

CITY of NOVI CITY COUNCIL

www.cityofnovi.org

Agenda Item I January 22, 2007

SUBJECT: Approval of Affidavit for Interest in Real Property to revise the exhibit recorded with the Pump Station Easement for the Country Place Sanitary Sewer Pump Station (parcel 50-22-35-400-005)

CITY MANAGER APPROVAL:

EXPENDITURE REQUIRED	N/A
AMOUNT BUDGETED	N/A
APPROPRIATION REQUIRED	N/A
LINE ITEM NUMBER	N/A

BACKGROUND INFORMATION:

The City Council approved acceptance of a pump station easement from SMJ Marketing, developer of Normandy Hills at the August 14, 2006 City Council meeting. The easement was subsequently recorded with the Oakland County Register of Deeds. Upon further review, it was determined that one length in the easement's legal description contained an error. In working with the City Attorney, it was determined that the Affidavit for Interest in Real Property is the proper method to revising an exhibit that has already been recorded. The document was prepared by the City Attorney and has been signed by the Grantor, SMJ Marketing, Inc.

RECOMMENDED ACTION: Approval of Affidavit for Interest in Real Property to revise the exhibit recorded with the Pump Station Easement for the Country Place Sanitary Sewer Pump Station (parcel 50-22-35-400-005)

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Mayor Landry				
Mayor Pro Tem Capello				
Council Member Gatt				
Council Member Margolis				

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Council Member Mutch	
Council Member Nagy	
Council Member Paul	



January 4, 2007

RECEIVED BY ENGINEERING DIVISION

JAN 092007

CITY OF NOVI

30903 Northwestern Highway P.O. Box 3040 Farmington Hills, MI 48333-3040 Tel: 248-851-9500 Fax: 248-851-2158 www.secrestwardie.com

> Elizabeth M. Kudla Direct: 248-539-2846 bkudla@secrestwardle.com

Brian Coburn, Civil Engineer CITY OF NOVI 45175 West Ten Mile Road Novi, Michigan 48375-3024

Re: Affidavit of Interest in Real Property Country Place Pump Station Our File No. 55142 NOV

Dear Mr. Coburn:

Pursuant to our discussion regarding an error that was recently discovered in the recorded Easement for the Country Place Pump Station, I have prepared an Affidavit replacing the page containing the error. In that regard, enclosed please find a proposed Affidavit of Interest in Real Property. The Affidavit is in the alternative to a revised Easement document because Oakland County has recently stopped accepting revised easements to be recorded in place of existing documents without a full termination of the existing easement.

Both the City and the property owner should execute the enclosed document. Once approved by City Council and signed, the City Clerk's Office should record the Affidavit in its usual manner.

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

ELIZABETH M. KUDLA

EMK

Enclosure

C: Maryanne Cornelius, Clerk (w/o Enclosure) Thomas R. Schultz, Esquire (w/o Enclosure)

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AFFIDAVIT OF INTEREST IN REAL PROPERTY

This Affidavit of Interest in Real Property ("Affidavit") is executed this _____ day of January ____, 2007 by SMJ Marketing, Inc, a Michigan corporation, whose address is 28023 Larson Lane, Farmington Hills, Michigan 48331, ("Grantor"), and the City of Novi, a Michigan municipal corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48375 ("Grantee") under a certain Sanitary Sewer Pump Station Easement dated July 26, 2006 and recorded September 9, 2006 at Liber 38071, Page 373, Oakland County Records ("Easement"), in accordance with MCLA 565.451a.

1. The Legal Description of the Grantor's Property to which the Easement pertains is correctly described in the Easement and a duplicate copy is attached hereto as Exhibit A Property Description.

2. The Legal Description of the area of the Easement described on Exhibit B thereof, Permanent Easement Description (such Exhibit hereby recorded at Liber 38071, Pages 376-377), was incorrect. The correct Legal Description of the area of the Easement is attached hereto and made a part hereof by reference as **Revised Exhibit B** Permanent Easement Description.

3. For all purposes, as of the effective date of the Easement, the description of the Easement area is revised to the Revised Exhibit B.

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4. Except as revised by this Affidavit, the Easement shall remain in full force and effect.

The undersigned has executed this Affidavit as of the day and year first above written.

GRANTOR:

SMJ MARKETING, INC., a Michigan corporation

By: Jeffrey Janie Its: President

GRANTEE:

CITY OF NOVI, a Michigan municipal corporation

By:

David Landry Its: Mayor

By:

Maryanne Cornelius Its: Clerk

STATE OF MICHIGAN)) SS COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of January, 2007, by Jeffrey James, President of SMJ Marketing, Inc., a Michigan corporation.

NATALLE LAITINEN NOTARY PUBLIC, STATE OF M COUNTY OF OAKLAND MY COMMISSION EXPIRES DOC 14, 2018 ACTING IN COUNTY OF DAKLAND

, Notary Public Oakland County, Michigan My Commission Expires: <u>1고/ 1</u>/20<u>1</u> Acting in Oakland County, Michigan

STATE OF MICHIGAN)) SS COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day of January, 2007, by David Landry, Mayor and Maryanne Cornelius, Clerk, of the City of Novi, a Michigan municipal corporation.

