



CITY OF NOVI CITY COUNCIL
APRIL 12, 2021

SUBJECT: Acceptance of a sidewalk easement from International Transmission Company (ITC) for construction of a sidewalk along the north side of Ten Mile Road between Dinser Drive and Woodham Road (parcel 50-22-20-376-005) in the amount of \$5,500.00

SUBMITTING DEPARTMENT: Department of Public Works, Engineering Division

EXPENDITURE REQUIRED	\$ 5,500.00
AMOUNT BUDGETED	\$ 516,623.00
APPROPRIATION REQUIRED	\$ 0
LINE ITEM NUMBER	204-204.00-974.482

BACKGROUND INFORMATION: The City has been acquiring sidewalk easements along the north side of Ten Mile Road between Dinser Drive and Woodham Road as part of the Segment 51 sidewalk project. Segment 51 was given priority by the Walkable Novi Committee because it will provide direct access to the ITC Corridor Trail from Ten Mile Road, and it will complete the sidewalk connection on the north side of Ten Mile Road from Wixom Road to Meadowbrook Road.

This easement, which crosses ITC's property along 10 Mile Rd, is the last remaining easement needed to construct the sidewalk. The City Attorney reviewed the easement favorably (Beth Saarela, April 5, 2021). Construction was awarded to Merlo Construction Company at the March 22, 2021 City Council meeting. Construction is expected to occur in May/June 2021.

RECOMMENDED ACTION: Acceptance of a sidewalk easement from International Transmission Company for construction of a sidewalk along the north side of Ten Mile Road between Dinser Drive and Woodham Road (parcel 50-22-20-376-005) in the amount of \$5,500.00.

ITC Sidewalk Easement - 10 Mile Road Parcel 22-20-376-018 Location Map



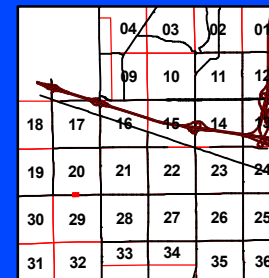
Map Author: Rebecca Runkel
Date: March 29, 2021
Project: Segment 51 Sidewalk
Version #: 1.0

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.



Easement Location



City of Novi

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



1 inch = 34 feet



PEDESTRIAN WALK EASEMENT AGREEMENT

(Sidwell No. 22-20-376-018)

On _____, 2021, pursuant to this Pedestrian Walk Easement Agreement (the "Agreement") and for good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, Grantor conveys and warrants to Grantee a six (6) foot wide permanent easement over, under, across and through a part of Grantor's Land called the Easement Area, as herein described.

"Grantor" is: International Transmission Company, d/b/a *ITCTransmission*, a Michigan corporation, whose address is 27175 Energy Way, Novi, Michigan 48377.

"Grantee" is: City of Novi, a Charter Township a Michigan municipal corporation, whose address is 45175 Ten Mile Road, Novi, Michigan 48375.

"Grantor's Land" is:

TOWN 1 NORTH, RANGE 8 EAST, SECTION 20, PART OF THE WEST 1/2 OF SAID SECTION 20, BEGINNING AT THE NORTH 1/4 CORNER; THENCE SOUTH 5274.92 FEET TO THE SOUTH 1/4 CORNER; THENCE WEST 321.19 FEET; THENCE NORTH 20 DEGREES 58 MINUTES 00 SECONDS EAST 338.73 FEET; THENCE NORTH 579.68 FEET; THENCE WEST 65 FEET; THENCE NORTH 3055.05 FEET; THENCE EAST 30 FEET; THENCE NORTH 1324.97 FEET; THENCE EAST 235 FEET TO THE POINT OF BEGINNING.

CONTAINING: 30.28 ACRES MORE OR LESS AS DESCRIBED

The **"Easement Area"** is:

PROPOSED PATHWAY EASEMENT 'A'

AN EASEMENT LOCATED IN AND BEING A PART OF THE WEST 1/2 OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING A SIX-FOOT (6') WIDE STRIP OF LAND, THE SIDELINES OF SAID STRIP BEING LOCATED THREE-FOET (3') ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 20, THENCE PROCEEDING DUE NORTH 33.01 FEET ALONG THE NORTH-SOUTH 1/4 LINE OF SAID

SECTION 20; THENCE DUE WEST 27.73 FEET ALONG THE NORTHERLY 33 FOOT RIGHT OF WAY LINE OF TEN MILE ROAD TO THE POINT OF BEGINNING; THENCE N62°39'02"W 12.49 FEET TO A POINT OF CURVATURE; THENCE 10.94 FEET ALONG THE ARC OF A CURVE TO THE LEFT; SAID CURVE HAVING A RADIUS OF 23.00 FEET, CENTRAL ANGLE OF 27°14'31", AND LONG CHORD BEARING N76°16'17"W 10.83 FEET; THENCE N89°53'33"W 154.23 FEET; THENCE N61°07'41"W 6.84 FEET; THENCE DUE WEST 12.86 FEET TO THE POINT OF ENDING.

