



cityofnovi.org

CITY of NOVI CITY COUNCIL

Agenda Item J
April 13, 2015

SUBJECT: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Toll MI II Limited Partnership, for The Preserve at Island Lake (Phase 8) project located at the northeast corner of Ten Mile Road and Napier Road.

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

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The developer for The Preserve at Island Lake (Phase 8), Toll MI II Limited Partnership, requests approval of the Storm Drainage Facility Maintenance Easement Agreement for the new residential development project, located at the northeast corner of Ten Mile Road and Napier Road.

The Storm Drainage Facility Maintenance Easement Agreement is a requirement of the Storm Water Management Ordinance and details the responsibilities of the eventual property owner (Homeowners Association) 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 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 storm water system.

The enclosed agreement has been favorably reviewed by City Staff and the City Attorney (Beth Saarela's March 19, 2015 letter, attached) and is recommended for approval.

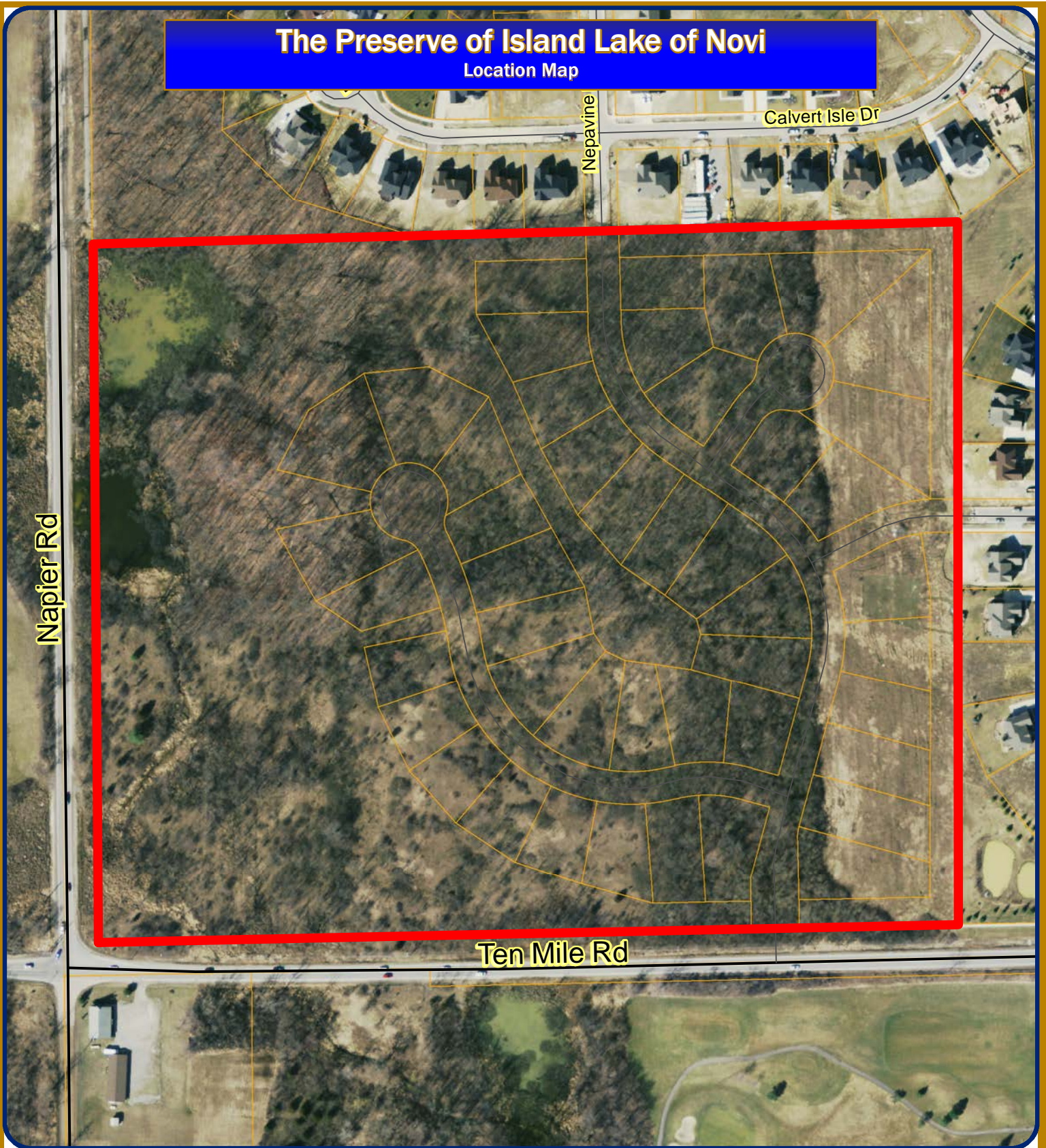
RECOMMENDED ACTION: Approval of a Storm Drainage Facility Maintenance Easement Agreement from Toll MI II Limited Partnership, for The Preserve at Island Lake (Phase 8) project located at the northeast corner of Ten Mile Road and Napier Road.

