



**CITY of NOVI CITY COUNCIL**

**Agenda Item G  
December 19, 2016**

**SUBJECT:** Acceptance of Wetland Preservation Easement from Novi Promenade Holdings, LLC for wetland preservation areas as part of the Novi Promenade project site, JSP 14-30, located south of Grand River Avenue and east of Wixom Road in Section 17 of the City.

**SUBMITTING DEPARTMENT:** Community Development Department - Planning *Burke*

**CITY MANAGER APPROVAL:** *[Signature]*

**BACKGROUND INFORMATION:**

The applicant has received Site Plan approval to relocate the existing detention pond and construct two acres of wetland mitigation for the Grand Promenade project (JSP14-15) on the subject property. The subject property is located east of the existing Target store and parking lot. The Preliminary Site Plan, Wetland Permit and Stormwater Management Plan were approved by the Planning Commission on October 22, 2014.

The applicant is providing the conservation easement on vacant land that is located outside of the existing wetland and woodland conservation area. The existing conservation on the subject property is 13.80 acres. The proposed additional preservation area is 2.25 acres. The easement protects existing wetlands on site and is graphically depicted in Exhibit B.

On September 14, 2015, the City Council approved an amendment to the Development Site Plan (Exhibit B) previously approved in connection with the Novi Equities Limited Partnership v. City of Novi Consent Judgment, at the request of Novi Promenade Holdings, LLC, relating to the subject property, to allow the applicant to relocate the existing detention pond and construct two acres of wetland mitigation for the Grand Promenade project.

The easement is in the form acceptable to the City Attorney's Office and has been reviewed for accuracy by the City's staff and engineering consultants.

**RECOMMENDED ACTION:** Acceptance of Wetland Preservation Easement from Novi Promenade Holdings, LLC for wetland preservation areas as part of the Novi Promenade project site, JSP 14-30, located south of Grand River Avenue and east of Wixom Road in Section 17 of the City.

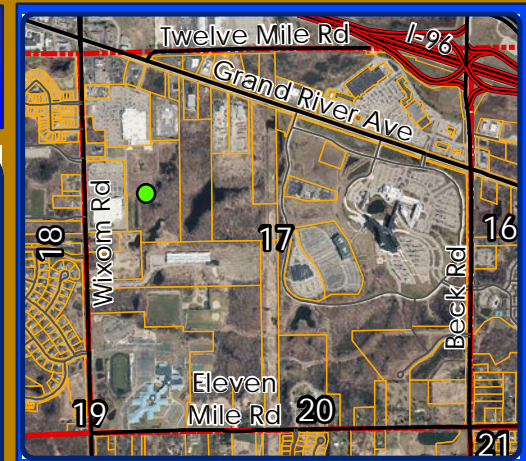
	1	2	Y	N
Mayor Gatt				
Mayor Pro Tem Staudt				
Council Member Burke				
Council Member Casey				

	1	2	Y	N
Council Member Markham				
Council Member Mutch				
Council Member Wrobel				

LOCATION MAP



# 14-30 Novi Promenade Conservation Easements



### LEGEND

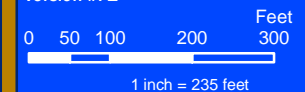
- Wetland Easements
- Woodlands Easements
- Wetlands & Woodlands Easements
- Unclassified Easements
- Sections
- Subject Property



## City of Novi

Dept. of Community Development  
City Hall / Civic Center  
45175 W Ten Mile Rd  
Novi, MI 48375  
cityofnovi.org

Map Author: Sri Komaragiri  
Date: 12/2/16  
Project: 16-70 Lakeshore Park Picnic Shelter  
Version #: 1



### 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.

WETLAND EASEMENT

## **WETLAND CONSERVATION EASEMENT**

THIS CONSERVATION EASEMENT made this 1<sup>ST</sup> day of December, 2014 by and between Novi Promenade Holdings, LLC, whose address is 13957 Plumbrook, Sterling Heights, Michigan 48312 (hereinafter the "Grantor"), and the City of Novi, and its successors or assigns, whose address is 45175 Ten Mile Road, Novi, Michigan 48375 (hereinafter the "Grantee").

### **RECITATIONS:**

A. Grantor owns a certain parcel of land situated in Section 17 of the City of Novi, Oakland County, Michigan, described in Exhibit A, attached hereto and made a part hereof (the "Property"). Grantor has received final site plan approval for construction of a shopping center development on the Property, subject to provision of an appropriate easement to permanently protect the wetland areas and wetland mitigation areas located thereon from destruction or disturbance. Grantor desires to grant such an easement in order to protect the area.

