



CITY of NOVI CITY COUNCIL

Agenda Item K
May 6, 2019

SUBJECT: Approval of a revised access easement located on city park property known as Wildlife Woods Park to provide access to the existing Somoco oil well (parcel 50-22-17-300-016).

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

CITY MANAGER APPROVAL: 

BACKGROUND INFORMATION:

Somoco has a pre-existing oil and gas lease over the City's park property known as Wildlife Woods Park. As part of the Villas at Stonebrook residential development to the north, Pulte proposes to relocate the driveway that provides access to the existing oil well. Pulte requests approval of this revised access easement for the purposes of providing Somoco continued access to their well through the Pulte development and across city property.

The enclosed easement has been favorably reviewed by the City Engineering Consultant (Spalding DeDecker, March 14, 2019) and the City Attorney (Beth Saarela, April 18, 2019) and is recommended for approval.

RECOMMENDED ACTION: Approval of a revised access easement located on city park property known as Wildlife Woods Park to provide access to the existing Somoco oil well (parcel 50-22-17-300-016).

Revised Access Easement to Somoco Oil Well Wildlife Woods Park

Location Map



Parcel 22-17-300-013

Existing oil well

Parcel 22-17-300-016

Map Author: D. Rechten
Date: 02/12/2019
Project:
Version #:

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



1 inch = 460 feet



ELIZABETH KUDLA SAARELA
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ROSATI | SCHULTZ
JOPPICH | AMTSBUECHLER

April 18, 2019

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

RE: Villas at Stonebrook JSP17-0062
Off-Site Acceptance Documents

Dear Mr. Herczeg:

We have received and reviewed the following off-site executed documents for the Villas at Stonebrook Development and have the following comments:

- Water Main Easement – Providence Park (***Approved***)
- Easement for Underground Facilities (Water Main) – ITC (***Approved***)
- Temporary Construction Easement (City Park) (***Approved***)
- Access Easement (Well Site Driveway) (***Approved***)
- Easement for Emergency Access Road – ITC Corridor (***Approved***)
- Access Easement – Providence Hospital (***Approved***)
- Public Access Easement (***Approved***)
- Title Search for ITC and Providence Park Property

Water Main Easement – Providence Park

1. The Water System Easement provided permits the developer to assign the easement to the City; however, the Water System Easement is not consistent with the City's standard easement terms. Applicant has acknowledged that upon completion of the construction and installation of the water main across Providence Hospital's Property that a standard form City easement will be provided by Providence Hospital for the ongoing operation and maintenance of the water main. ***Although this Water System Easement has been recorded by Developer, we recommend that the City does not formally accept the Water System by Affidavit until such time as the improvements are installed and the replacement easement is provided. This Easement is sufficient to grant the Developer the required access to construct its improvements. A title search for this easement will be required at the time of formal acceptance.***

2. Once the water main has been installed and has been inspected and approved by the City for acceptance, a Bill of Sale for the water main should be provided conveying it to the City for public use and maintenance. The updated standard Water System Easement format should also be provided at that time, along with a title search. In the meantime, the City should retain this original in its file.

Access Easement Providence Hospital

3. The Access Easement provided allows emergency service providers to access the Condominium site over and through the Providence Hospital Ring Road for the benefit of the Condominium. The Access Easement also permits pedestrian access. The Access Easement is a private easement for the benefit of the Condominium between Providence Hospital and the Developer. No further action by the City is required for the easement to become effective. The Easement has been recorded by the Developer.

Easement for Emergency Access Road – ITC

4. The Easement for Emergency Access Road provided allows emergency service providers to access the Condominium site over and through the ITC Corridor for the benefit of the Condominium. The Easement for Emergency Access Road also permits pedestrian access. The Easement for Emergency Access Road is a private easement for the benefit of the Condominium between ITC and the Developer. No further action by the City is required for the easement to become effective. The Easement has been recorded by the Developer.