, Notary Public Oakland County, Michigan My Commission Expires: / /20_____ Acting in Oakland County, Michigan

Drafted by, without opinion of Title:	When Recorded Return to:
Elizabeth M. Kudla, Esq. Secrest Wardle Lynch Hampton Truex & Morley PC 30903 Northwestern Highway P.O. Box 3040 Farmington Hills, Michigan 48333	Elizabeth M. Kudla, Esq. Secrest Wardle Lynch Hampton Truex & Morley PC 30903 Northwestern Highway P.O. Box 3040 Farmington Hills, Michigan 48333 (248) 851-9500

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EASEMENT Exhibit A

PARCEL NO .: 50-22-35-400-005

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PROPERTY OWNER: SKJ MARKETING, INC. 41750 Eight Mile Road Novi, Mi 48375

PROPERTY DESCRIPTION:

THE WEST 195.15 FEET OF THE EAST 990 FEET OF THE SOUTH 1115.32 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 35, TOWN 1 NORTH, RANGE B EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, EXCEPT THE SOUTH 60 FEET OF THE LAND CONVEYED TO THE BOARD OF COUNTY ROAD COMMISSIONERS. IN LIBER 4136, PAGE 555, OAKLAND COUNTY RECORDS.

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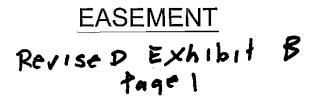
XHIBIT A COUNTRY PLACE PUMP STATION

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PERMANENT EASEMENT DESCRIPTION:

A PERMANENT EASEMENT FOR SANITARY SEWER DESCRIBED AS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 35, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE ALONG THE SOUTH LINE OF SAID SECTION SOUTH 87 DEGREES 47 MINUTES 25 SECONDS WEST 990.D FEET; THENCE ALONG THE WEST LINE OF THE EAST 990 FEET OF SAID SECTION NORTH 02 DEGREES 24 MINUTES 01 SECONDS WEST 682.9 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE WEST LINE OF THE EAST 990 FEET OF SAID SECTION NORTH 02 DEGREES 24 MINUTES 01 SECONDS WEST 48.6 FEET; THENCE SOUTH 48 DEGREES 25 MINUTES 06 SECONDS EAST 16.2 FEET; THENCE PARALLEL WITH THE SOUTH LINE OF SAID SECTION NORTH 87 DEGREES 47 MINUTES 25 SECONDS EAST 5.0 FEET; THENCE PARALLEL WITH THE WEST LINE OF THE EAST 990 FEET OF SAID SECTION SOUTH 02 DEGREES 24 MINUTES 01 SECONDS EAST 37.4 FEET; THENCE PARALLEL WITH THE SOUTH LINE OF SAID SECTION SOUTH 87 DEGREES 47 MINUTES 25 SECONDS WEST 16.7 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT CONTAINS 689 SQUARE FEET, MORE OR LESS.

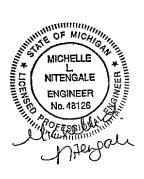


EXHIBIT B COUNTRY PLACE PUMP STATION

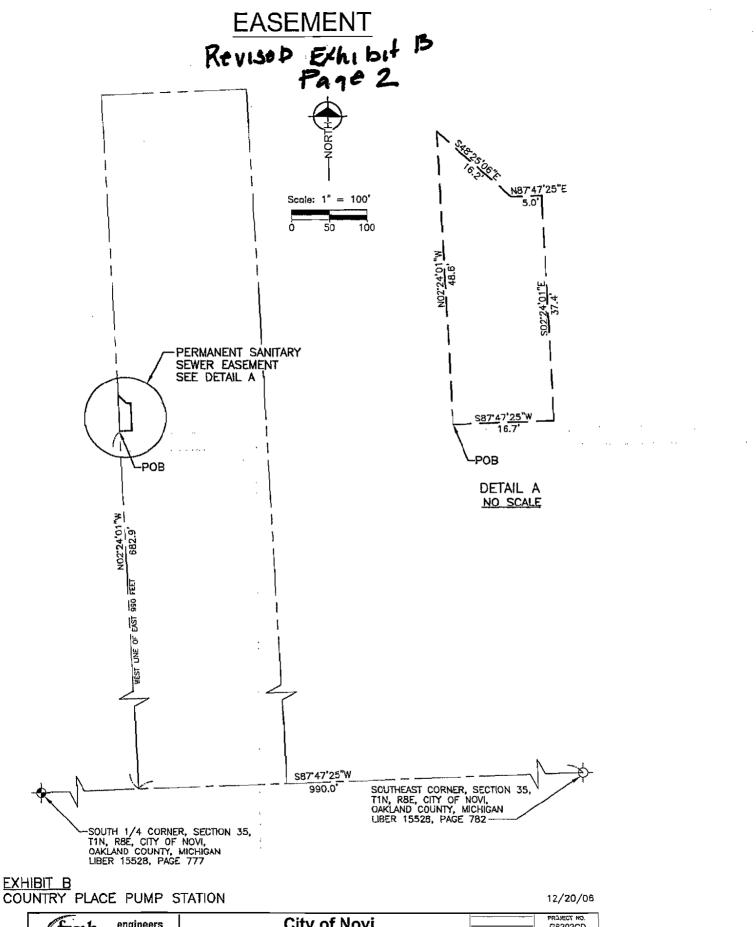
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frceh	engineers scientists	City of Novi Oakland County, Michigan		PROJECT NO. G6202CD FIGURE NO.
Queens	architects constructors	Easement Parcel No. 50-22-35-400-005		1 of 2
Copyright 2005 All Rights Rou	served	1	Bshaeck, 1	hompson, call & huber, inc.

