



CITY of NOVI CITY COUNCIL

**Agenda Item L
August 11, 2014**

SUBJECT: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Advance Stores Company, Inc. for Advance Auto Parts located at 42520 Grand River Avenue (parcel 22-23-126-015). *R24*

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

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The developer of Advance Auto Parts, Advance Stores Company, Inc., requests approval of the Storm Drainage Facility Maintenance Easement Agreement for this development, located at 42520 Grand River Avenue as shown on the attached map.

The Storm Drainage Facility Maintenance Easement Agreement (SDFMEA) 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 of 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 a storm water detention basin and is providing an access easement to the basin. The owner is also responsible for maintaining the pipes, manholes and open channels leading to and from the on-site sewer system.

The enclosed agreement has been favorably reviewed by City staff and the City Attorney (Beth Saarela's July 15, 2014, attached) and is recommended for approval.

RECOMMENDED ACTION: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Advance Stores Company, Inc. for Advance Auto Parts located at 42520 Grand River Avenue (parcel 22-23-126-015).

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

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

Advance Auto Parts Location Map

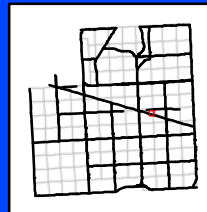


Map Author: A. Wayne
Date: August 1, 2014
Project:
Version #:

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 232 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 = 113 feet



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.johnsonrosati.com

July 15, 2014

Rob Hayes, Public Services Director
City of Novi, Department of Public Services
Field Services Complex
26300 Lee BeGole Drive
Novi, MI 48375

Re: **Advanced Auto Parts – SP12-0074**
Storm Drainage Facility Maintenance Easement Agreement

Dear Mr. Hayes:

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 Advanced Auto Parts development. The Agreement is in the City's standard format and has been executed by the property owner, Advance Stores Incorporated. The City's Consulting Engineer has approved the Storm Drainage Facility Maintenance Easement Agreement exhibits. The Agreement is 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: Maryanne Cornelius, Clerk (w/ Original Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)
Sheila Weber, Treasurer's Office (w/Enclosures)
Kristin Pace, Treasurer's Office (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)

Rob Hayes, Public Services Director
July 15, 2014
Page 2

Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
David Beschke, Landscape Architect (w/Enclosures)
Adam Wayne, Construction Engineer (w/Enclosures)
Brittany Allen and Ted Meadows, Spalding DeDecker (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Parker Zabell, Esq. (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made this 11th day of SEPTEMBER, 2013, by and between ADVANCE STORES COMPANY, INCORPORATED, whose address is 5008 Airport Road, Roanoke, VA 24012 (hereinafter the "Owner"), and the City of Novi, its successors, assigns, or transferees, whose address is 45175 W. Ten Mile Road, Novi, MI 48375 (hereinafter the "City").

RECITATIONS:

- A. Owner is the owner and developer of a certain parcel of land situated in Section 23 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 Advance Auto Parts retail development on the Property.
- B. The 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 B.

[[Provide site specific storm water facility maintenance information per Section 12-244 of the Storm Water Management Ordinance. Attach an **Exhibit B** with description and/or tables providing an explanation of maintenance activities and a budget for maintenance and inspection for the first three years of operation. This section must contain the following statement, "The Owner and/or Association shall maintain a log of all inspection and maintenance activities and make the log available to City personnel as needed."] *This paragraph is explanatory and should be removed before submission of the agreement.

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 C** 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 D**, 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 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 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 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
Randall A Young

By: RANDALL A. YOUNG
Its: VICE PRESIDENT- REAL ESTATE

VIRGINIA
STATE OF ~~MICHIGAN~~)
ROANOKE) SS
COUNTY OF ~~OAKLAND~~)

The foregoing instrument was acknowledged before me this 11th day of SEPTEMBER 2008,
by RANDALL A. YOUNG, as the VP-REAL ESTATE of ADVANCE STORES COMPANY,
INCORPORATED

Michelle Lickliter Clark
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 7301160
My Commission Expires 2/28/2017

Michelle Lickliter Clark
Notary Public ROANOKE COUNTY, VIRGINIA
~~Oakland County, Michigan~~
My Commission Expires: 2/28/2017

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
200__, by, _____, on behalf of the City of Novi, a Municipal
Corporation.