THE SIDELINES OF THE ABOVE EASEMENT ARE TO BE EXTENDED OR SHORTENED TO COMMENCE AT THE NORTHERLY RIGHT OF WAY OF TEN MILE ROAD AND TO TERMINATE PERPENDICULAR TO THE POINT OF ENDING.
CONTAINING 1,184.18 SQUARE FEET OF LAND.

PROPOSED PATHWAY EASEMENT 'B'

AN EASEMENT LOCATED IN AND BEING A PART OF THE WEST ½ SECTION 20, TOWNSHIP 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING A SIX-FOOT (6') WIDE STRIP OF LAND, THE SIDELINES OF SAID STRIP BEING LOCATED THREE-FOET (3') ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTH ¼ CORNER OF SAID SECTION 20, THENCE PROCEEDING DUE WEST 321.19 FEET ALONG THE SOUTH LINE OF SAID SECTION 20; THENCE N20°58'00"E 44.75 FEET TO THE POINT OF BEGINNING; THENCE S89°53'33"E 12.77 FEET; THENCE N46°46'04"E 8.24 FEET; THENCE DUE EAST 12.45 FEET TO THE POINT OF ENDING.

THE SIDELINES OF THE ABOVE EASEMENT ARE TO BE EXTENDED OR SHORTENED TO COMMENCE AT THE WESTERLY PROPERTY LINE OF THE SUBJECT PARCEL AND TO TERMINATE PERPENDICULAR TO THE POINT OF ENDING.
CONTAINING 200.73 SQUARE FEET OF LAND.

Grantor's Land and the Easement Area are also described in Exhibit A, attached hereto.

1. Purpose. Subject to the terms and conditions stated herein, Grantor grants a six (6) foot wide easement to Grantee for all purposes related to the construction, operation, control and maintenance of a pedestrian path ("Sidewalk") in the Easement Area, including the rights to construct, lay, install, improve, inspect, operate, repair, alter, remove, renew or replace the Sidewalk in the Easement Area (the "Easement"). Although Grantor takes no right, title and interest in the Sidewalk, to the extent any such rights, title or interest is inferred, Grantor hereby grants and conveys to Grantee all of Grantor's right, title and interest, if any, in the Sidewalk and related facilities incidental to the Sidewalk, which may now or subsequently be, located in the Easement Area and which has been inspected and accepted by Grantee.

2. Limitations on Use of Easement. The Easement is granted solely for the purposes and uses set forth in this Agreement and as further limited below:

a. Other Easements. Grantee acknowledges that the Easement is non-exclusive and that Grantor may grant other easements over, along and across the Easement Area so long as such other easements do not interfere with Grantee's purposes and uses of the Easement. Grantee shall have no right to grant additional easements or sub-easements on, under, along or across the Easement Area.

b. Grantor's Use of Easement Area. Grantor retains and reserves the right to use and shall continue to use the Easement Area for Grantor's own business operations, which operations include, without limitation, the construction, reconstruction,

maintenance, repair, upgrade, expansion, addition, renewal, replacement, relocation, removal, use and operation of Grantor's equipment and facilities used in the transmission of electrical energy, whether now existing or hereafter to be installed, in, at, over, under, along or across the Easement Area and Grantor's Land ("Grantor's Operations"). Grantee shall not interfere with Grantor's Operations. Grantor additionally retains the right to use the Easement Area for any and all purposes that do not interfere with or prevent the use by Grantee of the Easement. Grantor reserves the right to relocate the Easement, at Grantee's expense, and the Sidewalk installed therein, provided that the relocated Easement and Sidewalk can be reasonably used for its intended purpose by Grantee. Grantor may exercise this right by giving Grantee reasonable notice and a viable alternative location for the Easement and Sidewalk.

Grantee also acknowledges that Grantor may traverse upon the Easement Area with heavy equipment in conducting Grantor's Operations. Grantor will use all reasonable efforts to refrain from crossing the Sidewalk. However, in the event that Grantor cannot find a reasonable alternative location for the use of heavy equipment, Grantee agrees to be responsible for damages the Sidewalk caused by such use, except in instances of Grantor or its agents' gross negligence or willful misconduct. Notwithstanding anything in this Easement to the contrary, Grantor does not need to obtain Grantee's consent for such uses.

- c. **Restrictions.** No trees or shrubs may be planted on the Easement Area. No above-ground structures or buildings may be located within the Easement Area. No below ground utilities may be placed in the Easement Area, with the exception of the Sidewalk and its related facilities.

3. **Construction.**

- a. **Work Plans.** Prior to Grantee performing any construction, construction-preparation, repair, replacement or maintenance activities in the Easement Area, Grantee shall provide detailed specifications, plans and drawings for such work to Grantor. Such detailed specifications, plans and drawings shall show the location of the Sidewalk in relation to Grantor's electric transmission lines, towers, structures, facilities and equipment. No work may be commenced in the Easement Area without Grantor's prior written consent.
- b. **Staking.** Grantee must stake or flag the outer boundaries of the Easement Area prior to commencement of construction or placing materials or equipment within the Easement Area.
- c. **Governmental Approvals.** Grantee shall procure and maintain at its own expense, prior to locating the Sidewalk within the Easement Area, all licenses, consents, permits, authorizations and other approvals required from any federal, state or local governmental authority in connection with the construction, use and operation of the Sidewalk and Easement Area, and Grantee shall strictly observe all laws, rules, statutes and regulations of any governmental authorities having jurisdiction over the Grantee or Grantee's operations in the Easement Area. Grantor may from time to time request reasonable evidence that all such approvals have been obtained by Grantee and are in full force and effect. In no event shall Grantee seek any governmental approvals that may materially and adversely affect in any way

Grantor's Operations within the Easement Area, including without limitation any zoning approvals, without in each instance obtaining Grantor's prior written consent.

