



**CITY OF NOVI CITY COUNCIL**  
**FEBRUARY 22, 2021**

**SUBJECT:** Approval of an Intergovernmental Water Service Agreement with Commerce Township to allow Behavioral Care Solutions, located at 39465 Fourteen Mile Road, to connect to the Commerce Township public water system.

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

**BACKGROUND INFORMATION:** Behavioral Care Solutions located at 39465 Fourteen Mile Road has requested the connection of their remodeled and expanded building to Commerce Township's water system, via water main that exists in Novi but is supplied by Commerce Township. This water main already serves the adjacent parcels in this area. The City does not plan to provide water service to this area or this parcel.

Novi and Commerce Township have worked together to develop the attached Water Service Agreement. The City Attorney has reviewed it and finds no legal impediment to entering into this agreement (Beth Saarela, February 8, 2021). The agreement states in the event water becomes available to the property from Novi's water system, this property will be required to connect to the City system and disconnect from Commerce Township's system. Included in the proposed agreement are provisions for Novi to assist Commerce Township in collecting any delinquent water services charges to the extent permitted by state law and local ordinance.

**RECOMMENDED ACTION:** Approval of an Intergovernmental Water Service Agreement with Commerce Township to allow Behavioral Care Solutions located at 39465 Fourteen Mile Road, to connect to the Commerce Township public water system.

# Behavioral Care Solutions 39465 Fourteen Mile Road Water Service Agreement Location Map

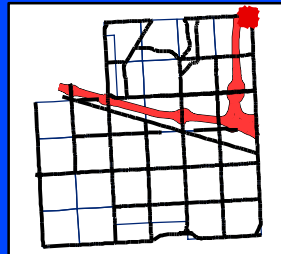


Map Author: Victor Boron  
Date: 02/09/2021  
Project: BCS Water Service Agreement  
Version: 1.0

Amended By:  
Date:  
Department:

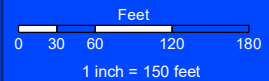
#### MAP INTERPRETATION NOTICE

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.



### 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

February 8, 2021

Ben Croy, City Engineer  
City of Novi  
Department of Public Works  
Field Services Complex  
26300 Lee BeGole Drive  
Novi, MI 48375

**RE: Behavioral Care Solutions – Intergovernmental Water Service Agreement**

Dear Mr. Croy:

We have received and reviewed the proposed Water Service Agreement between the City of Novi, Commerce Township, and the owners of the Behavioral Care Solutions Property. The Water Service Agreement authorizes Behavioral Care Solutions to connect to Commerce Township's public water supply system until such time as a water connection is available for the property in the City of Novi, and either Novi or Commerce Township require disconnection from Commerce Township System. The Water Service Agreement was prepared by counsel for Commerce Township, has been reviewed and revised to address the issues of all parties, and is generally consistent with the terms and conditions of the Agreement entered into by the City, Commerce Township, and Berkshire E-Supply. The Agreement may be placed on an upcoming City Council Agenda for approval. Once approved, the City may execute the Agreement in the usual manner, and we will return it to Commerce Township for approval and execution.

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

Ben Croy, City Engineer  
City of Novi  
Department of Public Works  
February 8, 2021  
Page 2

C: Cortney Hanson, Clerk (w/Enclosure)  
Jeff Herczeg, Director of Public Works (w/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)  
Rebecca Runkel, Staff Engineer (w/Enclosure)  
Victor Boron, Civil Engineer (w/Enclosure)  
G. Hans Rentrop, Adkison, Need, Allen, & Rentrop, PLLC (w/Enclosure)  
Thomas R. Schultz, Esquire (w/Enclosure)

**INTERGOVERNMENTAL WATER SERVICE AGREEMENT**

THIS WATER SERVICE AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and among the CITY OF NOVI, whose address is 45175 Ten Mile, Novi, Michigan, 48375, hereinafter referred to as "Novi or City"; CHARTER TOWNSHIP OF COMMERCE, a Michigan municipal corporation, whose address is 2009 Township Drive, Commerce Township, Michigan, 48390, hereinafter referred to as "Commerce or Township"; and BCS REALTY, LLC, a Michigan limited liability company, whose address is 6445 Alden Drive, West Bloomfield, Michigan, 48324, hereinafter referred to as "Customer."

