



CITY of NOVI CITY COUNCIL

**Agenda Item E
December 19, 2016**

SUBJECT: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Grand Promenade LLC for the Grand Promenade Commercial Center located south of Grand River Avenue east of Wixom Road (parcel 22-17-101-026).

SUBMITTING DEPARTMENT: Department of Public Services, Engineering Division *GDM*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The developer for Grand Promenade LLC requests approval of the Storm Drainage Facility Maintenance Easement Agreement for the commercial development south of Grand River Avenue and east of Wixom Road, as shown on the attached map.

The Storm Drainage Facility Maintenance Easement Agreement is a requirement of the Storm Water Management Ordinance and details the responsibilities of the property owner to properly maintain their privately owned on-site storm water system. The agreement also contains a provision that permits the City to perform maintenance on the privately owned on-site storm water system should the property owner fail to do so at the expense of the property owner.

In this particular case, the property owner owns and agrees to maintain the underground storm water detention basin and pretreatment structure and is providing an access easement to these facilities. The owner is also responsible for maintaining the pipes and manholes leading to and from the on-site storm water detention system.

The enclosed agreement has been favorably reviewed by the City Engineering consultant and the City Attorney, as described in the attached letter from Beth Saarela dated December 2, 2016, and is recommended for approval.

RECOMMENDED ACTION: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Grand Promenade LLC for the Grand Promenade Commercial Center located south of Grand River Avenue east of Wixom Road (parcel 22-17-101-026).

	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				

Grand Promenade Storm Drainage Facility Maintenance Easement Agreement Location Map

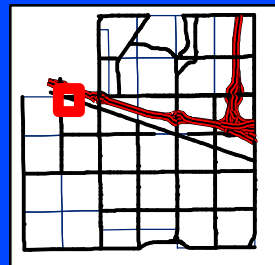


Map Author: D. Rehtien
Date: 11/28/2016
Project:
Version #:

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 Services
26300 Lee BeGole Drive
Novi, MI 48375
cityofnovi.org



1 inch = 372 feet





JOHNSON ROSATI SCHULTZ JOPPICH PC

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Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.jrsjlawi.com

December 2, 2016

George D. Melistas, Engineering Senior Manager
CITY OF NOVI
Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

**Re: Grand Promenade Commercial Center JSP14-15
Storm Drainage Facility Maintenance Easement Agreement**

Dear Mr. Melistas:

We have received and reviewed, and enclosed please find the Storm Drainage Facility Maintenance Easement Agreement for storm water drainage and detention facilities serving the Grand Promenade Commercial Center Development. The Storm Drainage Facility Maintenance Easement Agreement is in the City's standard format and is acceptable as provided. The City's Consulting Engineer has reviewed and approved the attached Exhibits. Please note we have marked changes to the reference to exhibits within the Agreement in black for consistency with the Exhibits. The Agreement appears to be in order and may be placed on an upcoming City Council Agenda for approval. Once approved and executed by the City, the Agreement should be recorded with Oakland County Records by the City Clerk's Office.

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

Very truly yours,

ELIZABETH K. SAARELA

EKS

Enclosures

C: Cortney Hanson, Clerk (w/Original Enclosure)

George D. Melistas, Engineering Senior Manager
December 2, 2016
Page 2

Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, City Planner (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Theresa Bridges, Construction Engineer (w/Enclosures)
Brittany Allen, Taylor Reynolds and Ted Meadows, Spalding DeDecker (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Angie Pawlowski, Community Development Bond Coordinator (w/Enclosures)
George Pascaris, Grand Promenade, LLC (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 9th day of November, 2016, by and between Grand Promenade LLC, a Michigan limited liability corporation, whose address is 29144 Eastman Trail, Novi, MI 48377 (hereinafter the "Owner"), and the City of Novi, and its successors or assigns, whose address is 45175 Ten Mile Road, Novi, Michigan 48375 (hereinafter the "City").