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

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

The Preserve of Island Lake of Novi

Location Map

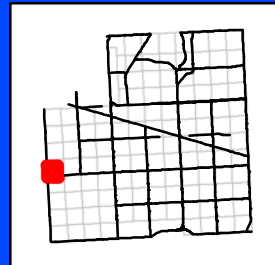


Map Author: A. Wayne
Date: April 1, 2015
Project:
Version #:

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 approximations 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

Feet
0 45 90 180 270

1 inch = 235 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

March 19, 2015

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

**Re: Preserve at Island Lake of Novi JSP13-0069
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 Preserve at Island Lake Site Condominium Development. The Agreement is in the City's standard format and has been executed by the Developer. The City's Engineering Division 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)

Rob Hayes, Public Services Director

March 19, 2015

Page 2

Kristin Pace, Treasurer's Office (w/Enclosures)

Adam Wayne, Construction Engineer (w/Enclosures)

Aaron Staup, Construction Engineering Coordinator (w/Enclosures)

Sarah Marchioni, Building Permit Coordinator (w/Enclosures)

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

John Poe, Toll MI II Limited Partnership (w/Enclosures)

A'Jene Maxwell, Esquire (w/Enclosures)

Thomas R. Schultz, Esquire (w/Enclosures)

STORM DRAINAGE FACILITY
MAINTENANCE EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement") is made this ___ day of _____, 2015, by and between **TOLL MI II LIMITED PARTNERSHIP**, a Michigan limited partnership, whose address is 28004 Center Oaks Ct., Suite 200, Wixom, Michigan 48393 (the "Owner" and "Developer"), **THE PRESERVE AT ISLAND LAKE ASSOCIATION**, a Michigan non-profit corporation, whose address is 28004 Cedar Oaks Drive, Suite 200, Wixom, Michigan 48393 (the "Condominium Association"), **ISLAND LAKE OF NOVI COMMUNITY ASSOCIATION**, a Michigan non-profit corporation, whose address is 28004 Cedar Oaks Drive, Suite 200, Wixom, Michigan 48393 (the "Community Association"), and the **CITY OF NOVI**, a municipal corporation, and its successors, assigns, or transferees, whose address is 45175 W. Ten Mile Road, Novi, MI 48375 (the "City"). The Condominium Association and the Community Association, together, are referred to herein as the "Associations", and each are an "Association".

RECITATIONS:

A. Owner is the owner and developer of a certain parcel of land situated in Section 19 of the City of Novi, Oakland County, Michigan, described on the attached and incorporated **Exhibit A** (the "Property"); said land comprising the Island Lake of Novi Residential Unit Development. Owner has received final site plan approval for construction of a 45 unit condominium development on the Property to be known as "The Preserve at Island Lake."

B. The Preserve at Island Lake 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, and the Associations after transition of control hereby covenant and agree that the Owner, and/or Association 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.

In the event that the Owner and/or the Association 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 and/or the Association 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 and/or the Association 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 and/or the Condominium Association or Community Association (whichever Association has failed to perform its maintenance obligations) 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 pro rata as to each Unit, 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 or the appropriate Association, and, in such event, the Owner and/or the appropriate Association 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.

The Owner, as the Developer of The Preserve at Island Lake, shall be responsible for the maintenance, repair, and replacement of the storm drainage, detention and/or retention facilities and the related improvements and structures at its cost and expense as part of the improvements required for the operation and development of the condominium; provided that each of the Associations shall automatically assume their respective obligations with respect to the maintenance, repair and replacement of the facilities upon the turnover of control of the Association by the Owner to (i) the non-developer owners of units in the Condominium pursuant to the Condominium Act, with respect to the Condominium Association, and (ii) to the non-developer owners of condominium units within the Island Lake of Novi Community pursuant to

the Island Lake of Novi Community Association Declaration of Covenants and Restrictions, as amended, with respect to the Community Association. (The Owner and the appropriate Association shall both have the right to include the costs and expenses of maintaining, repairing and replacing the Off-Site Detention Pond and related improvements and structures in the administrative expenses of the appropriate Association, which are in turn to be defrayed by assessments charged to the units in the Condominium and/or the units in the Island Lake of Novi Community, as appropriate.) The Owner shall be relieved of any and all responsibility with respect to the maintenance, repair and replacement of the storm drainage, detention and/or retention facilities and related improvements and facilities upon the assumption of those responsibilities by the Association pursuant to this paragraph.