WHEREAS, the property of Customer is located within the boundaries of the City of Novi, Oakland County, Michigan, as per the attached legal description referred to as Exhibit "A" ("Property");

WHEREAS, water service to said Property is not yet available from Novi;

WHEREAS, Commerce owns and operates a public water supply system ("Commerce Water System") capable of serving Customer's Property; and

WHEREAS, Commerce has agreed to enter into this Agreement with Novi and Customer to supply water to said Property of Customer until such time as Novi makes a public water supply available to said Property of Customer, or as otherwise provided herein;

NOW, THEREFORE, based upon the foregoing recitals and in consideration of the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. Customer shall apply to Commerce for permits necessary under the Commerce ordinances to tap into the Commerce Water System. Commerce shall issue a permit to Customer upon receipt of all documentation and permit fees, tap fees, and meter fees required in accordance with applicable ordinances and resolutions, as amended from time to time. Customer shall install the connection to the Commerce Water System using its own contractor in accordance with the terms and conditions of the permits issued by Novi and Commerce. Commerce may require Customer's contractor to meet minimum standard insurance requirements in accordance with any applicable permit condition. Commerce shall determine whether Customer shall tap into the Commerce Water System at the time of connection. Customer shall be responsible for and bear all costs and expenses incurred by the parties in the administration of this permit procedure, and any other costs or expenses incurred by the parties in connecting Customer to the Commerce Water System.

2. Commerce shall supervise, inspect, test, and approve any water connection from the Property to the Commerce Water System or may have Oakland County do so on Commerce's behalf. The cost of such supervision, inspection, testing and the like shall be billed to, and paid by, Customer. Subsequent to the final construction of any connection to the Commerce Water System, Commerce may continue to inspect, test, repair and replace any part of the connection and equipment associated therewith as may be required. Expenses incurred by Commerce in conducting such replacement or repairs shall be charged to and paid directly by Customer pursuant to, and consistent with, applicable state and local laws and agreements. Customer shall provide as-built drawings of its connection to the Commerce Water System within thirty (30) days of making the connection.

3. Customer shall also apply for a plumbing permit from Novi. Upon receipt of all documentation and permit fees required by applicable City ordinance, Novi shall inspect and test any equipment installed within the City of Novi up to and into Customer's business to ensure it meets Novi standards. Upon completion of inspection and approval of the improvements by Novi, Commerce will install its meter at Customer's business.

4. Commerce shall bill Customer directly for water services furnished to the Property per the terms and rates of Commerce ordinances as the same may be amended from time to time. Customer shall pay such bills and shall be subject to the penalties, liens and other actions provided by state and local law when a customer of the Commerce Water System fails to timely make payments. Such actions include, but are not limited to, the right of Novi to shut off and discontinue the supply of water service to the Property for nonpayment of water rates when due in accordance with the procedure set forth within Novi's ordinance. Water services so discontinued shall not be restored until all sums then due and owing shall be paid, plus a turn-on charge as set from time to time by resolution of the Novi City Council. Novi shall assist Commerce in collecting delinquent water services charges to the extent permitted by state law and local ordinance.

5. In the event that a water extension is constructed within Novi in the future to serve the Property, Customer shall, at the option of Novi, disconnect from the Commerce Water System, remove the piping and equipment to the Commerce Water System, and connect to the Novi water extension, at Customer's expense, and shall pay all City fees, charges, and assessments related to connecting to the Novi water extension. Customer shall be responsible for all costs of disconnection from, and any necessary restoration to, the Commerce Water System resulting from the disconnection.

6. In the event that the Novi water extension is constructed and becomes available in the future to serve the Property and the cost thereof is levied by way of special assessment, connection charge or otherwise against properties benefited, including the Property, the Customer agrees to pay such special assessment, connection charge, or other charge to Novi in accordance with the ordinance or resolution establishing the same if the Property is actually connected to said Novi water main.

7. At all times until the Commerce Water System is disconnected and removed and a connection is made to the Novi water extension, Customer shall and hereby agrees to release, hold harmless and indemnify Novi and all of its officials (elected and appointed), officers, directors, employees, consultants, agents, volunteers, councils, boards, and commissions from and against any and all claims, actions, suits, liability and responsibility related in any way whatsoever to this Agreement and/or the temporary water connection described and permitted herein.

8. This Agreement will be subject to cancellation in the event a court of competent jurisdiction restricts or limits, directly or indirectly, any of the rights of Commerce to obtain, sell, contract for, or distribute water service. Commerce shall give notice to Customer and Novi within a reasonable time after receiving notice of commencement of any court proceedings affecting the right of the Customer to receive water services under this Agreement. Commerce reserves the right to require Customer to disconnect from the Commerce Water System if and when Novi makes water extension available to the Property. In the event that Commerce does require Customer to disconnect from the Commerce Water System, Customer shall have ninety (90) days from the date of notification (weather permitting) to make alternate arrangements for water service. In that event, Commerce shall not be required to reimburse or repay either Novi or Customer for costs incurred by Novi or Customer as a result of connection to Novi or



disconnections from the Commerce Water System. Customer is responsible for and shall pay all costs of disconnection, and any necessary restoration to, the Commerce Water System resulting from disconnection from the Commerce Water System.