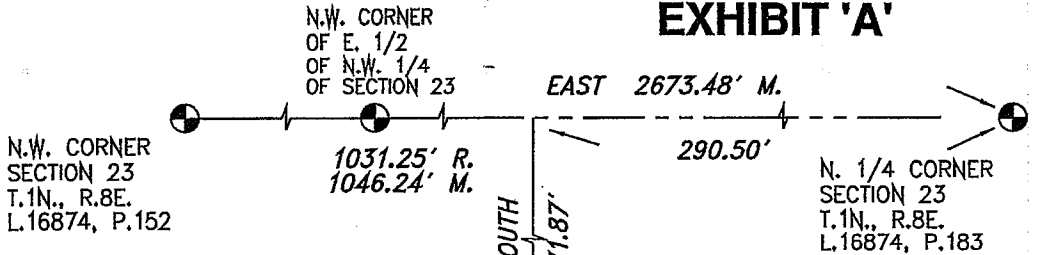
Notary Public
Oakland County, Michigan
My Commission Expires: _____

Drafted by:
Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040

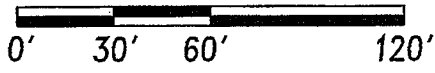
And when recorded return to:
Maryanne Cornelius, City Clerk
City of Novi
45175 W. Ten Mile Rd
Novi, MI 48375

602691v1

EXHIBIT 'A'

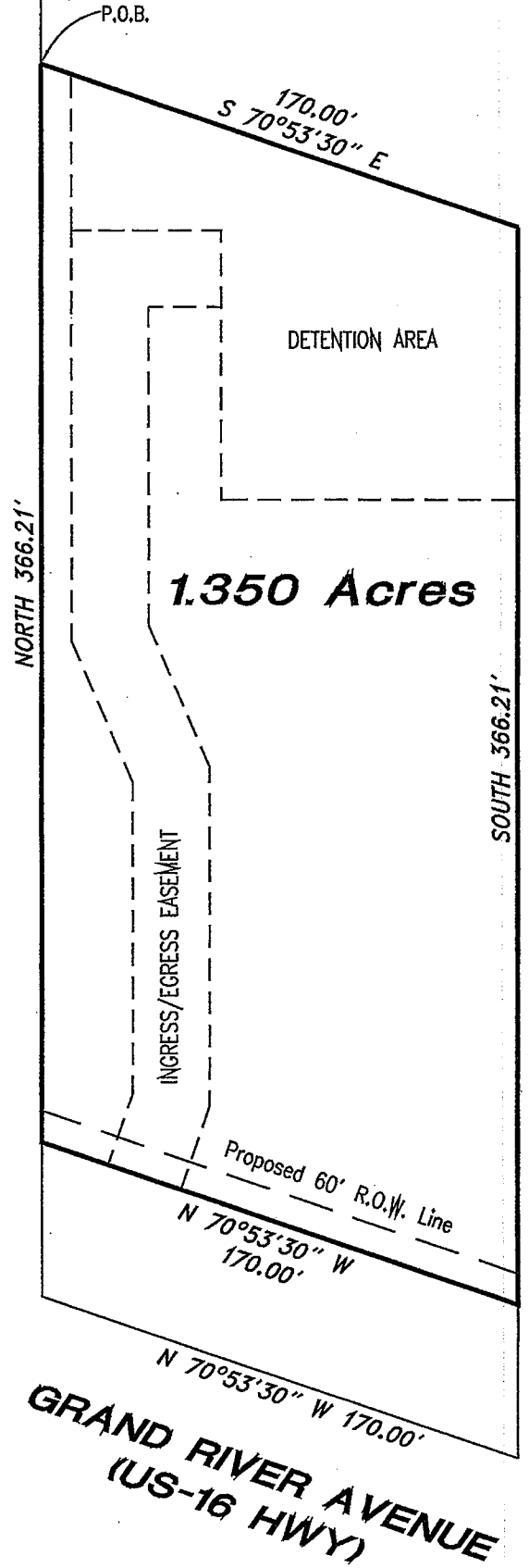


Scale : 1" = 60'



NOTES:

- BEARINGS IN RELATION TO DESCRIPTION OF RECORD.



