arrow Group LLC, the developer for The Learning Experience, 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 Engineering Consultant (Spalding DeDecker, April 19, 2019) and the City Attorney (Beth Saarela, June 13, 2019) and is recommended for approval.

RECOMMENDED ACTION: Approval of a Storm Drainage Facility Maintenance Easement Agreement (SDFMEA) from Arrow Group LLC, for The Learning Experience development located on the northeast corner of Town Center Drive and Eleven Mile Road (parcel 50-22-14-376-017).

The Learning Experience SDFMEA

Location Map

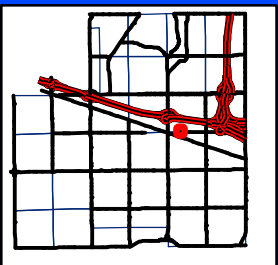


Map Author: Rebecca Runkel
Date: June 19, 2019
Project: Learning Experience SDFMEA
Version: 1

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.

 Proposed SDFMEA Parcel Location



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

0 15 30 60 90
Feet
1 inch = 74 feet



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 13, 2019

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

**Re: *The Learning Experience JSP 16-0019*
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 The Learning Experience Development. The Storm Drainage Facility Maintenance Easement Agreement is in the City's standard format and is acceptable as provided. Subject to review and approval of the attached exhibits by the City's Consulting Engineer, 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

A handwritten signature in black ink, appearing to read 'Elizabeth Kudla Saarela', written over the typed name below.

Elizabeth Kudla Saarela

Enclosure

Jeffrey Herczeg, Director of Public Works
City of Novi
June 13, 2019
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C: Cortney Hanson, Clerk (w/Original Enclosure)
Charles Boulard, Community Development Director (w/Enclosure)
Barb McBeth, City Planner (w/Enclosure)
Sri Komaragiri, Planner (w/Enclosure)
Lindsay Bell, Planner (w/Enclosure)
Hannah Smith, Planning Assistant (w/Enclosure)
Sarah Marchioni, Community Development Building Project Coordinator (w/Enclosure)
Angie Sosnowski, Community Development Bond Coordinator (w/Enclosure)
Darcy Rechten, Construction Engineer (w/Enclosure)
Rebecca Runkel, Engineering Technician (w/Enclosure)
George Melistas, Senior Engineering Manager (w/Enclosure)
Michael Freckelton, Taylor Reynolds & Ted Meadows, Spalding DeDecker (w/Enclosure)
Sue Troutman, City Clerk's Office (w/Enclosure)
Brett Jensen, brett@ensigndevelopmentgroup.com (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosure)

STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 2nd day of April, 2019, by and between Arrow Group LLC, a Utah limited liability company, whose address is 2694 N 920 E., North Logan, UT 84341 (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 _ 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 B.

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 and depicted in **Exhibit C** 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 D**, 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.

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

PARCEL DESCRIPTION:

A PART OF THE SOUTHWEST 1/4 OF SECTION 14, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 14; THENCE S87°28'51"W 740.64 FEET, ALONG THE SOUTH LINE OF SAID SECTION 14 AND THE CENTERLINE OF ELEVEN MILE ROAD, TO THE POINT OF BEGINNING; THENCE CONTINUING S87°28'51"W 261.77 FEET, ALONG THE SOUTH LINE OF SAID SECTION 14 AND THE CENTERLINE OF SAID ELEVEN MILE ROAD; THENCE N02°31'09"W 20.00 FEET; THENCE N48°53'45"W 45.59 FEET; THENCE N07°41'19"W 177.40 FEET, ALONG THE EASTERLY RIGHT-OF-WAY OF TOWN CENTER DRIVE; THENCE N02°40'33"W 87.22 FEET; THENCE N87°28'51"E 311.00 FEET; THENCE S02°31'09"E 315.35 FEET, TO THE POINT OF BEGINNING.



CLIENT: <p style="text-align: center;"><i>LOCKARD CONSTRUCTION</i></p>	DATE: 05/15/2017 DRAWN BY: SMD CHECKED BY: GLM
EXHIBIT A (STORM FACILITY ESMT)	
THE LEARNING EXPERIENCE SECTION: 14 TOWNSHIP: 1N RANGE: 8E CITY OF NOVI OAKLAND COUNTY MICHIGAN	
FBK: CHF:	<div style="border: 1px solid black; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center; margin: 0 auto;"> 1 </div>
SCALE HOR 1" = FT. VER 1" = FT.	