Easement for Underground Facilities (Water Main) – ITC

5. The format and content of the Easement for Underground Facilities although inconsistent with the City's standard easement format, is consistent with any and all easement format issued by ITC, which forms it will not consent to changing. As an alternative to a standard City easement form, the Developer has added language to the Master Deed requiring the Villas at Stonebrook Homeowner's Association to take on the liability for under the ITC Easement form. We are satisfied with the alternate option since ITC is consistent with its refusal to change its easement terms, generally under any circumstance or for any entity. ***Once the facilities have been completed and inspected, the Developer will be required to assign this Easement to the City. Although this Water System Easement has been recorded by Developer, we recommend that the City does not formally accept the Water System by Affidavit until such time as the improvements are installed and the Assignment document is provided. This Easement is sufficient to grant the Developer the required access to construct its improvements.***

6. Once the water main has been installed and has been inspected and approved by the City for acceptance, a Bill of Sale for the water main should be provided conveying it to the City for public use and maintenance.

Temporary Construction Easement (City Park)

7. Pulte has requested this Easement from the City to allow Pulte to construct driveway and parking improvements in the existing City Park in accordance with the PSLR Overlay Agreement. The Temporary Construction Easement has been revised to require the developer to include the City on the Developer's policy of General Liability and Auto Insurance as an additional insured, and to indemnify the City for the acts and omission of the Developer while working within the Temporary Construction Easement. ***The Temporary Construction Easement should be placed on an upcoming City Council Agenda for approval and execution by the City. This Easement is temporary and should not be recorded.***

Access Easement (Well Site Driveway)

8. Somoco has a pre-existing oil & gas lease over the City's park. This easement is proposed for the purpose of relocation of the driveway to the City Park by Pulte which provides Somoco access to its existing oil well. The Access Easement is adequate for this purpose. ***The revised Access Easement is acceptable as provided and should be placed on an upcoming City Council Agenda for approval, execution, and recording.***

Public Access Easement

9. The Public Access Easement is for the purpose of allowing public access over the proposed development to the City's park by the public. We have no objection to the form and content of the Public Access Easement subject to the provision of an updated title search once Pulte closes on the property. ***This Easement should be placed on an upcoming City Council Agenda for approval, execution and recording.***

All original documents should be forwarded by the Developer to the City to be approved, accepted, retained in the file, or recorded in accordance with the directions set forth in this letter.

Please feel free to contact me with any questions or concerns in regard to this matter.

Jeffrey Herczeg, Director of Public Works
City of Novi
April 18, 2019
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Very truly yours,

ROSATI SCHULTZ JOPPICH
& AMTSBUECHLER PC



Elizabeth Kudla Saarela

EKS
Enclosures

- C: Cortney Hanson, Clerk (w/Original Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, City Planner (w/Enclosures)
Sri Komaragiri, Planner (w/Enclosures)
Lindsay Bell, Planner (w/Enclosures)
Hannah Smith, Planning Assistant (w/Enclosures)
Angie Sosnowski, Community Development Bond Coordinator (w/Enclosures)
George Melistas, Senior Engineering Manager (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)
Nicholas Scavone, Esquire (w/Enclosures)
Greg Gamalski, Esquire (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

ACCESS EASEMENT

THIS ACCESS EASEMENT (this "Agreement") is made as of _____, 2019, by and between City of Novi, Michigan, a Michigan municipal corporation ("Grantor"), whose address is 45175 W. Ten Mile Road, Novi, Michigan 48375, and Somoco, Inc., a Michigan corporation ("Grantee"), whose address is 13865 S. West Bay Shore Dr., Ste. 200, Traverse City, Michigan 49684.

RECITALS

A. Grantor is the owner of real property located in the City of Novi, Oakland County, State of Michigan, described on Exhibit A attached hereto (the "Grantor's Property").

