



CITY OF NOVI CITY COUNCIL
JULY 12, 2021

SUBJECT: Approval of an Agreement to Relinquish a Utility Easement for The Bond development located at 43443 Bond Street (parcel 50-22-22-226-008).

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

BACKGROUND INFORMATION:

Site plan approval of The Bond development on Bond Street is underway, and to accommodate the two multi-family residential buildings, the private, platted utility easement utilized by DTE must be terminated. The City does not currently have any use for this easement nor does the City expect to need this easement in the future. DTE has agreed to the easement termination subject to The Bond developer granting a replacement easement. The DTE utility lines will be relocated in the replacement easement.

The enclosed resolution has been reviewed by staff and the City Attorney (Beth Saarela, June 23, 2021), and is recommended for approval.

RECOMMENDED ACTION: Approval of an Agreement to Relinquish a Utility Easement for The Bond development located at 43443 Bond Street (parcel 50-22-22-226-008).

The Bond - Utility Easement Termination

Location Map



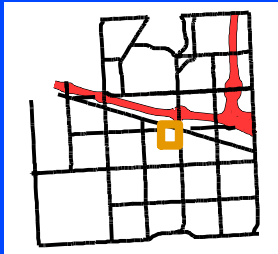
Map Author: Kate Richardson
 Date: 06/28/2021
 Project: The Bond
 Version: 1.0

Amended By:
 Date:
 Department:

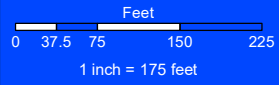
MAP INTERPRETATION NOTICE

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.

Map Legend
 Subject Parcel



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



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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

June 23, 2021

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

**RE: The Bond JSP 18-10
Agreement to Relinquish Utility Easement – Railroad Subdivision**

Dear Mr. Herczeg:

We have received and reviewed the following **original** documents for The Bond Development:

- Agreement to Relinquish Utility Easement (**Approved**)

Agreement to Relinquish Utility Easement

The Agreement to Relinquish Utility Easement has been proposed by the Applicant with respect to the parcels that it owns within the Railroad Subdivision which are proposed to be redeveloped in accordance with the approved final site plan for The Bond Development. The Agreement has been provided pursuant to MCL 560.222a, for the purpose of terminating a platted "private easement for public utilities," in accordance with the procedure set forth in the Land Division Act. MCL 560.222a states:

Sec. 222a. (1) Notwithstanding section 222.1 a public utility easement that is part of a recorded plat may be relinquished without filing an action in circuit court if a written agreement for that purpose is entered into among all of the following parties:

- (a) Each public utility or municipal entity that has the right to use the recorded easement.
- (b) The owner or owners of record of each platted lot or parcel of land subject to the easement.
- (c) A two-thirds majority of the owners of record of each platted lot or parcel of land within 300 feet of any part of the recorded easement.
- (d) The governing board of the municipality in which the subdivision covered by the plat is located.

(2) An agreement described in subsection (1) shall meet all applicable requirements for recordation and is effective upon being recorded with the register of deeds and filed with

Jeffrey Herczeg, Director of Public Works
City of Novi
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the department of labor and economic growth. The register of deeds and the department of labor and economic growth shall cross-reference the document to the affected plat.

The Applicant has complied with Items 1 (a) – 1(c) of the above statute and is now seeking the City's approval to relinquish the platted easement, in accordance with Section 1(d) of the statute. It should be noted that DTE is the only utility using the easement and has consented to termination subject to the Applicant granting a replacement easement to a relocated area. DTE will process its relocation of lines in accordance with its internal relocation policy and will no longer maintain facilities within the easement. No other utilities are within the easement, and it is our understanding that Engineering has confirmed that the City has no need to use the easement in the future.

If City Council approves the Agreement, the City should execute it and record it with the Oakland County Register of Deeds in the usual manner. It should be noted that a copy must also be filed with the State of Michigan as required by the statute. However, the Department identified in the statute has been eliminated by the State and no longer exists. Instead, a copy should be filed with the following Department of the State of Michigan:

Michael C. Barger, PS
Director, Office of Land Survey and Remonumentation
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs
611 West Ottawa Street
PO Box 30254
Lansing, MI 48933

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

EKS
Enclosure

Jeffrey Herczeg, Director of Public Works
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C: Cortney Hanson, Clerk (w/Original Enclosure)
Charles Boulard, Community Development Director (w/Enclosure)
Barb McBeth, City Planner (w/Enclosure)
Lindsay Bell, Planner (w/Enclosure)
Christian Carroll, Planner (w/Enclosure)
Madeleine Daniels, Planning Assistant (w/Enclosure)
Sarah Marchioni, Community Development Building Project Coordinator (w/Enclosure)
Angie Sosnowski, Community Development Bond Coordinator (w/Enclosure)
Ben Croy, City Engineer (w/Enclosure)
Rebecca Runkel, Project Engineer (w/Enclosure)
Kate Richardson, Project Engineer (w/Enclosure)
Victor Boron, Project Engineer (w/Enclosure)
Melissa Morris, Administrative Assistant (w/Enclosure)
Michael Freckelton, Taylor Reynolds & Ted Meadows, Spalding DeDecker (w/Enclosure)
Albert Ludwig, The Bond at Novi, LLC (w/Enclosure)
Mark Cohn, Esquire (w/Enclosure)
Thomas R. Schultz, Esquire (w/Enclosure)

**AGREEMENT TO RELINQUISH UTILITY EASEMENT
RAILROAD SUBDIVISION
CITY OF NOVI, OAKLAND COUNTY**

This Agreement to Relinquish Utility Easement (“**Agreement**”) is entered into by the Bond at Novi, LLC, a Michigan limited liability company, whose address is 2502 Lake Lansing Road, Suite C, Lansing, Michigan 48912, and City Center Plaza Limited Partnership, a Michigan limited partnership, whose address is 200 Renaissance Center, Suite 3145, Detroit, MI 48243, for the purpose of relinquishing and vacating a certain utility easement, as set forth below.