B. The Conservation Easement Areas (the "Easement Areas") situated on the Property are more particularly described on Exhibit B, attached hereto and made a part hereof, the second page of which contains a drawing depicting the protected area.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00), in hand paid, the receipt and adequacy of which are hereby acknowledged, Grantor hereby reserves, conveys and grants the following Conservation Easement, which shall be binding upon the Grantor, and the City, and their respective heirs, successors, assigns and/or transferees and shall be for the benefit of the City, all Grantors and purchasers of the property and their respective heirs, successors, assigns and/or transferees. This Conservation Easement is dedicated pursuant to subpart 11 of part 21 of the Natural Resources and Environmental Protection Act being MCL 324.2140, *et seq.*, upon the terms and conditions set forth herein as follows:

1. The purpose of this Conservation Easement is to protect the wetlands and wetland mitigation areas as shown on the attached and incorporated Exhibit B. The subject areas shall be perpetually preserved and maintained, in their natural and undeveloped condition, unless authorized by permit from the City, and, if applicable, the Michigan Department of Environmental Quality and the appropriate federal agency.



2. Except for and subject to the activities which have been expressly authorized by permit, there shall be no disturbance of the wetlands or wetland mitigation areas within the Easement Area, including altering the topography of; placing fill material in; dredging, removing or excavating soil, minerals, or trees, and from constructing or placing any structures on; draining surface water from; or plowing, tilling, cultivating, or otherwise altering or developing, and/or constructing, operating, maintaining any use or development in the Easement Area.

3. No grass or other vegetation shall be planted in the Easement Areas after the date of this Conservation Easement with the exception of plantings approved, in advance, by the City in accordance with all applicable laws and ordinances.

4. This Conservation Easement does not grant or convey to Grantee, or any member of the general public, any right of ownership, possession or use of the Easement Area, except that, upon reasonable written notice to Grantor, Grantee and its authorized employees and agents (collectively, "Grantee's Representatives") may enter upon and inspect the Easement Area to determine whether the Easement Area is being maintained in compliance with the terms of the Conservation Easement.

5. In the event that the Grantor shall at any time fail to carry out the responsibilities specified within this Document, and/or in the event of a failure to preserve and/or maintain the wetland and/or mitigation areas in reasonable order and condition, the City may serve written notice upon the Grantor setting forth the deficiencies in maintenance and/or preservation. Notice shall also set forth a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place of the hearing before the City Council, or such other Council, body or official delegated by the City Council, for the purpose of allowing the Grantor to be heard as to why the City should not proceed with the maintenance and/or preservation which has not been undertaken. At the hearing, the time for curing the deficiencies and the hearing itself may be extended and/or continued to a date certain. If, following the hearing, the City Council, or other body or official, designated to conduct the hearing, shall determine that maintenance and/or preservation have not been undertaken within the time specified in the notice, the City shall thereupon have the power and authority, but not obligation to enter upon the property, or cause its agents or contractors to enter upon the property and perform such maintenance and/or preservation as reasonably found by the City to be appropriate. The cost and expense of making and financing such maintenance and/or preservation including the cost of notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in the amount of 25% of the total of all costs and expenses incurred, shall be paid by the Grantor, and such amount shall constitute a lien on an equal pro rata basis as to all of the lots on the property. The City may require the payment of such monies prior to the commencement of work. If such costs and expenses have not been paid within 30 days of a billing to the Grantor, all unpaid amounts may be placed on the delinquent tax roll of the City, pro rata, as to each lot, and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Grantor, and, in such event, the Grantor shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

6. Within 90 days after the Conservation Easement shall have been recorded, Grantor at its sole expense, shall place such signs, defining the boundaries of the Easement Area and, describing its protected purpose, as indicated herein.

7. This Conservation Easement has been made and given for a consideration of a value less than One Hundred (\$ 100.00) Dollars, and, accordingly, is (i) exempt from the State Transfer Tax, pursuant to MSA 7.456(26)(2) and (ii) exempt from the County Transfer Tax, pursuant to MSA 7.456(5)(a).

8. Grantor shall state, acknowledge and/or disclose the existence of this Conservation Easement as of the day and year first above set forth.