- A. Owner is the owner and developer of a certain parcel of land situated in Section 17 of the City of Novi, Oakland County, Michigan, described on the attached and incorporated **Exhibit A** (the "Property"). Owner has received final site plan approval for construction of a residential condominium development on the Property.

- B. The Grand Promenade retail development, shall contain certain storm drainage, detention and/or retention facilities, including but not limited to, a detention/sedimentation basin, for the collection, conveyance, storage, treatment and/or discharge of storm water from the Property in accordance with all approved plans, and all applicable ordinances, laws and regulations.

NOW, THEREFORE, the Owner hereby covenants and agrees that the Owner shall, at its own expense, perpetually preserve, maintain, and repair all storm drainage, detention and retention facilities, including all wetlands which are part of the system, to insure that the same continue to function as intended. The Owner shall establish a regular and systematic program of maintenance (the "Schedule of Maintenance") for such facilities and areas to insure that the physical condition and intended function of such areas and facilities shall be preserved and maintained. The Schedule of Maintenance and the annual estimated costs for maintenance and repairs for the first three (3) years are described in the attached **Exhibit D**.

In the event that the Owner shall at any time fail to carry out the responsibilities specified within this agreement, and/or in the event of a failure to preserve and/or maintain the storm water drainage, detention and retention facilities in reasonable order and condition, the City may serve written notice upon the Owner setting forth the deficiencies in maintenance and/or preservation along with a demand that the deficiencies be cured within a stated reasonable time period, and the

date, time and place for a hearing before the City for the purpose of allowing Owner an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken or properly fulfilled. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following such hearing, the person conducting the hearing shall determine that the obligation has not been fulfilled or failure corrected within the time specified in the notice, as determined by the City in its reasonable discretion, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter the Property through the Ingress/Egress Easement Area as described and depicted in **Exhibit B** and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate or necessary with respect to the detention/sedimentation basin within the Detention/Sedimentation Basin Easement Area described and depicted in **Exhibit C**, for the purposes described above. The cost and expense of making and financing such actions by the City, including notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in an amount equivalent to twenty-five (25%) percent of the total of all such costs and expenses incurred, shall be paid by Owner within thirty (30) days of a billing to the Owner. All unpaid amounts may be placed on the delinquent tax roll of the City as to the Property, and shall accrue interest and penalties, and shall be collected as, and 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 Owner, and, in such event, the Owner shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

The Owner, its agents, representatives, successors, and assigns shall defend, indemnify, and hold harmless the City and the City's, elected officials, agents and employees, from any and all costs, claims, suits, actions, losses, damages, or demands, including court costs and attorneys' fees, relating in any way to or arising out of the design, construction, use, inspection, maintenance, repair, or operation (or omissions in such regard) of the storm drainage system which is the subject of this Agreement.

The parties hereto make this Agreement on behalf of themselves, their heirs, successors, assigns and transferees, and hereby warrant that they have the authority and capacity to execute this Agreement and bind the property as described in the terms and conditions of this agreement.

Invalidation of any of these covenants or conditions by Judgment or Court Order shall in no way affect the validity of any other provision which shall remain in full force and effect.

This agreement shall run with the land and be binding upon all owners, their agents, heirs, successors, assigns and transferees.

IN WITNESS WHEREOF, Owner has executed this Agreement as of the day and year first above set forth.

OWNER
Grand Promenade LLC a Michigan Domestic
Limited Liability Company



By: George Pascaris
Its: Managing Member

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 9th day of November, 2016, by George Pascaris, as the managing member of Grand Promenade LLC



Notary Public
Acting in Oakland County, Michigan
My Commission Expires: October 2017

ANGELA PAWLOWSKI
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND
MY COMMISSION EXPIRES Oct 8, 2017
ACTING IN COUNTY OF Oakland

CITY OF NOVI
A Municipal Corporation

By:
Its:

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on this ____ day of _____ 201____, by _____, on behalf of the City of Novi, a Municipal Corporation.