Total Property Description

A Parcel of land located in the NW 1/4 of Section 23, T.1N., R.8E., City of Novi, Oakland County, Michigan is described as: Commencing at the N.1/4 corner of Section 23, thence West, 290.50 feet along the North line of Section 23 to a point that is 1046.24 feet (1031.25 feet record) east of the NW corner of the East half of the NW 1/4 of Section 23; thence South, 471.87 feet to the Point of Beginning; thence S.70°53'30"E., 170.00 feet; thence South, 366.21 feet to a point on the northerly right-of-way of Grand River Avenue (50' right-of-way line); thence N.70°53'30"W., 170.00 feet along said right-of-way; thence North, 366.21 feet to the Point of Beginning and containing 1.35 acres.

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URBAN LAND CONSULTANTS
 CIVIL ENGINEERS PLANNERS LAND SURVEYORS
 GPS CONSULTANTS
 8800 25 MILE ROAD SHELBY TWP., MI 48316-4516

LEGEND	
FIB = Found Bar	●
FIP = Found Pipe	●
SIB = Set Bar/Cap	○
SMN = Set Mag Nail	○
R = Record Distance	
M = Measured Distance	
RAD = Radial	

EXHIBIT "A"

Date 3-12-13
 Drawn T.M.P.
 Check W.C.A.
 Sheet 1 of 1
 Job No.
 120444

Exhibit B

Maintenance Requirements for Advance Auto Parts

1. The Storm Water Management Facilities (“Facilities”) design is incorporated in drawings by Urban Land Consultants dated 5-17-12, latest revised 3-12-13, comprising 5 Sheets. All installation and maintenance of the Facilities shall be in conformance with those plans.
2. Inspections must be performed as outlined below.
 - a. **Regular** inspections of the Facilities shall be conducted at least once every six (6) months by the Owner’s staff. Generally these inspections should be conducted in the spring and fall of each year, with special focus on trash accumulation / removal and to identify any functioning irregularities of the system.
 - b. **Wet Weather** inspections of the Facilities shall be conducted at least once annually by a professional engineer reporting to the Owner, copy to the City. This inspection must be conducted with the as-built plans in hand, and include a report of the functioning of the Facilities including sediment accumulation in the detention pond.
 - c. **Emergency** inspections of the Facilities shall be conducted on an as-needed basis upon identification of any sever problem with the Facilities. The inspection shall be conducted by a professional engineer reporting to the Owner and/or City staff.
3. Maintenance Guidelines on the following items shall be checked during the Inspections:
 - a. **Vegetation & Landscaping:** Vegetation and landscaping relating to the Facilities is included as part of the Regular inspections. The viability of plantings, including ground cover and grass, will be monitored by the Owner, and for at least one (1) year after establishment all plantings will be replaced immediately as needed. It is the further responsibility of the Owner to monitor and replace plantings after one (1) year. The City is not responsible for landscape maintenance.
 - b. **Buffers:** The vegetative buffer is included as part of the Regular inspections for evidence of erosion or concentrated flows through or around it.
 - c. **Detention Basin:** The detention basin, along with its inlet, outlet, and the piping to Grand River Avenue, is included as part of the Regular inspections. Specific items relating to the detention pond include:
 - i. Check the outlet regularly for clogging and clean when necessary. Replace the stone around the standpipe as needed.
 - ii. Check the inlet and outlet pipes and animal grates and filters. Clean and remove debris as needed.
 - iii. Remove floatable and other debris at least annually.
 - iv. Check the banks and bottom for erosion and correct as necessary.
 - v. Stabilize any eroded banks and reseed as necessary. Special attention may be necessary near the inlet and outlet pipes.
 - vi. Remove any dead vegetation, leaves, or other debris that obstruct flow.
 - vii. Inspect for sediment accumulation and remove sediment when/if it reaches six (6) inches thick or if re-suspension is observed.