B. Grantor's predecessor-in-interest and Grantee entered into a Surface Agreement dated February 22, 1990 and recorded in Liber 12921, Page 182, Oakland County Records (as it may be amended, the "Surface Agreement") under which Grantor's predecessor-in-interest granted Grantee a leasehold interest ("Grantee's Leasehold Interest") in an oil production facility located on Grantor's Property (the "Grantee's Facility").

C. Grantor desires to grant to Grantee a non-exclusive easement over a portion of the Grantor's Property as hereinafter set forth.

NOW, THEREFORE, for One Dollar (\$1), the receipt and adequacy of which is hereby acknowledged by the parties, the parties hereto agree as follows:

1. Grantor hereby grants to Grantee, its employees, invitees and licensees, a non-exclusive easement ("Easement") over a portion of the Grantor's Property described on Exhibit B attached hereto and depicted on Exhibit C attached hereto (the "Easement Area") for vehicular ingress and egress to and from Grantee's Facility over the driveway to be constructed by or on Grantor's behalf within the Easement Area ("Driveway").

2. Grantee acknowledges and agrees that the Easement is non-exclusive and that the Driveway and Easement Area may be used by Grantor, its employees, invitees and licensees and, for so long as Grantor elects to use Grantor's Property as a public park, the public.

3. Subject to obtaining Grantee's prior written consent, which consent shall not be unreasonably withheld, Grantor, or any other owner of the Grantor's Property has the right, at its cost, to relocate the Easement and Driveway.

4. This Agreement and the Easement shall terminate concurrent with the termination of the Grantee's Leasehold Interest in Grantee's Facility under the Surface Agreement.

5. This Agreement may be amended or modified and any requirement of this Agreement may be waived only by the written consent of all the parties hereto, evidenced by a document which has been fully executed, notarized, and recorded in the records of the County in which the Grantor's Property is situated.

6. Grantor represents that Grantor is the fee simple owner of the Grantor's Property with full authority to execute this Agreement and grant the Easement described in this Agreement.

7. This Agreement is governed by the laws of the State of Michigan.

8. This Agreement runs with the Grantor's Property and binds the Grantor's Property and Grantor's successors in title. This Agreement binds and inures to the benefit of Grantee and its successors and assigns, except that Grantee shall not assign its rights or obligations under this Agreement except to a permitted assignee of Grantee's Leasehold Interest as and to the extent permitted under the Surface Agreement.

9. This Agreement may be signed in counterparts, each of which shall constitute an original but all of which shall together constitute one and the same Agreement.

10. The Recitals hereto are incorporated herein by this reference.

11. This Agreement is exempt from county and state transfer taxes under MCL 207.505(a) and MCL 207.526(a) respectively.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

CITY OF NOVI, MICHIGAN, a Michigan municipal corporation

By: _____

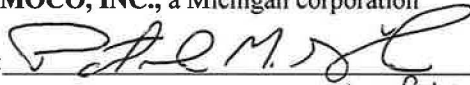
Its: _____

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, the _____ of City of Novi, Michigan, a Michigan municipal corporation, on behalf of the corporation.

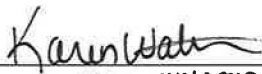
Notary Public
_____ County, Michigan
Acting in _____ County
My Commission Expires: _____

SOMOCO, INC., a Michigan corporation

By: 
Its: Vice President Patrick M. Gibson

STATE OF MICHIGAN)
)ss
COUNTY OF Leelanau)

The foregoing instrument was acknowledged before me this 21st day of January, 2019, by Patrick M. Gibson, the Vice President of Somoco, Inc., a Michigan corporation, on behalf of said entity.


