



**CITY OF NOVI CITY COUNCIL
DECEMBER 7, 2020**

SUBJECT: Approval of a resolution of the City Council authorizing termination of a portion of the Water Main Easement for Berkshire eSupply, located on the south side of Fourteen Mile Road between M-5 and Haggerty Road (parcel 50-22-01-200-147).

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

BACKGROUND INFORMATION: The commercial development Berkshire eSupply has been approved and constructed. To accommodate the new water main alignment, approximately 0.14 acre of the existing water main easement on the subject parcel must be terminated. The enclosed exhibits have been reviewed by Spalding DeDecker (October 20, 2020).

The enclosed resolution has been reviewed by staff and the City Attorney (Elizabeth Saarela, April 3, 2020) and is recommended for approval.

RECOMMENDED ACTION: Approval of a resolution of the City Council authorizing termination of a portion of the Water Main Easement for Berkshire eSupply, located on the south side of Fourteen Mile Road between M-5 and Haggerty Road (parcel 50-22-01-200-147).

Berkshire eSupply Partial Termination of Water Main Easement

Location Map

Fourteen Mile Rd

Berkshire eSupply
Subject Parcel: 50-22-01-200-147


Haggerty Rd

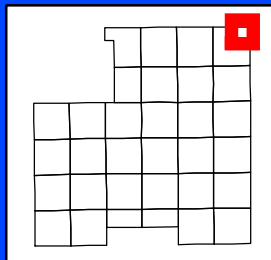
Map Author: Victor Boron
Date: 11/17/2020
Project: Berkshire eSupply WM Esmt Termination
Version: 1.0

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.

 Subject Parcel



City of Novi

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

0 80 160 320 480
Feet

1 inch = 400 feet



ELIZABETH KUDLA SAARELA
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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

April 3, 2020

Kate Richardson, EIT, Plan Review Engineer
City of Novi
Department of Public Works
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

**Re: Berkshire eSupply JSP17-0072
Acceptance Documents**

Dear Ms. Richardson:

We have received and reviewed the following documents for the Berkshire eSupply Development and have the following comments:

- Water Main Access Easement (***Revisions Required***)
- Exhibits for Termination of Portion of Water Main Easement (***Approved and Resolution Enclosed***)

Water Main Access Easement

1. The format and content of the Water Main Access Easement has been modified from the City's standard format and is unacceptable as proposed. The following provision should be revised:

The indemnity language added to the Water Main Access Easement should be deleted. The easement is required to provide public water service to the project. The Water Main Access Easement is entirely for the benefit of the property owner to allow the property owner to receive public water service. The easement is not for the benefit of the general public and no party other than the property owner is benefitting from the easement. The property owner has included an indemnity provision in the easement that is inconsistent with the protections afforded to municipalities for owning and operating a public sewer system pursuant to MCL 691.1407. We cannot recommend acceptance of easements including language which may result in a waiver governmental immunity provided by state statute.

2. A Title Search should be provided showing the current ownership of the easement parcel. Any lenders having a mortgage interest in the property will be required to execute a "consent" page to the easement.

Termination of Portion of Water System Easement

3. We have prepared the enclosed Resolution of The City Council Authorizing Termination Of Portion Of Water Main Easement. The Exhibits prepared by Mannik Smith showing the portion of the easement to be abandoned, should be attached. The Resolution should be placed on an upcoming City Council Agenda for approval, and should be recorded with the Oakland County Register of Deeds in the usual manner.

All documents, revisions and additional documents should be submitted the City's Community Development Department.

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

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

**RESOLUTION OF THE CITY COUNCIL AUTHORIZING
TERMINATION OF PORTION OF WATER MAIN EASEMENT**

RECITATIONS UNDERLYING THIS RESOLUTION:

The easement for operating, constructing, maintaining and repairing a Water Main granted to the City of Novi (the "City") whose address is 45175 Ten Mile Road, Novi, Michigan 48375, over Property described in Exhibit A, which easement is located in Section 1 of the City of Novi, is the subject matter of this Resolution, and shall be referred to herein as the "Easement".