- d. Work Standards.** The design and construction regarding the Sidewalk and all activities conducted in the Easement Area by Grantee shall be in accordance with the customary standards in the industry and geographical area where the Easement Area is located.

Additionally, Grantee, its agents, employees, contractors, subcontractors, invitees and licensees shall comply with the following requirements relating to the construction, maintenance, repair or removal of the Sidewalk:

- i. The Utility Communications System (MISS DIG), (800) 482-7171, must be contacted prior to performing any excavation in the Easement Area. ITC shall be immediately notified if any issues arise during construction with Grantor's transmission lines.
- ii. Appropriate measures shall be taken to prevent erosion during and after work activities on the Easement Area. Any backfill or disturbed earth shall be compacted to prevent settlement of the soils following work activities. Following construction, Grantor's Land shall be returned as close to its original condition as possible. No construction materials or equipment may be left in the Easement Area after construction completion.
- iii. Construction personnel and equipment shall at all times maintain a minimum twenty-five (25) foot radial distance from all electrical conductors on Grantor's Land.
- iv. No dump truck may lift its bed under any electrical conductor on Grantor's Land.
- v. All construction activities, including trenching, must maintain a minimum distance of twenty-five (25) feet (edge to edge) from any electric transmission structure foundation.
- vi. No equipment may be placed within twenty-five (25) feet of any transmission structure foundation.
- vii. No digging or trenching may occur within twenty-five (25) feet of any electric transmission structure without Grantor's prior written consent.
- viii. The grade of the Easement Area may not be permanently changed without Grantor's prior written consent, and in no event shall it be changed by more than two (2) feet, except on a temporary basis as needed to perform the maintenance, repair or reconstruction of the Sidewalk, with prior written consent of Grantor, which shall be given in Grantor's discretion.
- ix. No stockpiling of soil, spoils or other material shall occur within the Easement Area or within ITC property, except on a temporary basis as needed to perform the maintenance, repair or reconstruction of the Sidewalk, with prior written consent of Grantor, which shall be given in Grantor's

discretion.

- x. Any cranes, derricks or other overhead equipment operated on the Easement Area shall operate in accordance with the National Electric Safety Code (NESC) and Occupational Safety and Health Administration (OSHA) rules respecting the operation of such equipment.
 - xi. If not otherwise expressly stated herein and without limiting any and all other obligations stated herein, any and all work undertaken pursuant to the terms of this Easement must be conducted in compliance with OSHA and Michigan Occupational Safety and Health Administration (MIOSHA) regulations.
- e. **Fences and Drains.** Grantee shall construct and maintain appropriate temporary fencing and provisions for maintaining drainage during the period of construction so that Grantor's uses conducted on property adjoining the Easement Area can be maintained. Upon completion of construction or maintenance work, Grantee shall reinstall any fences and drains in a manner and condition equal to or better than that existing prior to construction.
- f. **No Other Uses.** The Easement Area shall be used only for the purposes set forth in this Easement. Grantee shall not store any materials, equipment or other items or construct roads or driveways on the Easement Area, except as expressly described in this Easement, without Grantor's prior written consent. There shall be no hunting, fishing, littering, loitering, lodging, camping, or similar activities by Grantee or its contractors, permittees, invitees, or guests.
- g. **As-Built Survey.** Upon completion of construction, Grantee shall provide Grantor with an as-built survey which reflects the location of the Sidewalk in the Easement Area. Grantee shall provide Grantor with a supplemental survey that reflects any subsequent corrections or changes to the Sidewalk in the Easement Area.

4. **Maintenance and Upkeep.**

- a. **Excavation or Construction Concerning Replacement or Repair.** Grantee shall be responsible for any and all maintenance and repairs to the Sidewalk from the date of this Agreement forward, including any clean up required by all appropriate regulatory authorities, unless necessitated by acts or omissions of Grantor or other easement holders. All standards and requirements applicable for initial construction activities set forth herein shall be equally applicable to any maintenance, repair or replacement activities. In the event of any maintenance, replacement or repair to the Sidewalk, all work and activity shall be contained in the Easement Area unless and until a separate temporary easement is agreed to in writing and signed by Grantor.
- b. **Maintenance Obligations; Plans; Contact Person.** Maintenance of the Easement Area shall be the sole obligation of Grantee from the date of this Agreement forward, unless such maintenance is necessitated by acts or omissions of Grantor or other easement holders; provided that Grantor may perform any maintenance or vegetation management on the Easement Area at its sole and absolute discretion, including, but not limited to, cutting, trimming, removing, destroying or otherwise controlling any and all trees, shrubs, brush or any other vegetation. Grantee shall provide Grantor with a contact person designated by Grantee, including name, address, telephone

number, fax number and email. The contact person shall have information and knowledge pertinent to the Sidewalk and Easement Area in order to address questions and concerns from Grantor. In the event the contact person is replaced or changed by Grantee, Grantor shall be given reasonable prior written notice of the change, along with the required information for the new contact person.

c. Taxes. In the event any real property taxes are imposed upon Grantor by reason of the Sidewalk and/or the Easement, Grantee shall assume, pay, and reimburse Grantor in full for the amount of such taxes or any other increased real or personal property taxes.