GRANTOR

NOVI PROMENADE HOLDINGS, LLC, a Michigan limited liability company

By: [Signature]

Its: MANAGING MEMBER

STATE OF Michigan )  
COUNTY OF Oakland ) ss.

The foregoing instrument was acknowledged before me this 1st day of December, 2016, by GEORGE A. PASCALIS as the OWNER of Novi Promenade a Michigan limited liability company, on its behalf.

[Signature]  
Notary Public  
Acting in Oakland County  
My Commission Expires: 3/17/2018

JANE L. KELLER  
NOTARY PUBLIC, STATE OF MI.  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES 3/17/2018  
ACTING IN COUNTY OF Oakland

GRANTEE

CITY OF NOVI  
A Municipal Corporation

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

Its:

STATE OF MICHIGAN     )  
                                  ) ss.  
COUNTY OF OAKLAND    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, on behalf of the City of Novi, a Municipal Corporation.

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

Drafted By:  
Elizabeth K. Saarela, Esquire  
Johnson, Rosati, Schultz & Joppich, P.C.  
27555 Executive Drive, Suite 250  
Farmington Hills, Michigan 48331

After Recording, Return to:  
Cortney Hanson, Clerk  
City of Novi  
45175 Ten Mile Road  
Novi, Michigan 48375



## EXHIBIT 'A'

### PARCEL DESCRIPTION

Tax ID# 22-17-101-032

That part of the Northwest 1/4 of Section 17, T1N, R8E, City of Novi, Oakland County, Michigan, described as: Commencing at the Northwest corner of said Section 17; thence South 00 degrees 19 minutes 49 seconds East 1440.12 feet along the West line of said section to the Point of Beginning; thence South 90 degrees 00 minutes 00 seconds East 305.38 feet; thence North 00 degrees 00 minutes 00 seconds West 127.09 feet; thence South 90 degrees 00 minutes 00 seconds East 277.34 feet; thence Northeasterly 26.57 feet along a 15.05 feet radius curve concave to the right whose chord bears North 39 degrees 16 minutes 37 seconds East 23.25 feet; thence South 90 degrees 00 minutes 00 seconds East 348.95 feet; thence North 00 degrees 00 minutes 00 seconds East 59.51 feet; thence South 89 degrees 23 minutes 02 seconds East 399.93 feet; thence South 00 degrees 36 minutes 58 seconds West 1409.63 feet to the East-West 1/4 line of said Section; thence North 89 degrees 34 minutes 38 seconds West 554.26 feet along the East-West 1/4 of said section; thence North 00 degrees 19 minutes 49 seconds West 156.00 feet; thence North 89 degrees 34 minutes 38 seconds West 180.07 feet; thence North 00 degree 00 minutes 04 seconds West 515.53 feet; thence South 90 degrees 00 minutes 00 seconds West 27.76 feet; thence North 00 degrees 00 minutes 07 seconds West 481.77 feet; thence North 90 degrees 00 minutes 00 seconds West 567.85 feet; thence North 00 degrees 19 minutes 49 seconds West 50.54 feet to the Point of Beginning. Containing 24.76 acres more or less subject to rights-of-way, agreements, restrictions, leases, reservations, and easements of record, if any.

**CONSERVATION EASEMENT**  
 Being a part of the N.W. 1/4 of  
 Section 17, Town 1 North, Range 8 East,  
 City of Novi, Oakland County, Michigan