16-218

EXHIBIT B

	SYSTEM COMPONENT				Frequency
	Catch Basins, Inlets, and Storm Sewers	Swales and Berms	Underground Detention System	Flow Restrictors and Emergency Overflow Storm Sewer	
Maintenance Activities					
Monitoring/Inspection					
Inspect for sediment accumulation	X	X	X	X	Every 6 months
Inspect for floatables and debris	X	X	X	X	Every 6 months**
Inspection for erosion		X			Every 6 months
Monitor plantings/vegetation		X			2 times per year
Inspection for corrosion in pipes, connections & welds			X		Annually
Wet weather inspection of structural elements, (Including inspection for sediment accumulation in detention area) with as-built plans in hand.	X	X	X	X	Every 6 months
Ensure means of access for maintenance remain clear/open	X	X	X	X	Annually
Preventative Maintenance					
Mowing		X			As needed*
Remove excess sediment	X	X	X	X	As needed **
Remove floatables and debris	X	X	X	X	Every 6 months minimum or as needed
Remove invasive plant species		X			Annually
Remedial Actions					
Repair/Stabilize areas of erosion	X	X			As needed
Replace dead plantings, bushes, trees		X			As needed
Reseed bare areas		X			As needed
Structural repairs	X		X	X	As needed
Make adjustments/repairs to ensure proper functioning	X	X	X	X	As needed
* Not to exceed the length allowed by local community ordinance					
** Underground Forebay/Detention system to be cleaned according to manufacturer recommendations; at a minimum, whenever sediment accumulates to a depth of 6 inches.					

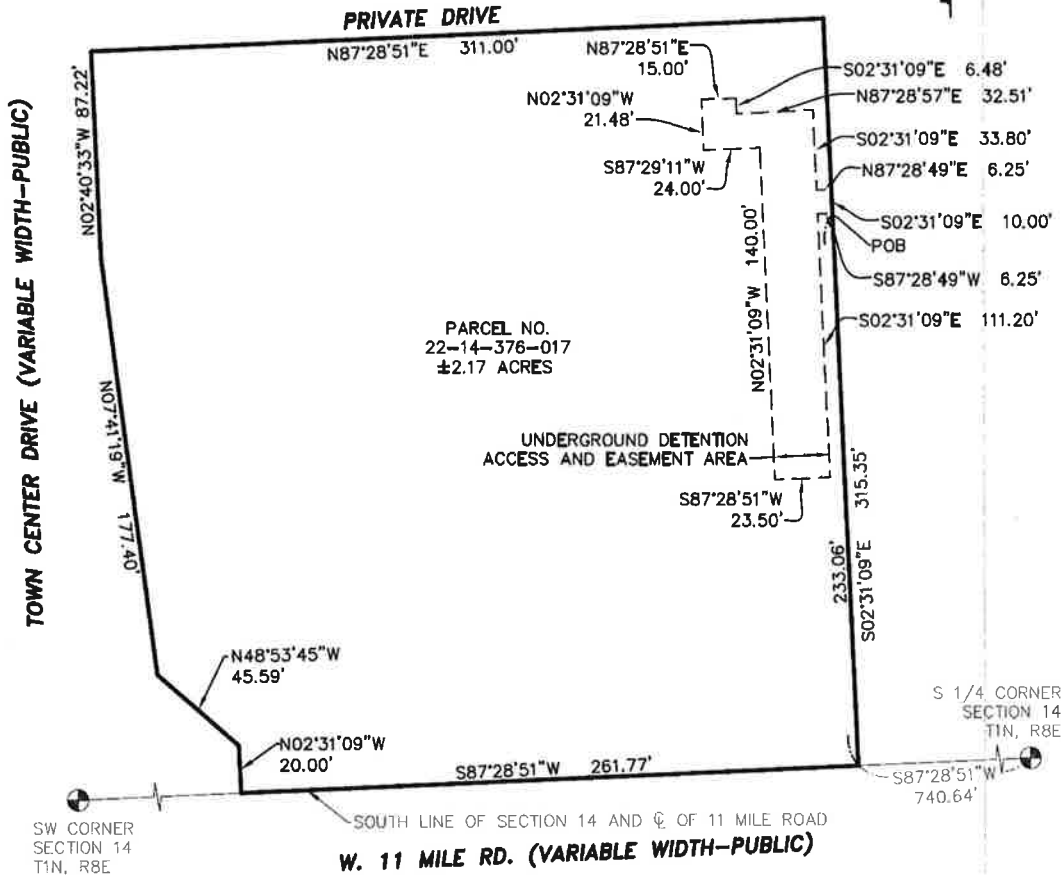
Maintenance Plan Budget	YR 1	YR 2	YR 3
Inspection for sediment accumulation, floatables and debris: every 6 months	\$100	\$100	\$100
Removal of sediment, floatables and debris: as needed	\$1500	\$1500	\$1500
Erosion and wet weather inspection: every 6 months	\$100	\$100	\$100
Re-establish permanent vegetation on eroded areas as needed	\$500	\$500	\$500
Inspect system for corrosion Annually	\$200	\$200	\$200
Total annual budget	\$2,400	\$2,400	\$2,400

NOTE:
THE OWNER AND/OR ASSOCIATION SHALL MAINTAIN A LOG OF ALL INSPECTION AND MAINTENANCE ACTIVITIES AND MAKE THE LOG AVAILABLE TO CITY PERSONNEL AS NEEDED.