5. Liability. Grantee's use of the Easement Area shall be at Grantee's sole and absolute risk and expense. Grantee shall be strictly liable for all costs, damages and losses caused by or arising out of construction, maintenance, repair, replacement, removal or operation of the Sidewalk upon the Easement Area performed by Grantee or Grantee's agents, including, but not limited to, all costs incurred in protecting the Sidewalk from impacts of Grantor's electric transmission lines, including newly constructed or reconstructed transmission lines or facilities. Grantee shall be responsible for any damage to Grantor's facilities or properties resulting from the construction, operation, maintenance, repair or replacement of the Sidewalk performed by Grantee or Grantee's agents.

6. Indemnification. Grantee shall require its contractors to agree to protect, indemnify, defend and hold harmless the Grantor, its parents, subsidiaries and affiliates, and its and their respective officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, "Grantor Parties") from and against any and all losses, costs, damages, liabilities (including, without limitation, reasonable attorneys' fees) and/or injuries, whether contingent, direct, consequential, liquidated or unliquidated, that may be asserted against the Grantor and/or Grantor Parties (other than to the extent any such claims arise from the conduct of the Grantor and/or Grantor Parties), arising out of or resulting from, relating to or connected with any act or omission of the Grantee, its contractors, their officers, directors, shareholders, employees, representatives, agents, contractors, licensees, lessees, guests, invitees, successors and assigns (collectively, the "Grantee Parties") at or on the Easement Area. Each permitted assignee of the Easement, if any, agrees to indemnify and hold harmless Grantor and/or Grantor Parties in the same manner provided above. This indemnity shall apply to any claim, however caused, or regardless of the legal grounds and basis. The provisions of this paragraph shall survive the termination or abandonment of the Easement.

7. Environmental Protection.

a. Grantee shall require its contractors to covenant and agree that they will conduct their operations on the Easement Area in compliance with all applicable Environmental Laws (as hereinafter defined) and further covenants that they shall not use, bring upon, transport, store, keep or cause or allow the discharge, spill or release (or allow a threatened release) of any Hazardous Substances (as hereinafter defined) in, on, under or from the Easement Area in violation of any and all applicable Environmental Laws. Without limiting any other indemnification obligations of Grantee's contractors contained herein, Grantee hereby shall require its contractors to protect, indemnify, defend (with counsel reasonably acceptable to Grantor) and hold harmless the Grantor and/or Grantor Parties from and against any and all losses and claims (including, without limitation, (i) reasonable attorneys' fees, (ii) liability to

third parties for toxic torts and/or personal injury claims, (iii) fines, penalties and/or assessments levied, assessed or asserted by any governmental authority or court, and (iv) assessment, remediation and mitigation costs and expenses and natural resource damage claims) arising out of, resulting from or connected with any Hazardous Substances used, brought upon, transported, stored, kept, discharged, spilled or released by the Grantee's contractors in, on, under or from the Easement Area. For purposes of this Agreement, the term "Hazardous Substances" shall mean all toxic or hazardous substances, materials or waste, petroleum or petroleum products, petroleum additives or constituents or any other waste, contaminant or pollutant regulated under or for which liability may be imposed by any Environmental Law. "Environmental Law" shall mean all federal, provincial, state and local environmental laws (including common law) regulating or imposing standards of care with respect to the handling, storage, use, emitting, discharge, disposal or other release of Hazardous Substances, including, but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., the Clean Air Act, 42 U.S.C. §§7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§1251, et seq., the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 1101, et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 960 I, et seq., the Toxic Substances Control Act. 15 U.S.C. §§2601, et seq., the Oil Pollution Control Act, 33 U.S.C. §§2701, et seq., any successor statutes to the foregoing, or any other comparable local, state or federal statute, ordinance or common law pertaining to protection of human health, the environment or natural resources, including without limitation the preservation of wetlands, and all regulations pertaining thereto, as well as applicable judicial or administrative decrees, orders or decisions, authorizations or permits.

- b. Grantee shall provide Grantor with prompt written notice upon Grantee's obtaining knowledge of any potential or known release or threat of release of any Hazardous Substances in violation hereof affecting the Easement Area.
- c. This Section shall survive the expiration or other termination of the Easement.