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

Drafted by:
Elizabeth Kudla Saarela
Johnson, Rosati, Schultz & Joppich, P.C.
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331

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

EXHIBIT A
THE PROPERTY

Legal Description TAX ID# 22-17-101-026

A part of the Northwest 1/4 of Section 17, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; more particularly described as beginning at the Northwest corner of said section 17; thence North 00°31'45" East, 141.72 feet, along the West line of Section 8, (Town 1 North, Range 8 East, City of Wixom, Oakland County, Michigan) and the centerline of Wixom Road, to the Southerly right-of-way of Grand River Avenue (100 feet wide); thence South 70°10'14" East, 818.57 feet, along the Southerly right-of-way of said Grand River Avenue, to the point of beginning; thence continuing South 70°10'14" East 430.19 feet, along the Southerly right-of-way of said Grand River Avenue; thence South 00°36'58" West, 350.00 feet; thence North 70°10'14" West, 539.83 feet; thence 74.15 feet along a curve to the right, said curve having a radius of 495.99 feet, a central angle of 08°34'10", and a chord bearing and distance of North 15°32'41" East, 74.11 feet; thence North 19°49'46" East, 256.60 feet, to the point of beginning.

EXCEPT:

A part of the Northwest 1/4 of Section 17, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; more particularly described as beginning at the Northwest corner of said section 17; thence North 00°31'45" East, 141.72 feet, along the West line of Section 8, (Town 1 North, Range 8 East, City of Wixom, Oakland County, Michigan) and the centerline of Wixom Road, to the Southerly right-of-way of Grand River Avenue (100 feet wide); thence South 70°10'14" East, 818.57 feet, along the Southerly right-of-way of said Grand River Avenue, to the point of beginning; thence continuing South 70°10'14" East 150.53 feet, along the Southerly right-of-way of said Grand River Avenue; thence South 19°50'28" West, 330.5 feet; thence North 70°10'14" West, 144.92 feet; thence 74.15 feet along a curve to the right, said curve having a radius of 495.99 feet, a central angle of 08°34'10", and a chord bearing and distance of North 15°32'41" East, 74.11 feet; thence North 19°49'46" East, 256.60 feet, to the point of beginning.

ALSO DESCRIBED AS:

A part of the Northwest 1/4 of Section 17, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; more particularly described as beginning at the Northwest corner of said section 17; thence North 00°31'45" East, 141.72 feet, along the West line of Section 8, (Town 1 North, Range 8 East, City of Wixom, Oakland County, Michigan) and the centerline of Wixom Road, to the Southerly right-of-way of Grand River Avenue (100 feet wide); thence South 70°10'14" East, 969.10 feet, along the Southerly right-of-way of said Grand River Avenue, to the point of beginning; thence continuing South 70°10'14" East 279.66 feet, along the Southerly right-of-way of said Grand River Avenue; thence South 00°36'58" West, 350.00 feet; thence North 70°10'14" West, 394.91 feet; thence North 19°50'28" East, 330.50 feet, to the point of beginning. All of the above containing 2.559 Acres. All of the above being subject to easements, restrictions, agreements, and rights-of-ways of record.

EXHIBIT B
INGRESS/EGRESS

A part of the Northwest 1/4 of Section 17, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; more particularly described as commencing at the Northwest corner of said section 17; thence North 00°31'45" East, 141.72 feet, along the West line of Section 8, (Town 1 North, Range 8 East, City of Wixom, Oakland County, Michigan) and the centerline of Wixom Road, to the existing Southerly right-of-way of Grand River Avenue (100 feet wide); thence South 70°10'14" East, 969.10 feet, along the existing Southerly right-of-way of said Grand River Avenue; thence South 19°50'28" West 10.00 feet to the Point of Beginning; thence South 70°10'14" East 20.00 feet; thence South 19°50'28" West, 135.57 feet; thence South 70°09'32" East 295.09 feet; thence South 19°50'28" West, 50.00 feet; thence North 70°09'32" West 315.09 feet; thence North 19°50'28" East, 185.56 feet, to the Point of Beginning.

