



# CITY of NOVI CITY COUNCIL

**Agenda Item H**  
**August 10, 2015**

**SUBJECT:** Approval of a Storm Drainage Facility Maintenance Easement Agreement from BCP Novi, LLC and STAG Novi 2, LLC, as part of the American Tire Distributors site located at 25250 Regency Drive (parcel 22-24-276-023).

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

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

**BACKGROUND INFORMATION:**

The developers for American Tire Distributors, BCP Novi, LLC and STAG Novi 2, LLC, request approval of the Storm Drainage Facility Maintenance Easement Agreement for the new commercial project located on Regency Drive, west of Haggerty Road.

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 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 BCP Novi, LLC and STAG Novi 2, LLC, as part of the American Tire Distributors site located at 25250 Regency Drive (parcel 22-24-276-023).

	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				

# Location Map

## American Tire Distributors

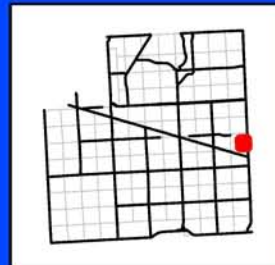


Map Author: A. Wayne  
Date: June 29, 2015  
Project:  
Version #:

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 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

0 25 50 100 150  
Feet

1 inch = 138 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

June 22, 2015

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

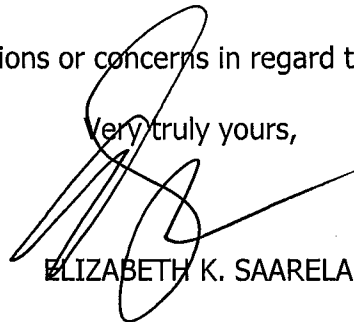
**Re: American Tire – JSP14-0023  
Storm Drainage Facility Maintenance Easement Agreement**

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 American Tire Development. The Agreement is in the City's standard format and has been executed by the Property Owner of Unit 2 of Regency Centre. 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)

Rob Hayes, Public Services Director

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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)

Jamie Generous (jamie@bccgp.com) (w/Enclosures)

Paul Lewsley (pjlewsley@ameritech.net) (w/Enclosures)

Chuck Nichols, Esquire (cnichols@nicholslawpa.com) (w/Enclosures)

Thomas R. Schultz, Esquire (w/Enclosures)

**STORM DRAINAGE FACILITY**  
**MAINTENANCE EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is made this 15<sup>th</sup> day of June, 2015, by and between BCP Novi, LLC, a North Carolina Limited Liability Company, whose address is 5400 Etta Burke Ct., Suite 201, Raleigh, NC 27519 (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 24 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 an industrial building with warehouse and office space development on the Property.
- B. The industrial building with warehouse and office space 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.

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 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.

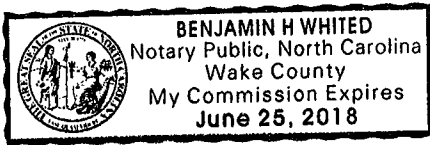
Invalidation of any of these covenants or conditions by Judgment or Court Order shall in no way affect the validity of any other provision which shall remain in full force and effect.

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

OWNER  
BCP Novi, LLC, A Limited Liability Company  
By: Brookwood Capital Holdings, LLC, its manager  
J.M. McW...  
By: Joseph McSwaney  
Its: Manager

North Carolina  
STATE OF MICHIGAN )  
Wake ) ss.  
COUNTY OF OAKLAND )

5 The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of June, 2014, by Joseph McSwaney, as the Manager of Brookwood Capital Holdings, LLC, manager of BCP Novi, LLC.



Ben H. White  
Notary Public <sup>WAKE</sup> North Carolina  
Acting in ~~Oakland~~ County, Michigan  
My Commission Expires: 6-25-18

Drafted by: Elizabeth Kudla Saarela Johnson, Rosati, Schultz & Joppich, P.C. 34405 West Twelve Mile Road, Suite 200 Farmington Hills, MI 48331-5627	And when recorded return to: Maryanne Cornelius, City Clerk City of Novi 45175 W. Ten Mile Rd Novi, MI 48375
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CONSENT TO EASEMENT

As the holder of a mortgagee interest in and to the property referenced in the Storm Drainage Maintenance Easement, dated June 15, 2015, attached hereto and incorporated as Exhibit A, whereby BCP Novi, LLC grants and conveys said easement to the City of Novi, the undersigned hereby evidences its consent to the grant, conveyance, existence and recordation of said easement, which easement is hereby acknowledged and agreed to be superior to the interest of the undersigned and shall bind the undersigned and the heirs, successors and assigns of the undersigned.