8. Insurance.

- a. Grantee and the Grantee's contractors, at their own expense, must each maintain a general liability insurance policy that is reasonably satisfactory in form and substance to Grantor and as described herein. Grantee may satisfy the requirements of this Section 8 by participation in an established self-insurance program.
- b. Grantee shall assure that Grantee and any person acting on Grantee's behalf under this Easement carries the following insurance with one or more insurance carriers at any and all times such party or person is on or about the Easement Area or acting pursuant to this Easement, in the following amounts:
 - i. Workers Compensation and Employer's Liability with limits of \$1 million each accident, \$1 million each employee, and \$1 million disease.
 - ii. General Liability: \$2 million each occurrence, \$4 million in the aggregate
 - iii. Business Auto: \$1 million per accident
 - iv. Environmental Liability: \$1 million each occurrence

The Grantee shall provide Grantor with current Certificates of Insurance or evidence of

participation in a self-insurance program. Grantee shall provide immediate notice to Grantor if it receives any notice of cancellation or non-renewal from its insurer. The insurance policies required under this section shall be primary, shall cover the Grantor as an additional insured with regard to the Easement Area, and shall state that the insurer has waived any right of subrogation against the Grantor. Failure to comply with this Insurance section shall be basis of default and all operations and activities conducted pursuant to the Easement shall cease immediately.

9. Termination and Abandonment.

- a. Grantee's Termination.** Grantee may terminate the Easement at any time upon providing written notice of termination to Grantor. Grantee, at Grantee's expense, agrees to prepare and record the appropriate documentation of such termination with the recorder's office of the county where the Easement is located.
- b. Abandonment.** If Grantee abandons its use of the Sidewalk, it shall provide written notice to Grantor. If Grantor believes that Grantee has abandoned the Easement, it shall provide written notice thereof to Grantee by certified mail and by facsimile. Unless Grantee has responded within thirty (30) calendar days after such notice has been sent, providing evidence to counter the facts as presented by Grantor regarding abandonment, then Grantor may proceed to record an affidavit providing notice of abandonment and termination of the Easement with the recorder's office of the county where the Easement is located. Grantee hereby agrees that such notice shall constitute abandonment and termination of the Easement.
- c. Grantor's Termination.** If Grantee fails to maintain the Sidewalk and Easement Area in good condition, Grantor shall have the right to terminate this Easement, after giving Grantee notice and an opportunity to cure such deficiency as provided in this paragraph. If Grantor believes that Grantee has failed to maintain the Sidewalk or Easement Area in good condition, it shall provide written notice thereof to Grantee, said notice to be sent by certified mail and facsimile. Unless Grantee has responded within thirty (30) calendar days after such notice has been sent, providing evidence to counter the facts as presented by Grantor regarding the condition of the Sidewalk or Easement Area, then Grantor may proceed to record an affidavit providing notice of termination of the Easement with the Oakland County Register of Deeds Office. Grantee hereby agrees that such notice shall constitute termination of the Easement.
- d. Non-Use.** If the rights granted pursuant to this Easement are not used by Grantee for a consecutive period of five (5) years, then in such event, all right and interest hereby conveyed shall automatically terminate and revert in Grantor, its successors and assigns.
- e.** There shall be no refund of consideration paid to Grantor for this Easement by reason of termination, lack of development, or for any other reason

10. Default. Breach or violation by either party of any of its covenants, conditions, duties or obligations pursuant to this Agreement to be kept, observed and performed by such party which continues for more than thirty (30) days (or such longer time period as may be reasonably necessary provided such curing party continuously and diligently endeavors to cure such breach or violation) after written notice from the other party, shall constitute an event of default ("Event of Default") under this Agreement.

- 11. Remedies.** Upon the occurrence of an Event of Default, either party may exercise any one or more of the following remedies (which remedies shall survive the expiration or termination of this Agreement):
- a.** take any and all corrective actions the non-defaulting party deems necessary or appropriate to cure such default and charge the cost thereof to the defaulting party, together with (i) interest thereon at the rate of two percent (2%) over the Corporate Base Rate of Interest (as announced by Citibank, N.A. (or its successors) from time to time); or
 - b.** take any other remedy available at law or in equity to the non-defaulting party, but subject to the limitations set forth in the last sentence of this paragraph, including without limitation specific performance of such obligations hereunder. The defaulting party shall be liable for and shall reimburse the other party upon demand for all reasonable attorneys' fees and costs incurred by the non-defaulting party in enforcing the defaulting party's obligations under this Agreement, whether or not the non-defaulting party files legal proceedings in connection therewith. No delay or omission of a party to exercise any right or power arising from any default shall impair any such right or power or be construed to be a waiver of any such default or any acquiescence therein. No waiver of any breach of any of the covenants of this Agreement shall be construed, taken or held to be a waiver of any other breach, or as a waiver, acquiescence in or consent to any further or succeeding breach of the same covenant. The acceptance of payment by Grantor of any of the fees or charges set forth in this Agreement shall not constitute a waiver of any breach or violation of the terms or conditions of this Agreement.
- 12. Liens, etc.** Grantee hereby covenants and agrees that it will not cause or permit any lien (including, without limitation, any mechanic's lien) or claim for lien to be assessed against the Easement Area or any interest therein, whether such lien or claim for lien results from or arises out of any act or omission of Grantee or its employees, agents, consultants, representatives, contractors, subcontractors or materialmen, or otherwise. In the event any such lien or claim for lien is filed, Grantee will promptly pay and release, or bond over the same. In the event such lien or claim of lien is not released and removed within thirty (30) days after notice from Grantor, Grantor, at its sole option and in addition to any of its other rights and remedies, may take any and all action reasonably necessary to release and remove such lien or claim of lien, and Grantee shall promptly upon notice thereof reimburse Grantor for all reasonable sums, costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Grantor in connection with such lien or claim of lien.
- 13. Notices.** Whenever notice is required to be given pursuant to this Easement, the same shall be in writing, and either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses as follows:

If to Grantor:

International Transmission Company
27175 Energy Way

Novi, MI 48377
Attn: Real Estate Manager

If to Grantee:

City of Novi
45175 Ten Mile Road
Novi, MI 48375
Attn: _____

or at such other addresses as any party, by written notice in the manner specified above to the other party hereto, may designate from time to time. Unless otherwise specified to the contrary in this Easement, all notices shall be deemed to have been given upon receipt (or refusal of receipt) thereof.

14. Other; Miscellaneous.

- a. Title/Encumbrances.** The Easement is granted without any warranties or covenants of title and is subject to all now-existing easements, restrictions, and encumbrances affecting the Easement Area to which this Easement would be subordinate under the recording acts or other applicable laws of the State of Michigan.
- b. Successors/Assignments.** This Easement shall run with the land and shall be binding upon and inure to and be applicable to Grantor and Grantee and their respective heirs, representatives, successors and permitted assigns. Grantee shall not assign this Easement without the prior written consent of Grantor, with Grantor's consent not to be unreasonably withheld or delayed.
- c. Entire Agreement.** This Agreement, the exhibits and addenda, if any, contain the entire agreement between Grantor and Grantee regarding the subject matter hereof, and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.
- d. No Oral Change.** This Easement cannot be changed orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to waive, change, modify or discharge it in whole or in part unless the same is in writing and is signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.
- e. Governing Law, Venue.** The terms and provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Michigan. With respect to any suit, action or proceeding relating to this Agreement (each a "Proceeding"), the parties hereto each irrevocably: (a) agree that any such Proceeding shall be commenced, brought, tried, litigated and consummated in the courts of the State of Michigan located in the County of Oakland or, as applicable, the United States District Court for the Eastern District of Michigan, (b) submit to the exclusive jurisdiction of the courts of the State of Michigan located in the County of Oakland and the United States District Court for the Eastern District of Michigan, and (c) waive any objection which they may have at any time to the laying of venue of any Proceeding brought in any such court, waive any claim that any Proceeding brought in any such court has been brought in an inconvenient forum, and further

waive the right to object, with respect to such Proceeding, that any such court does not have jurisdiction over such party.

- f. Severability.** In the event that any governmental or regulatory body or any court of competent jurisdiction determines that any covenant, term or condition of this Agreement as applied to any particular facts or circumstances is wholly or partially invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect such covenant, term or condition as applied to other facts or circumstances (unless the effect of such determination precludes the application of such covenant, term or condition to other facts or circumstances) or the validity, legality or enforceability of the other covenants, terms and conditions of this Agreement. In the event any provision of this Agreement is held to be invalid, illegal or unenforceable, the parties shall promptly and in good faith negotiate new provisions in substitution therefor to restore this Agreement to its original intent and effect.
- g. Counterparts.** This Agreement may be executed by the parties in counterparts. Each such counterpart shall be deemed an original and all such counterparts, taken together, shall constitute one and the same Agreement.
- h. No Third Party Beneficiaries.** Grantor and Grantee agree and acknowledge that, except as expressly set forth herein, there are no intended third party beneficiaries of the Easement or any of the rights and privileges conferred herein.
- i. Due Authorization.** The undersigned warrants that he or she is duly authorized and empowered to execute this Easement on behalf of the Grantor, and that the Grantor has taken all necessary action to approve the grant of this Easement to Grantee.

This easement is exempt from real estate transfer tax pursuant to MCLA 207.505(f) and from State real estate transfer tax pursuant to the provisions of MCLA 207.526(f).

[SIGNATURES ON NEXT PAGE]

GRANTOR:

INTERNATIONAL TRANSMISSION
COMPANY, a Michigan corporation
d/b/a *ITCTransmission*

By: _____
Jean Kim D'Anna
Its: Vice President

Acknowledged before me in Oakland County, Michigan, this ____ day of _____, 2021, by Jean Kim D'Anna, Vice President of International Transmission Company, d/b/a *ITCTransmission*, a Michigan corporation.