EXHIBIT C
SUBSURFACE DETENTION \ WATER QUALITY & OUTLET STRUCTURE

A part of the Northwest 1/4 of Section 17, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; more particularly described as commencing at the Northwest corner of said section 17; thence North 00°31'45" East, 141.72 feet, along the West line of Section 8, (Town 1 North, Range 8 East, City of Wixom, Oakland County, Michigan) and the centerline of Wixom Road, to the existing Southerly right-of-way of Grand River Avenue (100 feet wide); thence South 70°10'14" East, 969.10 feet, along the existing Southerly right-of-way of said Grand River Avenue; thence South 19°50'28" West 10.00 feet to the Point of Beginning; thence South 70°10'14" East 20.00 feet; thence South 19°50'28" West, 135.57 feet; thence South 70°09'32" East 295.09 feet; thence South 19°50'28" West, 50.00 feet; thence North 70°09'32" West 315.09 feet; thence North 19°50'28" East, 185.57 feet, to the Point of Beginning.

EXHIBIT D

Owner shall be fully responsible for the repair and maintenance of water mains, sewers, storm water retention basin, drainage courses and other public utilities, including wires, pipes and lines, over ground and underground, and ensure that such repair and maintenance is performed in such manner as to minimize damage to the natural features.

Owner shall conduct a periodic review of storm water controls, including both structural and non-structural controls. Owner shall have all storm water inspections conducted by Certified Storm Water Operators (CSWO's).

EXHIBIT D

MAINTENANCE TASKS AND SCHEDULE DURING CONSTRUCTION COMPONENTS

Task	Storm Sewer	Catch Basin Sumps	Catch Basin Inlet Castings	Channels & Swales	Basin & Sediment Control Devices	Outflow Control Structures	Schedule
1. Wet weather inspection of structural elements*	X			X	X	X	as needed
2. Inspection for sediment accumulation							
a) BASIN		X	X		X		weekly
b) CONTROL DEVICES					X	X	weekly
c) CATCH BASIN		X	X				As needed
3. Sediment accumulation removal							
a) Sediment control structures				X	X	X	As needed
b) Subsurface Detention		X	X		X		As needed
c) Storm Sewer	X						As needed
4. Inspection & cleaning of floatables and debris		X	X	X	X	X	quarterly
5. Inspection for erosion				X	X		weekly
6. Re-establish permanent vegetation on eroded slopes				X	X		as needed
7. Replacement of stone							as needed
8. Make adjustments or replacements as determined by wet weather inspection	X			X	X	X	as needed

*Including inspection for sediment accumulation in detention basins, utilizing as-built plans in hand, carried out by a professional engineer

PERMANENT MAINTENANCE TASKS AND SCHEDULE COMPONENTS

Task	Storm Sewer	Catch Basin Sumps	Catch Basin Inlet Castings	Channels & Swales	Basin & Sediment Control Devices	Outflow Control Structures	Schedule
1. Wet weather inspection of structural elements*	X			X	X	X	Annually
2. INSPECTION for SEDIMENT ACCUMULATION							Annually
a) Basin		X	X		X		Annually
b) Control Devices					X	X	Semi-annually
c) Catch Basin		X	X				Annually
3. SEDIMENT ACCUMULATION REMOVAL							
a) Sediment control structures				X	X	X	Per manuf. requirements
b) Subsurface Detention		X	X		X		@ 50% full
c) Storm Sewer	X						As needed
4. Inspection & cleaning of floatables and debris		X	X	X	X	X	Annually
5. Inspection for erosion				X	X		Annually
6. Re-establish permanent vegetation on eroded slopes				X	X		as needed
7. Replacement of stone							as needed
8. Make adjustments or replacements as determined by wet weather inspection	X			X	X	X	as needed
9. Keep Records of all inspections and maintenance activities**	X	X	X	X	X	X	Per inspection
10. Keep records of all costs, inspections, maintenance and repairs.	X	X	X	X	X	X	Per inspection