d. **Storm Treatment Unit (Structure #5A):** The storm water treatment unit (Structure #5A) is included as part of the Regular inspections. This unit must be maintained according to Contech, Inc. recommendations. Specific items include:

- i. Open the cover and visually inspect for floatable and other debris. Remove such floatable and other debris as necessary.
- ii. Pump and remove any oil or other floating liquid contaminants detected.
- iii. Probe solids storage sump and remove the solids if more than 50% full.

Note that contaminant removed from the storm water treatment may require special treatment. The Owner is responsible to follow any applicable Federal, State, or local materials handling and disposal regulations.

e. **Detention Outlet Restriction (Structure #4):** The outlet restriction assembly (Structure #4) is included as part of the Regular inspections. This unit must be maintained clean and functioning as designed. Specific items include:

- i. Open the cover and visually inspect the 6" riser pipe and masonry wall.
- ii. Probe the 2" restriction hole in the bottom of the 6" riser pipe to verify that it is unobstructed.
- iii. Make any necessary repairs to maintain the functioning of the restriction as designed.

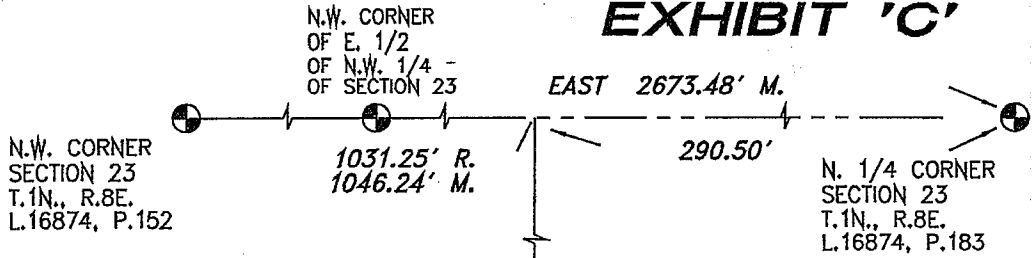
4. Responsibilities:

- a. The Owner has sole responsibility to perform all necessary repair / maintenance on the Facilities and to make all required inspections.
- b. The Owner must maintain a log of all inspection and maintenance activities and make the log available to City personnel as needed.

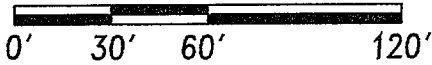
5. Budget:

- a. The expected budget for maintenance of the Facilities is \$1,860.50 annually. The total expected maintenance budget for the first three (3) years is \$6,481.50.
- b. The expected budget for inspections of the Facilities is \$1,150.00 annually. The total expected inspections budget for the first three (3) years is \$3,450.00.

EXHIBIT 'C'