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

**GRANTEE:
CITY OF NOVI**

By: _____
Its:

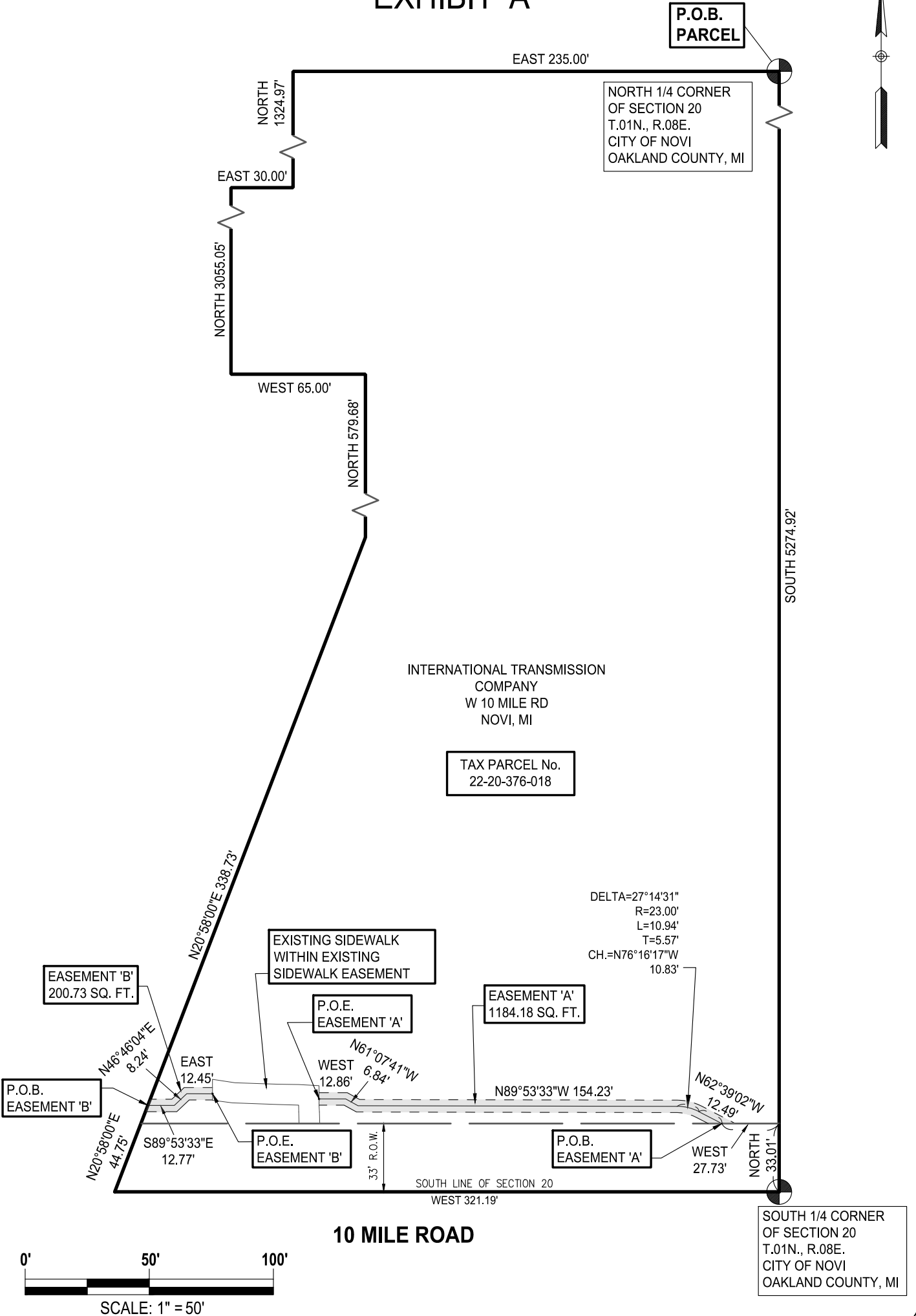
Acknowledged before me in _____ County, Michigan, on this ____ day of _____, 2021, by _____, the _____ of City of Novi, a Michigan municipal corporation, for the City.

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

Prepared by:
Matthew S Hetzner (P60335)
ITC Holdings Corp.
27175 Energy Way
Novi, Michigan 48377

When recorded, return to:
Real Estate Manager
ITC Holdings Corp.
27175 Energy Way
Novi, Michigan 48377

SIDEWALK EASEMENT EXHIBIT 'A'



EASEMENT 'B'
200.73 SQ. FT.

EXISTING SIDEWALK
WITHIN EXISTING
SIDEWALK EASEMENT

P.O.E.
EASEMENT 'A'

EASEMENT 'A'
1184.18 SQ. FT.