CLIENT: LOCKARD CONSTRUCTION	DATE: 05/15/2017
EXHIBIT B (STORM FACILITY ESMT)	DRAWN BY: SMD
THE LEARNING EXPERIENCE	CHECKED BY: GLM
SECTION: 14 TOWNSHIP: 1N RANGE: 8E CITY OF NOVI OAKLAND COUNTY MICHIGAN	SCALE: HOR 1" = FT. VER 1" = FT.
	16-218

EXHIBIT C



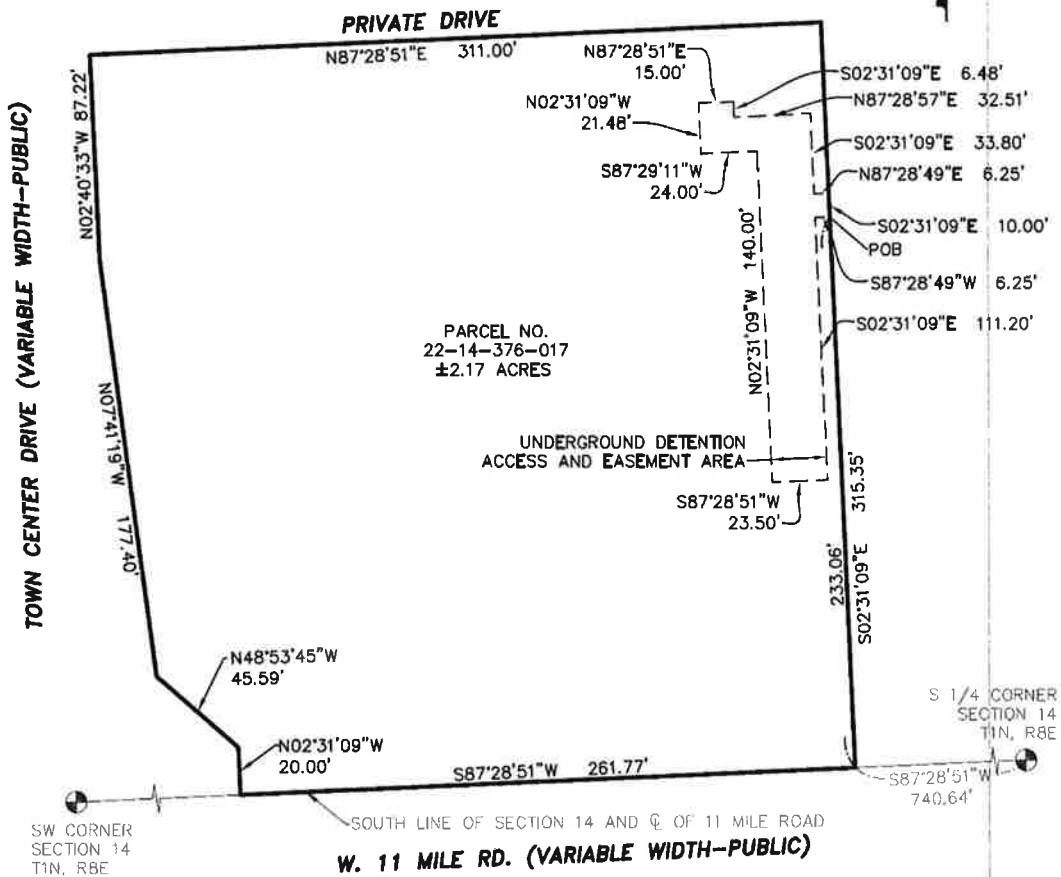
EASEMENT DESCRIPTION:

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 14, TOWN 1 NORTH, RANGE 8 EAST, OAKLAND COUNTY, MICHIGAN; THENCE S87°28'51"W 740.63 FEET ALONG THE SOUTH LINE OF SECTION 14; THENCE N02°31'09"W 233.06 FEET TO THE POINT OF BEGINNING; THENCE S87°28'49"W 6.25 FEET; THENCE S02°31'09"E 111.20 FEET; THENCE S87°28'51"W 23.50 FEET; THENCE N02°31'09"W 140.00 FEET; THENCE S87°29'11"W 24.00 FEET; THENCE N02°31'09"W 21.48 FEET; THENCE N87°28'51"E 15.00 FEET; THENCE S02°31'09"E 6.48 FEET; THENCE N87°28'57"E 32.51 FEET; THENCE S02°31'09"E 33.80 FEET; THENCE N87°28'49"E 6.25 FEET; THENCE S02°31'09"E 10.00 FEET TO THE POINT OF BEGINNING.