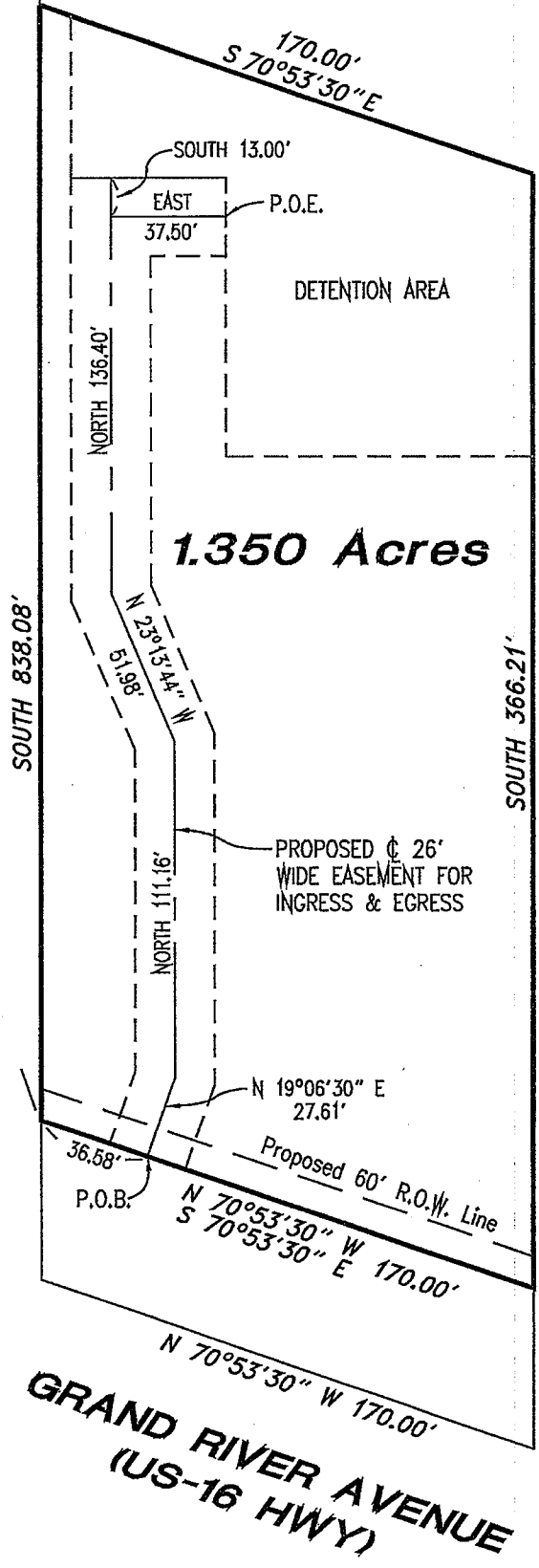


Scale : 1" = 60'



NOTES:

- BEARINGS IN RELATION TO DESCRIPTION OF RECORD.



Proposed Easement for Ingress and Egress to the Detention Area

An easement for ingress and egress over the above described parcel is described as:
 Commencing at the N. 1/4 corner of Section 23, thence West, 290.50 feet along the North line of Section 23 to a point that is 1046.24 feet (1031.25 feet record) east of the NW corner of the East half of the NW 1/4 of Section 23; thence South, 838.08 feet to a point on the northerly right-of-way of Grand River Avenue (50' right-of-way line); thence S.70°53'30"E., 36.58 feet along said right-of-way to a point on the centerline of a 26 (twenty-six) foot wide ingress-egress easement and the Point of Beginning; thence along the centerline of said easement N.19°06'30"E., 27.61 feet; thence North, 111.16 feet; thence N.23°13'44"W., 51.98 feet; thence North 136.40 feet; thence South 13.00 feet; thence East 37.50 feet to the Point of Ending.



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 8800 23 MILE ROAD SHELBY TWP., MI 48316-4516

PHONE 586 731-8030
 FAX 586 731-2605

LEGEND

- FIB = Found Bar ●
- FIP = Found Pipe ○
- SIB = Set Bar/Cap ●
- SMN = Set Mag Nail ○
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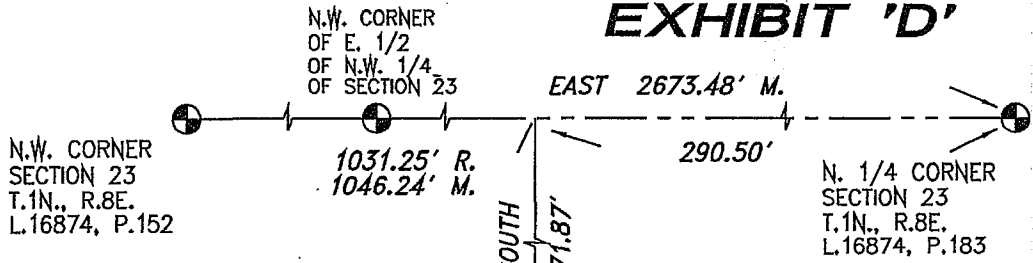
EXHIBIT 'C'