9. Commerce will not be responsible for damages for any interruption or failure to supply water service and shall be held harmless by the Customer, from all damages of any kind, nature and description, which may arise as a result of making this Agreement and furnishing water service as provided herein. In addition, at all times until the Property is no longer connected to the Commerce Water System, Customer shall, and hereby agrees to release, hold harmless and indemnify Commerce and all of its officials (elected and appointed), officers, directors, employees, consultants, agents, volunteers, councils, boards, and commissions from and against any and all claims, actions, lawsuits, liability, damages, and responsibility of any kind or nature related in any way whatsoever to this Agreement and/or the Customer's connection to and use of the Commerce Water System.

10. Notwithstanding anything set forth in this Agreement, each party shall be responsible for the claims made against that party and for the acts of its employees and agents. Neither Novi, nor Commerce, shall have any rights under any legal principle to be indemnified by each other for any act of each one's employees or agents in connection with any claim. Further, this Agreement does not and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, obligation, duty, or immunity of the parties. Nothing in this Agreement shall be construed as a waiver of governmental immunity by either Commerce or Novi.

11. This Agreement is to be construed in accordance with the laws of the State of Michigan. If any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Michigan or the United States, the validity of the remaining

portion or provision shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

12. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided by law.

13. This Agreement shall be binding upon the parties hereto, their successors and assigns, and transferees, and the obligations contained herein shall be binding upon and run with the Property described.

14. This Agreement shall be recorded with the Oakland County Register of Deeds.

15. This Agreement constitutes full agreement of the parties. The parties hereto have entered into this Agreement with no intention of conferring any benefit upon or creating any obligation to any party other than the signatories hereto, their successors and assigns. Any amendments to this Agreement shall be in writing executed by all of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in triplicate on the date and year recited above.

{Signatures Begin on the Following Page}

CITY OF NOVI

By: \_\_\_\_\_  
Robert J. Gatt, Mayor

By: \_\_\_\_\_  
Cortney Hanson, City Clerk

STATE OF MICHIGAN        )  
  ) ss.  
COUNTY OF OAKLAND     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public, personally appeared Robert J. Gatt, Mayor and Cortney Hanson, Clerk, who, being duly sworn, have executed this Agreement in their capacity as Mayor and Clerk for the City of Novi.

\_\_\_\_\_  
Notary Public  
Acting in Oakland County, Michigan  
My Commission Expires: \_\_\_\_\_

CHARTER TOWNSHIP OF COMMERCE

By: \_\_\_\_\_  
Larry E. Gray, Supervisor

By: \_\_\_\_\_  
Melissa Creech, Clerk

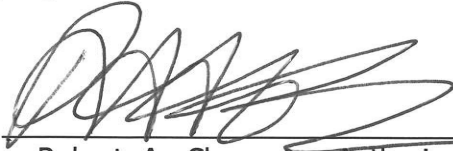
STATE OF MICHIGAN        )  
  ) ss.  
COUNTY OF OAKLAND     )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public, personally appeared Larry E. Gray, Supervisor and Melissa Creech, Clerk, who, being duly sworn, have executed this Agreement in their capacity as Supervisor and Clerk for the Charter Township of Commerce.

\_\_\_\_\_  
Notary Public  
Acting in Oakland County, Michigan  
My Commission Expires: \_\_\_\_\_

CUSTOMER

BCS REALTY, LLC, a Michigan limited liability company


By:   
Robert A. Clemente, Authorized and Sole Manager

By: \_\_\_\_\_

STATE OF MICHIGAN        )  
  ) ss.  
COUNTY OF OAKLAND     )

On this 4<sup>TH</sup> day of February, 2020, before me, a Notary Public, personally appeared, Robert A. Clemente, as authorized and sole Manager of BCS Realty, LLC, who, being duly sworn, did say that he executed this Agreement as such Manager.

VICTOR F. BORON  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Dec 15, 2026  
ACTING IN COUNTY OF Oakland

  
Notary Public  
Acting in Oakland County, Michigan  
My Commission Expires: 12/15/2026

Drafted by:  
Elizabeth K. Saarela, Esquire  
ROSATI, SCHULTZ, JOPPICH & AMTSBEUCHLER, P.C.  
27555 Executive Drive, Suite 250  
Farmington Hills, Michigan 48331

When recorded return to:  
Cortney Hanson, City Clerk  
City of Novi  
45175 Ten Mile Rd  
Novi, MI 48375

**EXHIBIT A**

“Customer Property”

Land situated in the City of Novi, County of Oakland, State of Michigan, more particularly described as follows:

**A parcel of land in the Northeast 1/4 of Section 1, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan described as: Beginning at point distance South 87 degrees 24 minutes 33 seconds West 360 feet and South 02 degrees 30 minutes 22 seconds East 70 feet from the Northeast Section corner; thence South 02 degrees 30 minutes 22 seconds East 200 feet; thence South 87 degrees 24 minutes 33 seconds West 200 feet; thence North 02 degrees 30 minutes 22 seconds West 200 feet; thence North 87 degrees 24 minutes 33 seconds East 200 feet to beginning.**

Commonly Known As: 39465 W. Fourteen Mile Road  
Parcel No. 22-01-200-037