The owner of the property described in the attached and incorporated Exhibit A, upon which the Easement is located (the "Property"), granted an easement dated September 4, 2014, recorded on November 3, 2014 Liber 47563, Pages 770 through 772, Oakland County Records, for a public Water Main. A portion of the Water Main located within the Easement has been relocated in connection with development of the site. As such, the City has offered to terminate and vacate a portion of the Easement. Any costs associated with terminating the easement shall be the Owner's expense.

The appropriate City Officials have investigated the need to maintain the Easement for the benefit of the City's public Water Main system, for the benefit of the Property, and/or for the benefit of surrounding properties. The City Officials have determined it is not necessary to maintain the Easement shown on Exhibit B and hereby agree to terminate it.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

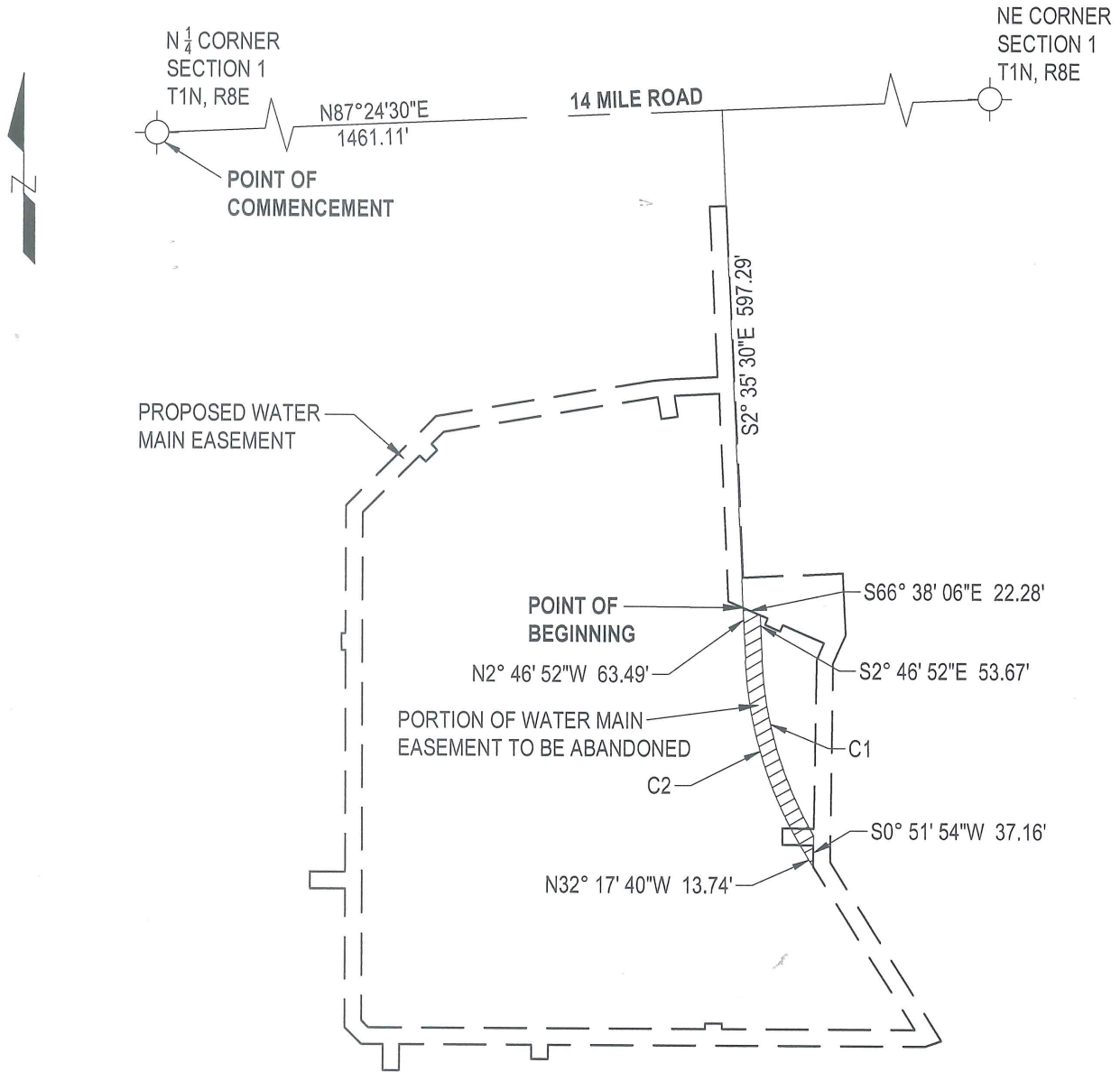
1. The portion of the Water Main System Easement dated September 4, 2014, recorded on November 3, 2014 Liber 47563, Pages 770 through 772, Oakland County Records, located in Section 1 of the City, , for operating, constructing, maintaining and repairing a Water Main, be terminated as shown in the attached and incorporated Exhibit B.