Date 3-12-13
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 Sheet 1 of 1

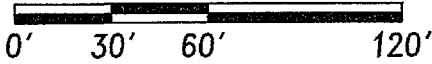
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EXHIBIT 'D'

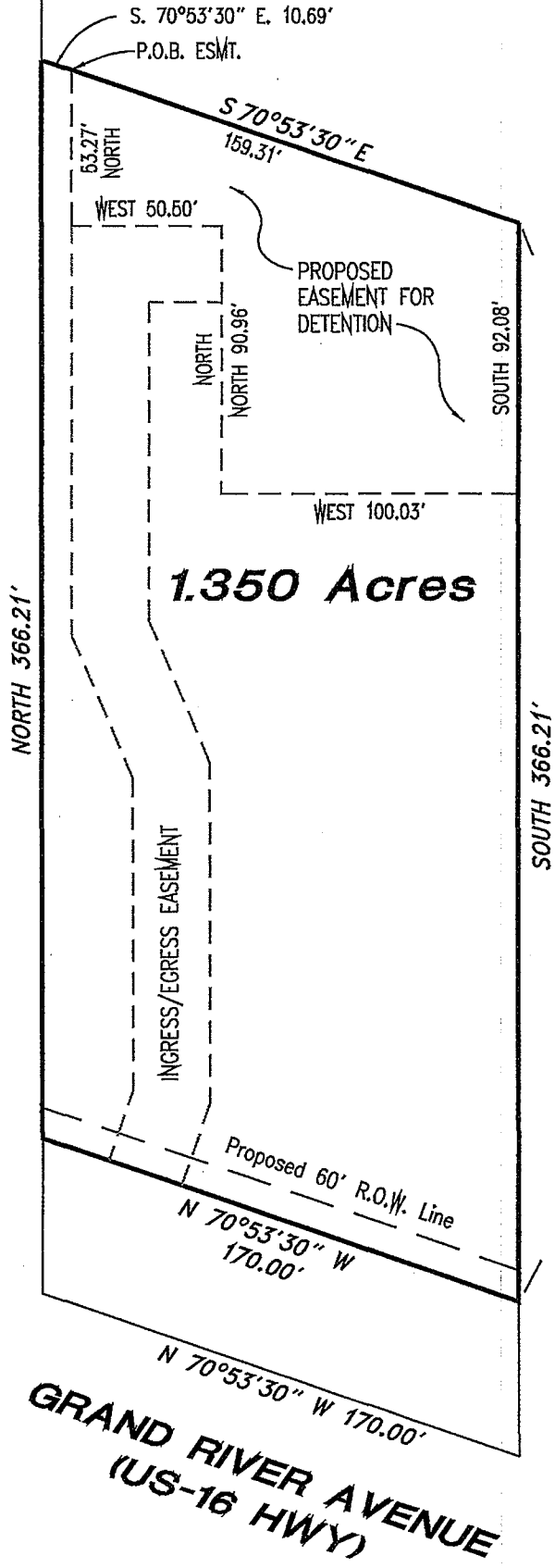


Scale : 1" = 60'



NOTES:

- BEARINGS IN RELATION TO DESCRIPTION OF RECORD.



Proposed Easement for the Detention Area

An easement for Detention over the above described parcel is described as:
 Commencing at the N. 1/4 corner of Section 23, thence West, 290.50 feet along the North line of Section 23 to a point that is 1046.24 feet (1031.25 feet record) east of the NW corner of the East half of the NW 1/4 of Section 23; thence South, 471.87 feet; thence S.70°53'30"E., 10.69 to the Point of Beginning; thence S.70°53'30"E., 159.31 feet; thence South, 92.08 feet; thence West, 100.03 feet; thence North 90.96 feet; thence West 50.50 feet; thence North 53.27 feet to the Point of Ending.

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 PHONE 586 731-8030
 FAX 586 731-2605

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EXHIBIT 'D'

Date 3-12-13
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 Sheet 1 of 1
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