ALPINE
ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS
46892 WEST ROAD
SUITE 109
NOVI, MICHIGAN 48377
(248) 926-3701 (BUS)
(248) 926-3765 (FAX)

CLIENT: LOCKARD CONSTRUCTION	DATE: 05/15/2017
EXHIBIT C (STORM FACILITY ESMT)	DRAWN BY: SMD
THE LEARNING EXPERIENCE	CHECKED BY: GLM
SECTION: 14 TOWNSHIP: 1N RANGE: 8E	0 30 60
CITY OF NOVI	FBK: 1
OAKLAND COUNTY	CHP: 15-218
MICHIGAN	SCALE HOR: 1" = 60 FT. VER: 1" = 10 FT.

EXHIBIT D



EASEMENT DESCRIPTION:

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 14, TOWN 1 NORTH, RANGE 8 EAST, OAKLAND COUNTY, MICHIGAN; THENCE S87°28'51"W 740.63 FEET ALONG THE SOUTH LINE OF SECTION 14; THENCE N02°31'09"W 233.06 FEET TO THE POINT OF BEGINNING; THENCE S87°28'49"W 6.25 FEET; THENCE S02°31'09"E 111.20 FEET; THENCE S87°28'51"W 23.50 FEET; THENCE N02°31'09"W 140.00 FEET; THENCE S87°29'11"W 24.00 FEET; THENCE N02°31'09"W 21.48 FEET; THENCE N87°28'51"E 15.00 FEET; THENCE S02°31'09"E 6.48 FEET; THENCE N87°28'57"E 32.51 FEET; THENCE S02°31'09"E 33.80 FEET; THENCE N87°28'49"E 6.25 FEET; THENCE S02°31'09"E 10.00 FEET TO THE POINT OF BEGINNING.



CLIENT:	LOCKARD CONSTRUCTION	DATE:	05/15/2017
	EXHIBIT D (STORM FACILITY ESMT)	DRAWN BY:	SMD
	THE LEARNING EXPERIENCE	CHECKED BY:	GLM
SECTION: 14	TOWNSHIP: 1N	RANGE: 8E	0 30 60
CITY OF NOVI	OAKLAND COUNTY	MICHIGAN	FBK:
			1
			SCALE HOR 1" = 60 FT. VER 1" = 60 FT.

15-218

April 19, 2019

Darcy Rechten, Construction Engineer
City of Novi
26300 Lee BeGole Drive
Novi, Michigan 48375

Re: The Learning Experience - Acceptance Documents Review
Novi # 16-0019
SDA Job No. NV17-221
INITIAL AND FINAL DOCUMENTS APPROVED

Dear Ms. Rechten:

We have reviewed the Acceptance Document Package received by our office on April 16, 2019 against the Final Site Plan (Stamping Set) approved on February 2, 2018. We offer the following comments:

Initial Acceptance Documents:

1. On-Site Water System Easement – (executed 4/2/2019: exhibit dated 5/15/2017) Legal Description Approved.
2. On-Site Sanitary Sewer Easement – (executed 4/2/2019: exhibit dated 5/15/2017) Legal Description 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. Warranty Deed for Road Right-of-Way – Supplied – Approved
5. Bills of Sale: Sanitary Sewer System and Water Supply System – SUPPLIED – Approved
6. Full Unconditional Waivers of Lien from contractors installing public utilities – SUPPLIED – Approved
7. 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 May 4, 2017 contains all documentation requirements necessary prior to construction and occupancy of the facility.

All revisions and submittals to address the comments in the review should be submitted directly to the City of Novi Community Development Department.

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): Cortney Hanson, City Clerk
Sarah Marchioni, City Building Project Coordinator
Ted Meadows, Spalding DeDecker
Taylor Reynolds, Spalding DeDecker
Angie Sosnowski, City Community Development Bond Coordinator
George Melistas, City Engineering Manager
Beth Saarela, Johnson Rosati, Schultz, Joppich PC