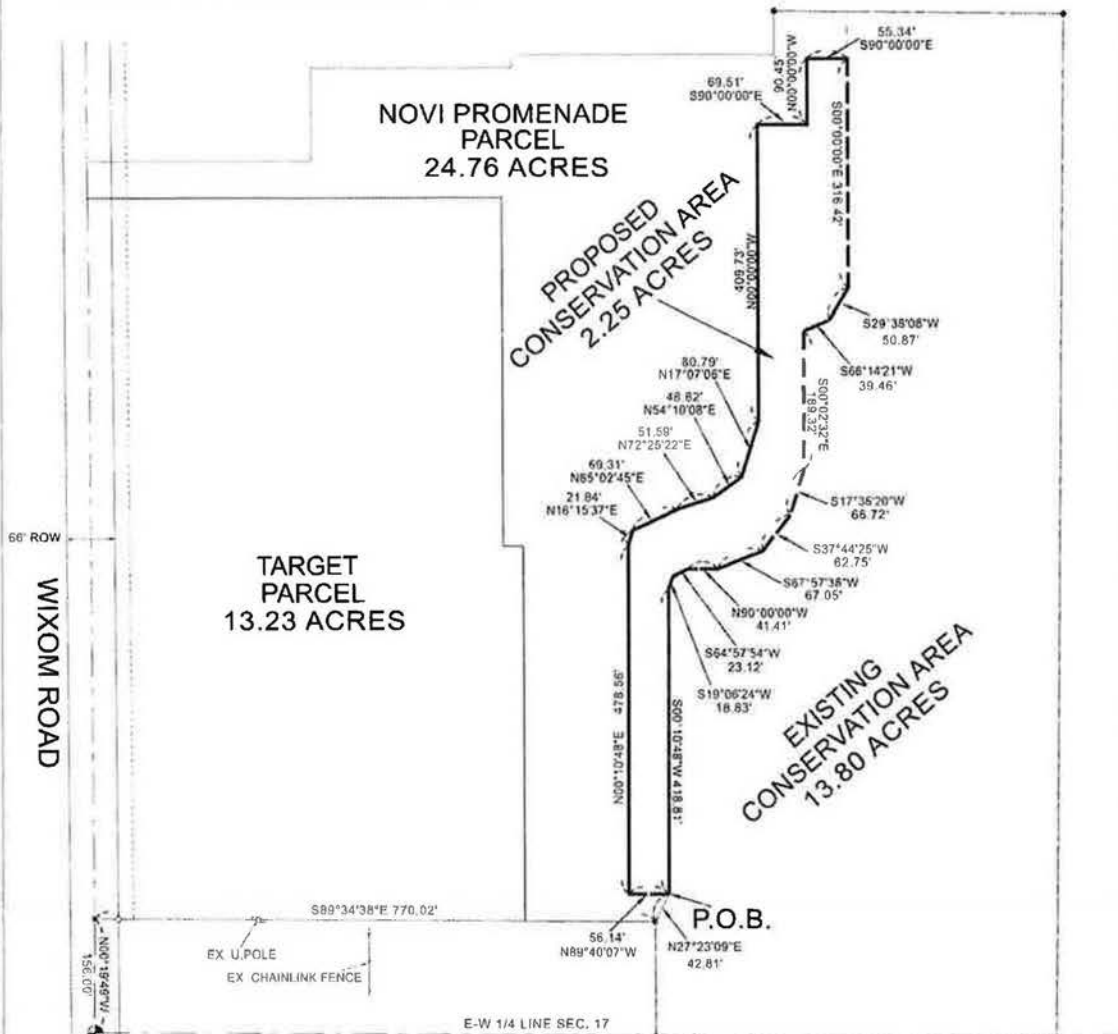
**EXHIBIT 'B'**



That part of the Northwest 1/4 of Section 17, T.1N., R.8E., City of Novi, Oakland County, Michigan described as:

Scale: 1" = 200'

Commencing at the West 1/4 corner of said Section; thence North 00 degrees 19 minutes 49 seconds West 156.00 feet on the West line of said Section; thence South 89 degrees 34 minutes 38 seconds East 770.02 feet; thence North 27 degrees 23 minutes 09 seconds East 42.81 feet to the Point of Beginning; thence North 89 degrees 40 minutes 07 seconds West 56.14 feet; thence North 00 degrees 10 minutes 48 seconds East 478.56 feet; thence North 16 degrees 15 minutes 37 seconds East 21.84 feet; thence North 65 degrees 02 minutes 45 seconds East 69.31 feet; thence North 72 degrees 25 minutes 22 seconds East 51.59 feet; thence North 54 degrees 10 minutes 08 seconds East 48.82 feet; thence North 17 degrees 07 minutes 06 seconds East 80.79 feet; thence North 00 degrees 00 minutes 00 seconds West 409.73 feet; thence South 90 degrees 00 minutes 00 seconds East 69.51 feet; thence North 00 degrees 00 minutes 00 seconds West 90.45 feet; thence South 90 degrees 00 minutes 00 seconds East 55.34 feet; thence South 00 degrees 00 minutes 00 seconds East 316.42 feet; thence South 29 degrees 38 minutes 08 seconds West 50.87 feet; thence South 66 degrees 14 minutes 21 seconds West 39.46 feet; thence South 00 degrees 02 minutes 32 seconds East 189.32 feet; thence South 17 degrees 36 minutes 20 seconds West 66.72 feet; thence South 37 degrees 44 minutes 25 seconds West 62.75 feet; thence South 67 degrees 57 minutes 38 seconds West 67.05 feet; thence North 90 degrees 00 minutes 00 seconds West 41.41 feet; thence South 64 degrees 57 minutes 54 seconds West 23.12 feet; thence South 19 degrees 06 minutes 24 seconds West 18.83 feet; thence South 00 degrees 10 minutes 48 seconds West 418.81 feet to the Point of Beginning, containing 2.25 acres, more or less.