Karen Waterson
Notary Public
Leelanau County, Michigan
Acting in Leelanau County
My Commission Expires: 10/30/20

Drafted by and When Recorded Return To:

Nicholas P. Scavone, Jr.
Bodman PLC
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, MI 48226
313-259-7777

EXHIBIT A

DESCRIPTION OF THE GRANTOR'S PROPERTY

Property situated in the City of Novi, County of Oakland, State of Michigan, described as follows:

T1N, R8E, SECTION 17, PART OF THE SW 1/4. BEGINNING AT POINT DISTANT N04°04'19"W 1666.34 FEET FROM THE SW SECTION CORNER; THENCE N04°04'19"W 343.67 FEET; THENCE N86°38'51"E 2422.50 FEET; THENCE S02°54'21"E 1329.76 FEET; THENCE S86°36'55"W 422.60 FEET; THENCE S03°11'51"E 678.08 FEET; THENCE S86°35'42"W 630.62 FEET; THENCE N02°47'07"W 403.46 FEET; THENCE N87°12'53"E 46 FEET; THENCE N02°47'07"W 704.49 FEET; THENCE N87°12'53"E 329 FEET; THENCE N02°37'05"W 278.58 FEET; THENCE S87°22'55"W 416.40 FEET; THENCE N02°47'07"W 69.84 FEET; THENCE S87°12'53"W 537.33 FEET; THENCE N03°50'53"W 208.58 FEET; THENCE S86°09'07"W 787.52 FEET TO THE PLACE OF BEGINNING, CONTAINING 52.16 ACRES.