RECITALS:

A. The plat for the Railroad Subdivision, recorded in Liber 54A of Plats, Page 89, Oakland County Records established two adjacent six (6’) foot wide private easements for public utilities, which easements are located solely within Lots 8 and 9 of Railroad Subdivision, as shown in the recorded plat for the Railroad Subdivision (collectively, the “**Easement**”). The Lots affected by the Easement are identified on Exhibit A attached hereto.

B. The undersigned parties to this Agreement comprise respectively: (i) the owner of record of the each platted lot or parcel of land subject to the Easement; and (ii) A two-thirds majority of the owners of record of each platted lot or parcel of land within 300 feet of any part of the Easement.

C. Pursuant to MCL Section 560.222a of the Land Division Act, Act 288 of 1967, as amended, the undersigned parties desire to relinquish and vacate the Easement.

Therefore, in consideration of the sum of One and 00/100 (\$1.00) Dollar, the undersigned parties agree as follows:

1. The Easement for public utilities located within Lots 8 and 9 of the Railroad Subdivision, as shown in the plat for the Railroad Subdivision, recorded in Liber 54A of Plats, Page 89, Oakland County Records, is hereby relinquished and all rights to use the Easement are hereby relinquished and released.

2. Subject to Paragraph 5 below, this Agreement shall be effective, and the plat for the Railroad Subdivision shall be deemed modified in accordance with this Agreement, upon approval of the Easement vacation by the City of Novi, the recordation of this Agreement with the Oakland County Register of Deeds and the filing of this Agreement with the Michigan Department of Licensing and Regulatory Affairs.

3. This Agreement may be executed in multiple counterparts, all of which shall constitute one and the same Agreement.

4. This Agreement has been signed by Bond at Novi, LLC, in its capacity as owner of Lots 8 and 9 and by Bond at Novi, LLC, which constitute the platted lots subject to the Easement and City Center Plaza Limited Partnership which, together with Bond at Novi, LLC, constitute a two-thirds majority of the owners of record of each platted lot or parcel of land within 300 feet of any part of the Easement.

5. To the extent any public utility has the right to use the Easement, the vacation of the Easement shall also be subject to the written agreement to the vacation of the Easement by such public utility.

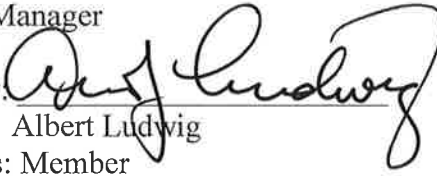
Signatures and notaries on following pages

IN WITNESS WHEREOF, the parties hereto have signed this Agreement to Relinquish Utility Easement.

Bond at Novi, LLC
a Michigan limited liability company


By: GAM Bond LLC,
a Michigan limited liability company

Its: Manager

By: 
Albert Ludwig
Its: Member

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing Agreement to Relinquish Utility Easement was acknowledged before me this 16th day of January, 2019 by Albert Ludwig, known by me to be the Member of GAM Bond LLC, the Manager of Bond at Novi LLC, on behalf of said company.


Linda Marie Checkley Notary Public
Acting in the County of Oakland
My Commission Expires: 10-13-2024

LINDA MARIE CHECKLEY
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Oct 13, 2024
ACTING IN COUNTY OF Oakland

CITY CENTER PLAZA LIMITED PARTNERSHIP
a Michigan limited partnership

By: City Center GP, Inc.
a Michigan corporation
Its: General Partner

By: George S. Keros
George S. Keros
Its: President

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing Agreement to Relinquish Utility Easement was acknowledged before me this 28 day of DECEMBER 2018 by GEORGE KEROS, known by me to be the PRESIDENT of City Center GP, Inc., the general partner of City Center Plaza Limited Partnership, on behalf of said company.

Phyllis A. Menken
Phyllis A. Menken, Notary Public

Acting in the County of Oakland

My Commission Expires OCTOBER 31, 2022

PHYLLIS A. MENKEN
Notary Public, State of Michigan
County of Oakland
My Commission Expires 10-31-2022
Acting in the County of OAKLAND

By signing below, the City of Novi consents to the foregoing Agreement:

THE CITY OF NOVI
a Michigan municipal corporation

By: _____

Its: _____

By: _____

Its: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing Agreement to Relinquish Utility Easement was acknowledged before me this ____ day of _____, 2021 by _____, known by me to be the _____ of City of Novi, and by _____, known by me to be the _____ of the City of Novi.

_____, Notary Public
Acting in the County of _____
My Commission Expires: _____

Drafted by and when recorded return to:
Mark S. Cohn
Seyburn Kahn, PC
2000 Town Center, Suite 1500
Southfield, Michigan 48075

EXHIBIT A

Lots 8 and 9 of RAILROAD SUBDIVISION, according to the plat thereof recorded in Liber 92 of Plats, Pages 16, 17, and 18 of Oakland County Records, EXCEPT that part deeded to the City of Novi for road recorded in Liber 52831, page 445, Oakland County Records.