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.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS THEREOF, the parties have executed this Agreement as of the date and year first above set forth.

“Owner” and “Developer”

TOLL MI II LIMITED PARTNERSHIP, a Michigan limited partnership

By: Toll MI GP Corp., a Michigan corporation General Partner

By: 
Michael T. Noles

Its: Senior Vice President

“Community Association”

ISLAND LAKE OF NOVI COMMUNITY ASSOCIATION, a Michigan non-profit corporation

By: 
Jason Minock

Its: President

“Condominium Association”

THE PRESERVE AT ISLAND LAKE ASSOCIATION, a Michigan non-profit corporation

By: 
Jeff Brainard

Its: Authorized Signatory

[Signatures continued on next page.]

“City”

CITY OF NOVI, a municipal corporation

By: _____
Robert J. Gatt

Its: Mayor

-and-

By: _____
Maryanne Cornelius

Its: City Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

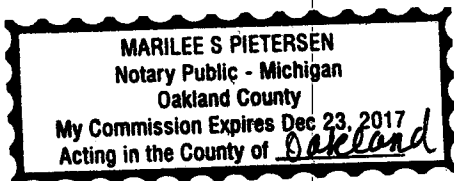
The foregoing instrument was acknowledged before me this 12th day of February, 2015, by Michael T. Noles, Senior Vice President of Toll MI GP Corp., a Michigan corporation, the General Partner of Toll MI II Limited Partnership, a Michigan limited partnership, on behalf of the limited partnership.

Marilee S. Pietersen
Marilee S. Pietersen
Notary Public, Oakland County, MI
Acting in Oakland County, MI
My commission expires: Dec. 23, 2017

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

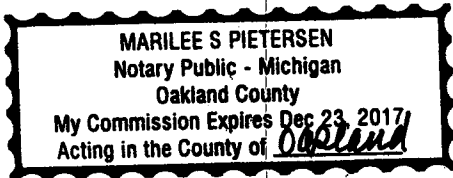
The foregoing instrument was acknowledged before me this 12th day of February, 2015, by Jason Minock, as the President of Island Lake of Novi Community Association, a Michigan non-profit corporation, on behalf of the corporation.

Marilee S. Pietersen
MARILEE S. PIETERSEN
Notary Public, Oakland County,
Michigan
My commission expires: 12-23-2017



STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 12th day of February, 2015, by Jeff Brainard, as the Authorized Signatory of The Preserve at Island Lake Association, a Michigan non-profit corporation, on behalf of the corporation.



Marilee S. Pietersen
MARILEE S. PIETERSEN
Notary Public, Oakland County,
Michigan
My commission expires: 12.23.2017

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ___ day of _____, 2015 Robert J. Gatt and Maryanne Cornelius, respectively the Mayor and City Clerk of the City of Novi, a municipal corporation, on behalf of the City.

Notary Public, _____ County,
Michigan
My commission expires: _____

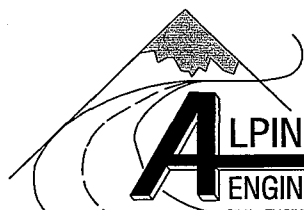
Drafted by:

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

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

LEGAL DESCRIPTION OF THE PRESERVE AT ISLAND LAKE

A PART OF THE SOUTHWEST 1/4 OF SECTION 19, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; BEING MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 19, FOR A POINT OF BEGINNING; THENCE NORTH 02°49'46" WEST, 1318.44 FEET, (SAID POINT BEING SOUTH 02°49'46" EAST, 1315.42 FEET FROM THE WEST 1/4 CORNER OF SAID SECTION 19), ALONG THE WEST LINE OF SAID SECTION 19 AND THE CENTERLINE OF NAPIER ROAD, TO THE SOUTHWEST CORNER OF "ISLAND LAKE ORCHARDS", OAKLAND COUNTY CONDOMINIUM PLAN NO. 1552, MASTER DEED RECORDED IN LIBER 30468, PAGES 611 THROUGH 689, OAKLAND COUNTY RECORDS, AS AMENDED; THENCE NORTH 86°03'33" EAST, 1618.18 FEET, ALONG A SOUTHERLY LINE OF SAID "ISLAND LAKE ORCHARDS"; THENCE SOUTH 02°20'47" EAST, 1326.96 FEET, ALONG A WESTERLY LINE OF SAID "ISLAND LAKE ORCHARDS", TO THE SOUTH LINE OF SAID SECTION 19 AND THE CENTERLINE OF TEN MILE ROAD, (SAID POINT BEING SOUTH 86°21'12" WEST, 1023.50 FEET FROM THE SOUTH 1/4 CORNER OF SAID SECTION 19); THENCE SOUTH 86°21'12" WEST, 1606.86 FEET, ALONG THE SOUTH LINE OF SAID SECTION 19 AND THE CENTERLINE OF SAID TEN MILE ROAD, TO THE POINT OF BEGINNING. ALL OF THE ABOVE CONTAINING 48.953 ACRES. ALL OF THE ABOVE BEING SUBJECT TO THE RIGHTS OF THE PUBLIC IN NAPIER ROAD AND TEN MILE ROAD. ALL OF THE ABOVE BEING SUBJECT TO EASEMENTS RESTRICTIONS AND RIGHT-OF-WAYS OF RECORD.



ALPINE
ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS

46892 WEST ROAD
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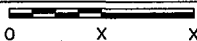
CLIENT: TOLL BROTHERS INC.		DATE: 7-17-14
EXHIBIT A		DRAWN BY: CAK
		CHECKED BY: GLM
THE PRESERVE AT ISLAND LAKE SECTION: 19 TOWNSHIP: 1 N. RANGE: 8 E. CITY OF NOVI OAKLAND COUNTY MICHIGAN		 0 X X
		FBK: - 1 / 1 CHF: - 13-260
		SCALE HOR 1"=X FT. VER 1"=- FT.

EXHIBIT B

SCHEDULE OF MAINTENANCE

[see attached]

EXHIBIT B

MAINTENANCE TASKS AND SCHEDULE DURING CONSTRUCTION

Tasks	Storm Sewer	Catch Basin	Catch Basin	Channels	Outflow Control	Detention	Schedule
	System	Sumps	Inlet Castings	& Swales	Structures	Basin	
Inspect for sediment accumulation	X	X	X	X	X	X	Weekly
Removal of sediment accumulation	X	X		X	X	X	As needed & prior to turnover
Inspect for floatables and debris		X	X	X	X	X	Quarterly
Cleaning of floatables and debris		X	X	X	X	X	Quarterly & at turnover
Inspection for erosion				X		X	Weekly
Re-establish permanent vegetation on eroded slopes				X		X	As needed & prior to turnover
Replacement of stone					X	X	As needed
Wet weather inspection of structural elements, (including inspection for sediment accumulation in detention basins) with as-built plans in hand. These should be carried out by a professional engineer	X			X	X	X	As needed & at turnover
Make adjustments or replacements as determined by wet weather inspection	X			X	X	X	As needed
Street Sweeping							As needed

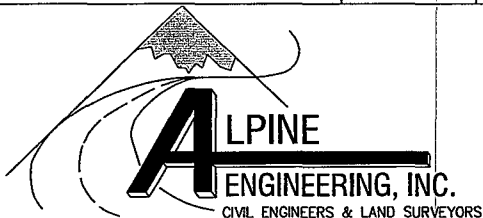
PERMANENT MAINTENANCE TASKS AND SCHEDULE

Tasks	Storm Sewer	Catch Basin	Catch Basin	Channels	Outflow Control	Detention	Schedule
	System	Sumps	Inlet Castings	& Swales	Structures	Basin	
Inspect for sediment accumulation	X	X	X	X	X	X	Annually
Removal of sediment accumulation	X	X		X	X	X	Every 2 years as needed
Inspect for floatables and debris		X	X	X	X	X	Annually
Cleaning of floatables and debris		X	X	X	X	X	Annually
Inspection for erosion				X		X	Annually
Re-establish permanent vegetation on eroded slopes				X		X	As needed
Replacement of stone							As needed
Wet weather inspection of structural elements, (including inspection for sediment accumulation in detention basins) with as-built plans in hand. These should be carried out by a professional engineer	X			X	X	X	Annually
Make adjustments or replacements as determined by wet weather inspection	X			X	X	X	As needed
Keep records of all inspections and maintenance activities						X	Annually
Keep records of all costs for inspections, maintenance, and repairs						X	Annually