P.O.B.
EASEMENT 'B'

P.O.E.
EASEMENT 'B'

P.O.B.
EASEMENT 'A'

SOUTH 1/4 CORNER
OF SECTION 20
T.01N., R.08E.
CITY OF NOVI
OAKLAND COUNTY, MI

Plotted: Mar 5, 2021, 1:17 PM by user: 918 - Saved: 3/5/2021 by user: 918
J:\NV\Design\NV19006-Ten Mile Sidewalk\DWG\NV19006EASE.dwg



905 South Blvd. East Phone: (248) 844-5400
Rochester Hills, MI 48307 Fax: (248) 844-5440
www.sda-eng.com

DRAWN: L.THORNTON	DATE: 03-05-21
CHECKED: K.SIROIS	DATE: 03-05-21
MANAGER: M.DEDECKER	SCALE: 1" = 60'
JOB No. NV19006	SHEET: 1 OF 2
SECTION 20 TOWN 01 NORTH RANGE 08 EAST	
CITY OF NOVI	OAKLAND COUNTY, MI

SIDEWALK EASEMENT EXHIBIT 'B'

LEGAL DESCRIPTION

TAX PARCEL ID NO. 22-20-376-018
SOURCE: ATA TITLE FILE NO: 63-19679661-SSP

A PARCEL OF LAND DESCRIBED AS FOLLOWS: CITY OF NOVI, COUNTY OF OAKLAND, STATE OF MICHIGAN TOWN 1 NORTH, RANGE 8 EAST, SECTION 20, PART OF THE WEST 1/2 OF SAID SECTION 20, BEGINNING AT THE NORTH 1/4 CORNER; THENCE SOUTH 5274.92 FEET TO THE SOUTH 1/4 CORNER; THENCE WEST 321.19 FEET; THENCE NORTH 20 DEGREES 58 MINUTES 00 SECONDS EAST 338.73 FEET; THENCE NORTH 579.68 FEET; THENCE WEST 65 FEET; THENCE NORTH 3055.05 FEET; THENCE EAST 30 FEET; THENCE NORTH 1324.97 FEET; THENCE EAST 235 FEET TO THE POINT OF BEGINNING.

PROPOSED PATHWAY EASEMENT 'A'

AN EASEMENT LOCATED IN AND BEING A PART OF THE WEST 1/2 OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING A SIX-FOOT (6') WIDE STRIP OF LAND, THE SIDELINES OF SAID STRIP BEING LOCATED THREE-FEET (3') ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 20, THENCE PROCEEDING DUE NORTH 33.01 FEET ALONG THE NORTH-SOUTH 1/4 LINE OF SAID SECTION 20; THENCE DUE WEST 27.73 FEET ALONG THE NORTHERLY 33 FOOT RIGHT OF WAY LINE OF TEN MILE ROAD TO THE POINT OF BEGINNING; THENCE N62°39'02"W 12.49 FEET TO A POINT OF CURVATURE; THENCE 10.94 FEET ALONG THE ARC OF A CURVE TO THE LEFT; SAID CURVE HAVING A RADIUS OF 23.00 FEET, CENTRAL ANGLE OF 27°14'31", AND LONG CHORD BEARING N76°16'17"W 10.83 FEET; THENCE N89°53'33"W 154.23 FEET; THENCE N61°07'41"W 6.84 FEET; THENCE DUE WEST 12.86 FEET TO THE POINT OF ENDING.

THE SIDELINES OF THE ABOVE EASEMENT ARE TO BE EXTENDED OF SHORTENED TO COMMENCE AT THE NORTHERLY RIGHT OF WAY OF TEN MILE ROAD AND TO TERMINATE PERPENDICULAR TO THE POINT OF ENDING.

CONTAINING 1,184.18 SQUARE FEET OF LAND.

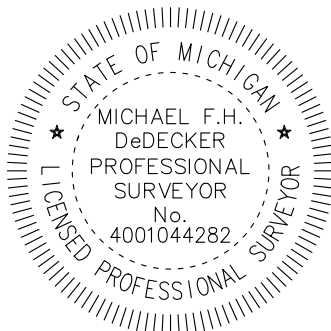
PROPOSED PATHWAY EASEMENT 'B'

AN EASEMENT LOCATED IN AND BEING A PART OF THE WEST 1/2 OF SECTION 20, TOWNSHIP 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, BEING A SIX-FOOT (6') WIDE STRIP OF LAND, THE SIDELINES OF SAID STRIP BEING LOCATED THREE-FEET (3') ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 20, THENCE PROCEEDING DUE WEST 321.19 FEET ALONG THE SOUTH LINE OF SAID SECTION 20; THENCE N20°58'00"E 44.75 FEET TO THE POINT OF BEGINNING; THENCE S89°53'33"E 12.77 FEET; THENCE N46°46'04"E 8.24 FEET; THENCE DUE EAST 12.45 FEET TO THE POINT OF ENDING.

THE SIDELINES OF THE ABOVE EASEMENT ARE TO BE EXTENDED OF SHORTENED TO COMMENCE AT THE WESTERLY PROPERTY LINE OF THE SUBJECT PARCEL AND TO TERMINATE PERPENDICULAR TO THE POINT OF ENDING.

CONTAINING 200.73 SQUARE FEET OF LAND.



Michael F. H. DeDecker



905 South Blvd. East
Rochester Hills, MI 48307

Phone: (248) 844-5400
Fax: (248) 844-5440

www.sda-eng.com

DRAWN: L.THORNTON	DATE: 03-05-21
CHECKED: K.SIROIS	DATE: 03-05-21
MANAGER: M.DEDECKER	SCALE: NTS
JOB No. NV19006	SHEET: 2 OF 2
SECTION 20 TOWN 01 NORTH RANGE 08 EAST	
CITY OF NOVI	OAKLAND COUNTY, MI