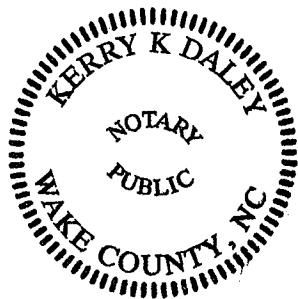
IN WITNESS WHEREOF the undersigned has caused its signature to be placed on the 16 day of June, 2015.

Park Sterling Bank, a  
North Carolina Banking  
Corp.

By: Bruce B Com  
(Print Name: Bruce B. Com)  
Its: SVP

North Carolina  
STATE OF ~~MICHIGAN~~ )  
 ) ss.  
COUNTY OF ~~OAKLAND~~ )  
Wake

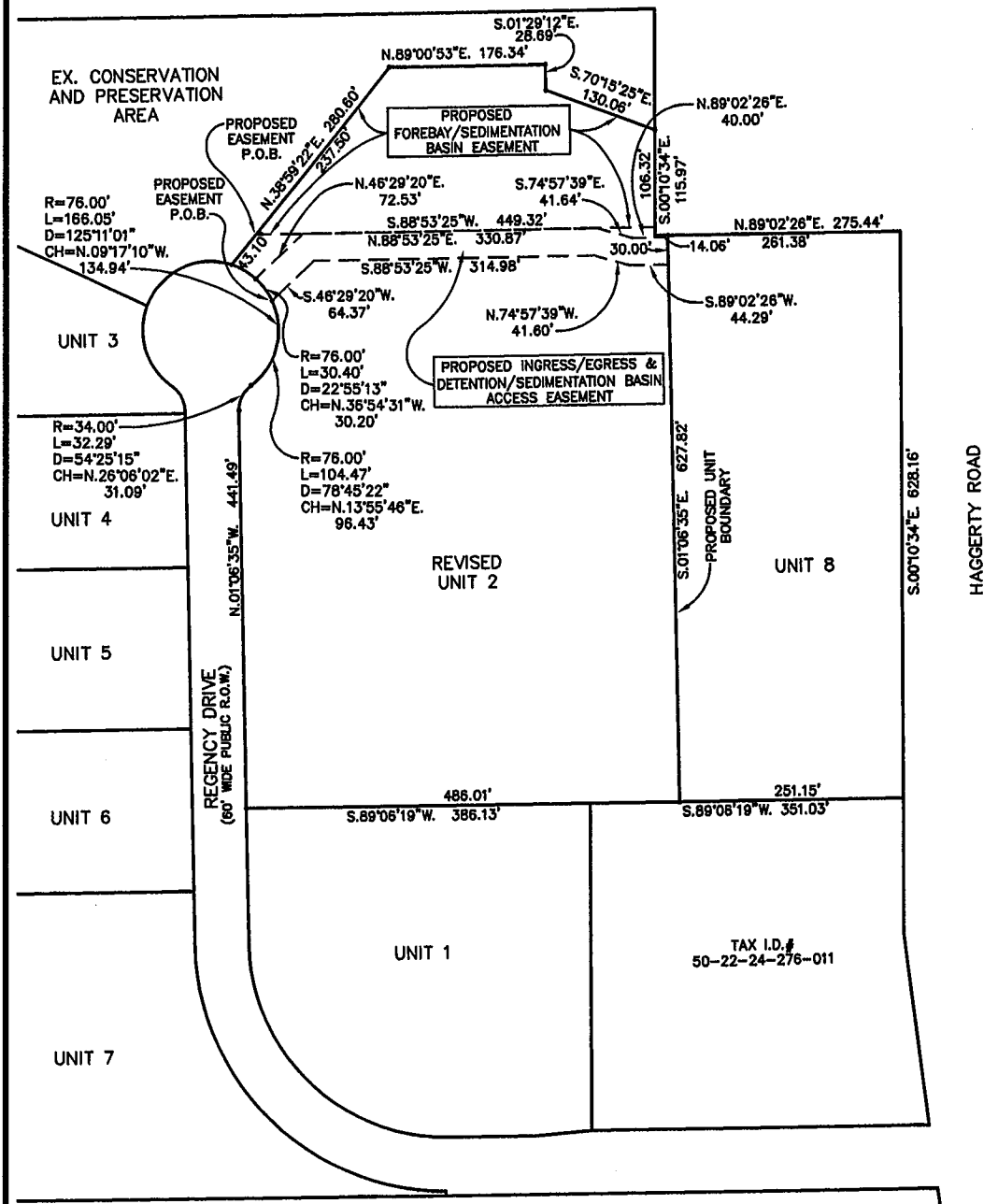
The foregoing Consent to Easement was acknowledged before me this 16 day of June, 2015, by Bruce B Com, the SVP of Park Sterling Bank, a ~~Michigan~~ North Carolina Bank.