Maintenance Plan Budget	YR 1	YR 2	YR 3
Annual inspection for sediment accumulation	\$100	\$100	\$100
Removal of sediment every 2 years as needed	\$1250	\$1250	\$1250
Inspect for floatables and debris annually and as needed	\$100	\$100	\$100
Removal of floatables and debris annually and as needed	\$750	\$750	\$750
Inspect system for erosion annually and as needed	\$100	\$100	\$100
Re-establish permanent vegetation on eroded slopes as needed	\$500	\$500	\$500
Total annual budget	\$2,800	\$2,800	\$2,800

NOTE:

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.



ALPINE ENGINEERING, INC.
CIVIL ENGINEERS & LAND SURVEYORS
46892 WEST ROAD
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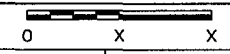
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		CHECKED BY:	GLM
EXHIBIT B			
THE PRESERVE AT ISLAND LAKE		FBK: -	B
SECTION: 19 TOWNSHIP: 1 N. RANGE: 8 E. CITY OF NOVI OAKLAND COUNTY MICHIGAN		CHF: -	
		SCALE HOR 1" = X FT. VER 1" = - FT.	


EXHIBIT C

INGRESS/EGRESS EASEMENT AREA

[see attached]

DETENTION BASIN AND INGRESS/EGRESS EASEMENT:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 19, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE N86°21'12"E 656.01 FEET ALONG THE SOUTH LINE OF SAID SECTION 19 AND THE CENTERLINE OF TEN MILE ROAD; THENCE N03°38'48"W 60.00 FEET TO A POINT OF BEGINNING; THENCE N00°00'00"W 10.00 FEET; THENCE N84°30'00"W 114.00 FEET; THENCE N40°15'00"W 93.00 FEET; THENCE N87°00'00"W 97.00 FEET; THENCE N00°00'00"E 102.00 FEET; THENCE N74°00'00"E 155.00 FEET; THENCE N23°30'00"E 28.00 FEET; THENCE N23°30'00"W 55.00 FEET; THENCE N41°30'00"W 70.00 FEET; THENCE N19°30'00"W 83.03 FEET; THENCE 60.84 FEET ALONG A CIRCULAR CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 28.00 FEET, AND A CHORD WHICH BEARS N81°45'00"W 49.56 FEET; THENCE S36°00'00"W 107.00 FEET; THENCE N57°00'00"W 90.00 FEET; THENCE N21°10'08"W 95.00 FEET; THENCE S89°48'35"W 25.76 FEET; THENCE N60°11'25"W 23.12 FEET; THENCE N04°07'15"W 24.10 FEET; THENCE S60°11'25"E 31.22 FEET; THENCE N89°48'35"E 25.00 FEET; THENCE N12°30'00"E 57.00 FEET; THENCE N90°00'00"E 54.00 FEET; THENCE S00°00'00"E 23.00 FEET; THENCE N90°00'00"E 137.00 FEET; THENCE S61°32'37"E 94.39 FEET; THENCE S15°09'57"E 111.11 FEET; THENCE S28°43'44"E 126.67 FEET; THENCE S43°53'34"E 126.67 FEET; THENCE S59°03'25"E 94.00 FEET; THENCE S00°00'00"W 81.00 FEET; THENCE S50°45'00"W 116.07 FEET; THENCE S86°21'12"W 31.41 FEET TO THE POINT OF BEGINNING.