EXHIBIT A

T1N, R8E, SEC 1 ALL THAT PART OF S 80 ACRES OF N 116 ACRES OF NE FRC 1/4 WHICH LIES ELY OF FOL DESC LINE BEG AT PT DIST N 87-24-30 E 510.34 FT & S 02-00-18 W 357.82 FT & S 04-53-41 W 49.91 FT & N 85-06-19 W 30 FT & S 04-53-41 W 600 FT & S 85-06-19 E 30 FT & S 04-53-41 W 1100 FT & S 85-06-19 E 410 FT FROM N 1/4 COR, TH N 04-53-41 E 800 FT, TH S 85-06-19 E 20 FT, TH N 04-53-41 E 900 FT TO POINT OF ENDING EXC BEG AT SE COR OF SD S 80 ACRES OF N 116 ACRES OF NE FRC 1/4 TH N 500 FT, TH W 250 FT, TH S 100 FT, TH W 400 FT, TH S 400 FT, TH E 650 FT TO BEG 50.60 A

EXHIBIT B WATER MAIN EASEMENT TO BE ABANDONED

NE $\frac{1}{4}$ OF SECTION 1,
T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN



Curve Table					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	221.37	463.50	$27^{\circ}21'55''$	$S16^{\circ}27'49''E$	219.28
C2	249.05	483.50	$29^{\circ}30'48''$	$N17^{\circ}32'16''W$	246.31

W:\Projects\Projects A-E\A1390015\CAD\SURVEY\Easements\A1390015_Water_Abandon_Easement.dwg

Mathew Michael Barney 1/8/19
MATHEW MICHAEL BARNEY, PS
 PROFESSIONAL SURVEYOR
 MICHIGAN LICENSE NO. 64960
 DATE: 1/8/2019



 0' 200' 1" = 200'	PREPARED FOR: ALBERT KAHN ASSOCIATES Detroit, Michigan
DRAWN BY: MTS	CHECKED BY: MMB
JOB No.: A1390015	SHEET 1 OF 2

2365 HAGGERTY ROAD S.
 CANTON, MICHIGAN 48188
 TEL: (734) 397-3100
 FAX: (734) 397-3131

www.MannikSmithGroup.com

EXHIBIT B

WATER MAIN EASEMENT TO BE ABANDONED

NE $\frac{1}{4}$ OF SECTION 1,
T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN

WATER MAIN EASEMENT TO BE ABANDONED DESCRIPTION


A WATER MAIN EASEMENT IN THE NORTHEAST $\frac{1}{4}$ OF SECTION 1, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH $\frac{1}{4}$ CORNER OF SAID SECTION 1, THENCE NORTH 87°24'30" EAST ALONG THE NORTH LINE OF SAID SECTION 1461.11 FEET; THENCE SOUTH 2°35'30" EAST 597.29 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 66°38'06" EAST 22.28 FEET; THENCE SOUTH 2°46'52" EAST 53.67 FEET; THENCE ALONG A CURVE TO THE LEFT A DISTANCE OF 221.37 FEET, HAVING A RADIUS OF 463.50 FEET, A DELTA ANGLE OF 27°21'55", A CHORD BEARING OF SOUTH 16°27'49" EAST AND A CHORD DISTANCE OF 219.28 FEET; THENCE SOUTH 0°51'54" WEST 37.16 FEET; THENCE NORTH 32°17'40" WEST 13.74 FEET; THENCE ALONG A CURVE TO THE RIGHT A DISTANCE OF 249.05 FEET, HAVING A RADIUS OF 483.50 FEET, A DELTA ANGLE OF 29°30'48", A CHORD BEARING OF NORTH 17°32'16" WEST AND A CHORD DISTANCE OF 246.31 FEET; THENCE NORTH 02°46'52" WEST 63.49 FEET TO THE POINT OF BEGINNING. CONTAINS 0.14 ACRES OR 6,016 SQUARE FEET, MORE OR LESS.

NOTE:

BEARINGS BASED ON NORTH LINE OF SECTION 1 BEING NORTH 87°24'30" EAST.

W:\Projects\Projects A-E\A1390015\CAD\SURVEY\Easements\A1390015_Water_Abandon_Easement.dwg

PREPARED FOR:		ALBERT KAHN ASSOCIATES	
		Detroit, Michigan	
DRAWN BY:	MTS		
CHECKED BY:	MMB	JOB No.: A1390015	SHEET 2 OF 2
		2365 HAGGERTY ROAD S. CANTON, MICHIGAN 48188 TEL: (734) 397-3100 FAX: (734) 397-3131	
www.MannikSmithGroup.com			

October 20, 2020

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

Re: Berkshire eSupply - Acceptance Documents Review
Novi # JSP17-0072
SDA Job No. NV19-201
INITIAL DOCUMENTS APPROVED AS NOTED
FINAL DOCUMENTS APPROVED

Dear Mr. Herczeg:

We have reviewed the Acceptance Document Package received by our office on September 30, 2020 against the Final Site Plan (Stamping Set) approved on April 19, 2019. We offer the following comments:

Initial Acceptance Documents:

1. On-Site Water System Easement – (executed 09/22/20: exhibit dated 01/08/19) - Exhibits Approved.
2. Water System Abandonment Easement – (unexecuted: exhibit dated 01/08/19) - Exhibits Approved.
3. Water Main Vault Access Easement – (executed 09/22/20: exhibit dated 09/17/20) – Exhibits Approved.
4. Temporary Construction Easement – (executed 09/22/20: exhibit dated 09/17/20) - Exhibits Approved.
5. **Sanitary Sewer MH Access Easement** – (executed 09/22/20: exhibit dated 01/08/19) - Exhibit B showing the Sanitary Sewer Access Easement needs to be included in the executed easement document. If the exhibit has not had any revisions from the original exhibit dated 01/08/19 then this this approved as noted with the above note.
6. On-Site Storm Drainage Facility / Maintenance Easement Agreement – (executed 9/22/20) - Exhibits A, B, C & D Approved.
7. Warranty Deed for Road Right-of-Way – (executed 09/22/20: exhibit dated 09/15/20) – Exhibits Approved.

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.

8. Bills of Sale: Sanitary Sewer System and Water Supply System – SUPPLIED – APPROVED
9. Full Unconditional Waivers of Lien from contractors installing public utilities – SUPPLIED – APPROVED
10. 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 October 24, 2018 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): Victor Boron, City of Novi
Cortney Hanson, City of Novi
Sarah Marchioni, City of Novi
Madeleine Kopko, City of Novi
Ted Meadows, Spalding DeDecker
Taylor Reynolds, Spalding DeDecker
Kate Richardson, City of Novi
Angie Sosnowski, City of Novi
Beth Saarela, Johnson Rosati, Schultz, Amtsbuechler