W 1/4 COR. SEC. 17  
 TOWN 1N, RANGE 8E.,  
 CITY OF NOVI, COUNTY  
 OF OAKLAND, MICHIGAN  
 FND. REMON BRASS CAP ON 1/2" ROD  
 N33°E 79.78' P.K./REMON TAG NW, SIDE 7" MAPLE TREE  
 N56°E 56.96' P.K./REMON TAG NW, SIDE 18" PINE  
 N61°W 73.07' P.K./REMON TAG N, SIDE 12" PINE  
 N81°W 76.25' P.K./REMON TAG SW, SIDE 7" ELM  
 AS RECORDED IN L.16850, P.410 OF OAKLAND COUNTY RECORDS

**ATTORNEY LETTER**



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331  
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela  
esaarela@jrsjlaw.com

www.jrsjlaw.com

December 2, 2016

Barb McBeth, City Planner  
City of Novi  
45175 Ten Mile Road  
Novi, MI 48375-3024

**RE: Novi Promenade Storm Water Management/  
Wetland Mitigation Plans JSP 14-30  
Wetland Conservation Easement**

Dear Ms. McBeth:

We have received and reviewed the final executed Wetland Conservation Easement for the wetlands and wetland mitigation areas created in connection with the Novi Promenade Storm Water Management and Wetland Mitigation Plan. The Wetland Conservation Easement is in order and the exhibits have been reviewed and approved by the City's Consulting Engineer for consistency with the approved plan.

The enclosed Wetland Conservation Easement may be placed on an upcoming City Council Agenda for approval and acceptance.

Should you have any questions or concerns relating to the issues set forth above, please feel free to contact me in that regard.

Sincerely,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.

Elizabeth K. Saarela

EKS  
Enclosures

C: Cortney Hanson, Clerk (w/Original Enclosures)  
Charles Boulard, Community Development Director (w/Enclosures)  
Sri Komaragiri, Planner (w/Enclosures)  
Kirsten Mellem, Planner (w/Enclosures)



Barb McBeth, City Planner

December 2, 2016

Page 2

Adrian Jordan, Planner (w/Enclosures)

Angie Pawlowski, Community Development Bond Coordinator (w/Enclosures)

Aaron Staup, Construction Engineering Coordinator (w/Enclosures)

Theresa Bridges, Construction Engineer (w/Enclosures)

Sarah Marchioni, Community Development Building Project Coordinator (w/Enclosures)

Brittany Allen and Ted Meadows, Spalding DeDecker (w/Enclosures)

Sue Troutman, City Clerk's Office (w/Enclosures)

George Pascaris, Novi Promenade Land Holdings, LLC (w/Enclosures)

Thomas R. Schultz, Esquire (w/Enclosures)

November 28, 2016

George Pascaris  
Novi Promenade Holdings, LLC  
29144 Eastman Trail  
Novi, Michigan 48377

Re: Novi Promenade - Document Review  
Novi # JSP14-0030  
SDA Job No. NV15-237  
**EXHIBITS APPROVED**

Dear Mr. Pascaris:

We have reviewed the following document package received by our office on November 22, 2016 against the submitted plan set. We offer the following comments:

**Submitted Documents:**

1. **Conservation Easement** – (unexecuted: exhibit dated 11-09-16) 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**



Brittany Allen, EIT  
Engineer

Cc (via Email): George Melistas, City Engineering Senior Manager  
Cortney Hanson, City Clerk  
Beth Saarela, Johnson Rosati, Schultz, Joppich PC  
Sarah Marchioni, City Building Project Coordinator  
Ted Meadows, Spalding DeDecker  
Taylor Reynolds, Spalding DeDecker  
Theresa Bridges, City Construction Engineer  
Darcy Rechtien, City Engineering Technician  
Sri Komaragiri, City Planner  
Angie Pawlowski, City Community Development Bond Coordinator