Kerry K. Daley  
Notary Public  
Acting in Wake County, ~~MI~~ NC  
My commission expires: 4/03/2018



PROPOSED EASEMENT SKETCH



PREPARED FOR:  BC CONSTRUCTION GROUP 8700 N. SECOND ST., SUITE 201 BRIGHTON, MICHIGAN 48116 PHONE: 810/986-9757	JOB NO.	1411	PROPOSED EASEMENT SKETCH
	SCALE	1"=150'	
	DATE	07/25/14	ENVIRONMENTAL ENGINEERS, INC. 18620 WEST TEN MILE ROAD SOUTHFIELD, MICHIGAN 48075 PHONE: 248/424-9510
	REVISION	06/10/15	
	SHEET	1 OF 3	

PROPOSED EASEMENT SKETCH

EXHIBIT "A"

PROPERTY DESCRIPTION


REVISED UNIT 2 OF "REGENCY CENTRE", OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN #1360, BEING PART OF THE NORTHEAST 1/4 OF SECTION 24, T1N-R8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN AS RECORDED IN L. 23384, P. 048, O.C.R. WITH FIFTH AMENDMENT TO THE MASTER DEED RECORDED IN L. 47360, P. 588, O.C.R.

EXHIBIT "B"

LONG TERM MAINTENANCE SCHEDULE FOR  
AMERICAN TIRE DISTRIBUTORS WAREHOUSE FACILITY  
IN THE CITY OF NOVI, MICHIGAN

MAINTENANCE ACTIVITIES	SYSTEM COMPONENTS				FREQUENCY
	C.B.S, INLETS & STORM SEWERS	BIO-SWALES	SEDIMENT FOREBAY & OUTLET	RIP-RAP APRONS & SPILLWAY	
MONITORING/INSPECTION					
INSPECT FOR SEDIMENT ACCUMULATION	X	X	X		ANNUALLY
INSPECT FOR FLOATABLES DEAD VEGETATION & DEBRIS	X	X	X		ANNUALLY & AFTER MAJOR EVENTS
INSPECT FOR EROSION OF SLOPES		X	X	X	AFTER MAJOR EVENTS
INSPECT PLANTING AND VEGETATION		X	X		SEMI-ANNUALLY
PREVENTIVE MAINTENANCE					
MOWING OF SLOPES		X	X		MIN. 4 TIMES/YR.
REMOVE ACCUMULATED SEDIMENT	X	X	X		AS NEEDED WHEN REACHING 6" DEPTH
REMOVE FLOATABLES & DEBRIS	X	X	X		AS NEEDED
CLEAN OR REPLACE STONE FILTERS			X		BI-ANNUALLY
REMEDIAL ACTIONS					
REPAIR/STABILIZE ERODED AREAS		X	X	X	AS NEEDED
REPLACE DEAD PLANTINGS		X	X		AS NEEDED
REDEED BARE GRASS AREAS		X	X		AS NEEDED
MAKE STRUCTURAL REPAIRS	X		X	X	AS NEEDED

NOTE: ANNUAL INSPECTION & REPAIR COSTS ESTIMATED TO BE \$4,000.00

PREPARED FOR:  BC CONSTRUCTION GROUP 8700 N. SECOND ST., SUITE 201 BRIGHTON, MICHIGAN 48116 PHONE: 810/986-9757	JOB NO.	PROPOSED EASEMENT SKETCH
		1411
	SCALE	
	DATE	07/25/14
	REVISION	06/10/15
	SHEET 2 OF 3	 ENVIRONMENTAL ENGINEERS, INC. 18620 WEST TEN MILE ROAD SOUTHFIELD, MICHIGAN 48075 PHONE: 248/424-9510

PROPOSED EASEMENT SKETCH

EXHIBIT "C"

INGRESS/EGRESS & DETENTION/SEDIMENTATION BASIN ACCESS  
EASEMENT DESCRIPTION

A PROPOSED 30 FOOT WIDE EASEMENT FOR INGRESS/EGRESS & DETENTION/  
SEDIMENTATION BASIN ACCESS PURPOSES DESCRIBED AS FOLLOWS:


COMMENCING AT THE SOUTHWEST CORNER OF REVISED UNIT 2 OF "REGENCY  
CENTRE", OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN #1360, BEING PART OF  
THE NORTHEAST 1/4 OF SECTION 24, T1N-R8E, CITY OF NOVI, OAKLAND COUNTY,  
MICHIGAN AS RECORDED IN L. 23384, P. 048, O.C.R. WITH FIFTH AMENDMENT TO THE  
MASTER DEED RECORDED IN L. 47360, P. 588, O.C.R.; THENCE N.01'06'35"W. 441.49  
FEET; THENCE 32.29 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF  
34.00 FEET, A CENTRAL ANGLE OF 54'25'15" AND A CHORD BEARING N.26'06'02"E.  
31.09 FEET; THENCE 104.47 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS  
OF 76.00 FEET, A CENTRAL ANGLE OF 78'45'22" AND A CHORD BEARING OF  
N.13'55'46"E. 96.43 FEET TO THE POINT OF BEGINNING OF SAID ACCESS EASEMENT;  
THENCE CONTINUING 30.40 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF  
76.00 FEET, A CENTRAL ANGLE OF 22'55'13" AND A CHORD BEARING N.36'54'31"W.  
30.20 FEET; THENCE N.46'29'20"E. 72.53 FEET; THENCE N.88'53'25"E. 330.87 FEET;  
THENCE S.74'57'39"E. 41.64 FEET; THENCE N.89'02'26"E. 40.00 FEET; THENCE  
S.01'06'35"E. 30.00 FEET; THENCE S.89'02'26"W. 44.29 FEET; THENCE N.74'57'39"W.  
41.60 FEET; THENCE S.88'53'25"W. 314.98 FEET; THENCE S.46'29'20"W. 64.37 FEET  
TO THE POINT OF BEGINNING OF SAID ACCESS EASEMENT.

EXHIBIT "D"

FOREBAY/SEDIMENTATION BASIN EASEMENT DESCRIPTION

A PROPOSED EASEMENT FOR FOREBAY/SEDIMENTATION BASIN PURPOSES BEING  
DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF REVISED UNIT 2 OF "REGENCY  
CENTRE", OAKLAND COUNTY CONDOMINIUM SUBDIVISION PLAN #1360, BEING PART OF  
THE NORTHEAST 1/4 OF SECTION 24, T1N-R8E, CITY OF NOVI, OAKLAND COUNTY,  
MICHIGAN AS RECORDED IN L. 23384, P. 048, O.C.R. WITH FIFTH AMENDMENT TO THE  
MASTER DEED RECORDED IN L. 47360, P. 588, O.C.R.; THENCE N.01'06'35"W. 441.49  
FEET; THENCE 32.29 FEET ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF  
34.00 FEET, A CENTRAL ANGLE OF 54'25'15" AND A CHORD BEARING N.26'06'02"E.  
31.09 FEET; THENCE 166.05 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS  
OF 76.00 FEET, A CENTRAL ANGLE OF 125'11'13" AND A CHORD BEARING OF  
N.09'17'10"W. 134.94 FEET; THENCE N.38'59'22"E. 43.10 FEET TO THE POINT OF  
BEGINNING OF SAID FOREBAY/SEDIMENTATION BASIN EASEMENT; THENCE CONTINUING  
N.38'59'22"E. 237.50 FEET; THENCE N.89'00'53"E. 176.34 FEET; THENCE  
S.01'29'12"E. 28.69 FEET; THENCE S.70'15'25"E. 130.06 FEET; THENCE S.00'10'34"E.  
106.32 FEET; THENCE S.88'53'25"W. 449.32 FEET TO THE POINT OF BEGINNING OF  
SAID FOREBAY/SEDIMENTATION BASIN EASEMENT.

<p><u>PREPARED FOR:</u></p> <p>BC CONSTRUCTION GROUP 8700 N. SECOND ST., SUITE 201 BRIGHTON, MICHIGAN 48116 PHONE: 810/986-9757</p>	<p>JOB NO.</p> <p>1411</p>	<p>PROPOSED EASEMENT SKETCH</p>
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	<p>DATE 07/25/14</p>	 <p>ENVIRONMENTAL ENGINEERS, INC. 18620 WEST TEN MILE ROAD SOUTHFIELD, MICHIGAN 48075 PHONE: 248/424-8510</p>
	<p>REVISION</p> <p>06/10/15</p>	
	<p>SHEET 3 OF 3</p>	