Tax parcel # 22-17-300-016

EXHIBIT B

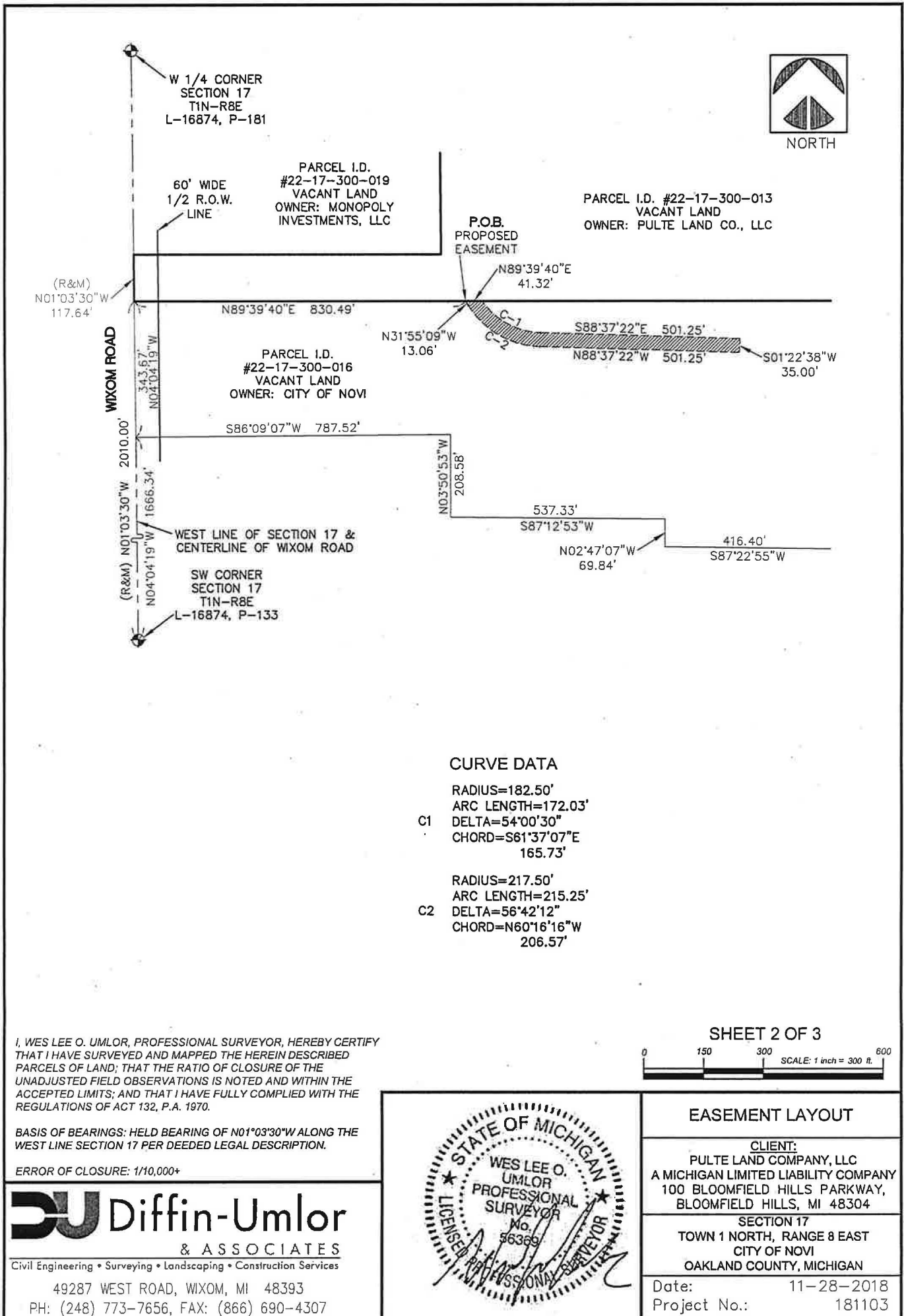
DESCRIPTION OF THE DRIVEWAY

Property situated in the City of Novi, County of Oakland, State of Michigan, described as follows:

PART OF THE SOUTHWEST 1/4 OF SECTION 17, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SW CORNER OF SAID SECTION 17; THENCE N01°03'30"W, ALONG THE WEST LINE OF SAID SECTION 17, 2010.00 FEET; THENCE N89°39'40"E 830.49 FEET TO THE POINT OF BEGINNING; THENCE N89°39'40"E 41.32 FEET; THENCE ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 182.50 FEET, AN ARC LENGTH OF 172.03 FEET, A DELTA OF 54°00'30" AND A CHORD BEARING AND DISTANCE OF S61°37'07"E 165.73 FEET; THENCE S88°37'22"E 501.25 FEET; THENCE S01°22'38"W 35.00 FEET; THENCE N88°37'22"W 501.25 FEET; THENCE ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 217.50 FEET, AN ARC LENGTH OF 215.25 FEET, A DELTA OF 56°42'12" AND A CHORD BEARING AND DISTANCE OF N60°16'16"W 206.57 FEET; THENCE N31°55'09"W 13.06 FEET TO THE POINT OF BEGINNING.

EXHIBIT C

DEPICTION OF THE DRIVEWAY



March 14, 2019

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

Re: Villas at Stonebrook - Document Review
Novi # JSP17-0062
SDA Job No. NV18-216
DOCUMENTS APPROVED

Dear Ms. Rechten

We have reviewed the following document package received by our office on March 14, 2019 against the submitted plan set and previous letter. We offer the following comments:

Submitted Documents:

1. Off-Site Water System Easements – (unexecuted: exhibits dated 7-28-17 & 10-19-17) Exhibits for water main and temporary construction easements across Providence Parkway approved; Exhibits for water main and temporary construction easements across ITC Corridor approved.
2. Emergency Access Easement – (Executed July 19, 2018 & September 21, 2018) Exhibits for Emergency Access Easement across Providence Hospital Approved. Exhibits for Emergency Access Easement across ITC Corridor Approved.
3. Sunoco Oil/Gas Access Easement (On-Site) – (unexecuted: exhibits dated 11/28/18) - Exhibits Approved.
4. Sunoco Oil/Gas Access Easement (Off-Site South) – (Executed 1/21/19; exhibits dated 11/28/18) - Exhibits Approved.
5. Temporary Construction Easement (Off-Site South) – (unexecuted: exhibits dated 11/28/18) - Exhibits Approved.

Documents that require revisions should be resubmitted to the City for further review. 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
 George Melistas, City Engineering Senior Manager
 Angie Sosnowski, City Community Development Bond Coordinator
 Beth Saarela, Johnson Rosati, Schultz, Joppich PC