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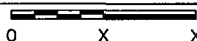
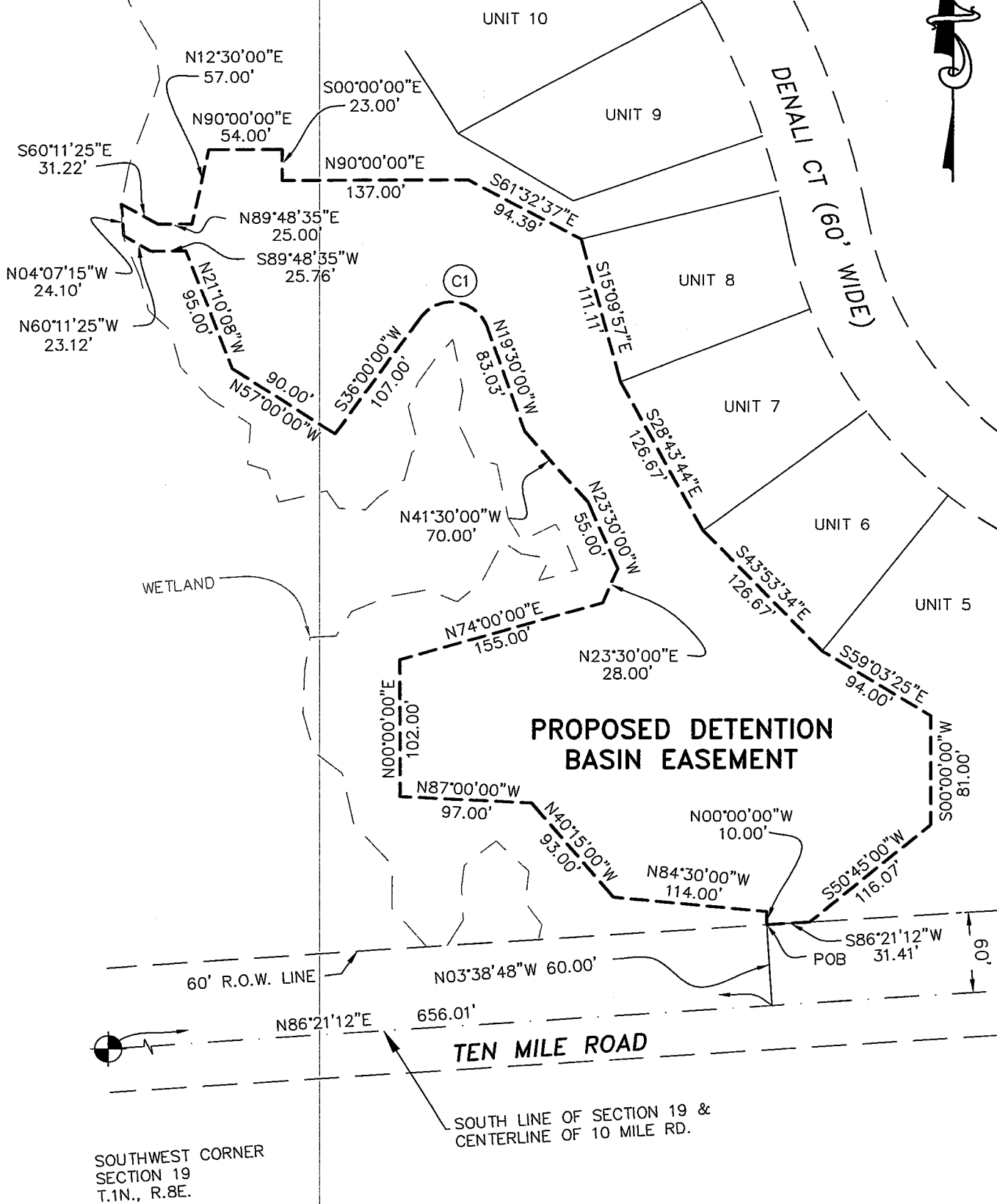
CLIENT: TOLL BROTHERS INC.		DATE: 7-17-14
EXHIBIT C		DRAWN BY: CAK
		CHECKED BY: GLM
THE PRESERVE AT ISLAND LAKE SECTION: 19 TOWNSHIP: 1 N. RANGE: 8 E. CITY OF NOVI OAKLAND COUNTY MICHIGAN		 0 X X
		FBK: - CHF: - <div style="text-align: center; font-size: 2em; border: 1px solid black; border-radius: 50%; width: 30px; height: 30px; margin: 0 auto;">C</div>
		SCALE HOR 1"=X FT. VER 1"=- FT. 13-260

Exhibit D

DETENTION/SEDIMENTATION BASIN EASEMENT AREA

[see attached]

CURVE TABLE			
CURVE	LENGTH	RADIUS	CHORD
C1	60.84'	28.00'	N81°45'00"W 49.56'



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CLIENT:	TOLL BROTHERS INC.	DATE:	7-17-14
EXHIBIT D		DRAWN BY:	CAK
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THE PRESERVE AT ISLAND LAKE SECTION: 19 TOWNSHIP: 1 N. RANGE: 8 E. CITY OF NOVI OAKLAND COUNTY MICHIGAN		 0 50 100	
		FBK: -	<div style="border: 1px solid black; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">D</div>
CHF: -	SCALE HOR 1"=100 FT. VER 1"= - FT.		

13-260