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	ficth	engineers scientists	City of Novi Oakland County, Michigan		G6202CD FIGURE NO.	
	Queens	architects constructors	Easement Parcel No. 50-22-35-400-005		2 of 2	
Copyright 2008 AS Rights Reserved						

LIBER38071 P6373



PAID RECORDED - DAKLAND COUNTY RUTH JOHNSDN+ CLERK/REGISTER OF DEEDS

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RECEIPT# 99657

218772 LIBER 38071 PAGE \$25.80 MISC RECORDING

\$4.00 REMONUMENTATION 09/06/2006 08:35:09 A.M.

SANITARY SEWER PUMP STATION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that SMJ Marketing, Inc., a Michigan corporation, whose address is 28023 Larson Lane, Farmington Hills, MI 48331, (hereinafter referred to as "Grantor"), being title holder to the following described parcel of land, to-wit (the "Property"):

{See attached and incorporated Exhibit A}

Tax Identification Number: (50)22-35-400-005

for and in consideration of One Dollar (\$1.00), receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the City of Novi, a Michigan municipal corporation, whose address is 45175 W. Ten Mile, Novi, Michigan 48375, (hereinafter referred to as "Grantee"), a non-exclusive perpetual easement for a sanitary sewer pump station and related facilities and appurtenances thereto (the "Pump Station"), over, upon, across, in, through, and under the following described real property to-wit:

{See attached and incorporated Exhibit B}

and to enter upon sufficient land adjacent to said pump station easement for the purpose of exercising the rights and privileges granted herein.

Grantee may install, repair, replace, improve, modify and maintain a sanitary sewer purpo station and related sewer lines, and all necessary appurtenances thereto, at its sole cost and expense, within the easement herein granted.

Grantor agrees not to build or to convey to others permission to build any permanent structures on, over, across, in, through, or under the above-described easement, except that subject to Grantee's written approval or as part of an approved site plan.

This instrument shall run with the land first described above and shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective heirs, representatives, successors and assigns.

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h)'s IN WITNESS WHEREOF, the undersigned Grantor has affixed 26 signature this day of _ -Ju 2006

GRANTOR:

SMJ MARKETING, INC., a Michigan corporation Refirey James. President

STATE OF MICHIGAN

) SS COUNTY OF OAKLAND)

On this $\frac{\partial U'}{\partial ay}$ of $\frac{\int u U_{J-}}{\partial ay}$, 20 $\frac{\partial}{\partial b}$ before me, personally appeared the above named leffrey James, the President of SMJ Marketing, Inc., to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

CARI A. ANGELL Notary Public, State of Michigan County of Oakland My Commission Expires Mar. 30, 2008 Acting in the County of <u>CAPLANP</u>

)

Notary Public, <u>Orther</u> County, MI My commission expires

THIS INSTRUMENT DRAFTED BY AND WHEN RECORDED, KETURN COPY TO:

When Recorded, Return To: Maryanne Cornelius, City Clerk City of Novi 45175 W. 10 Mile Road Novi, MI 48375

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EASEMENT

PARCEL NO.: 50-22-35-400-005

PROPERTY OWNER: SMJ MARKETING, INC. 41750 EIGHT MILE ROAD NOVI, MI 48375

PROPERTY DESCRIPTION:

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THE WEST 195.15 FEET OF THE EAST 990 FEET OF THE SOUTH 1115.32 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OE SECTION 35, TOWN 1 NORTH, RANGE B EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, EXCEPT THE SOUTH 60 FEET OF THE LAND CONVEYED TO THE BOARD OF COUNTY ROAD COMMISSIONERS IN LIBER 4136, PAGE 555, OAKLAND COUNTY RECORDS.

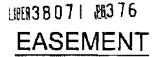
EXHIBIT A COUNTRY PLACE PUMP STATION

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PERMANENT EASEMENT DESCRIPTION:

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A PERMANENT EASEMENT FOR SANITARY SEWER DESCRIBED AS:

Kcharged to COMMENCING AT THE SOUTHEAST CORNER OF SECTION 35, TOWN 1 NORTH, RANGE & EAST, CITY OF NOM, OAKLAND COUNTY, MICHIGAN; THENCE ALONG THE SOUTH LINE OF SAID SECTION NORTH 87 DEGREES 40 MINUTES 48 SECONDS WEST 990.0 FEET; THENCE ALONG THE WEST LINE OF THE EAST 990 FEET OF SAID SECTION NORTH 02 DEGREES 07 MINUTES 48 SECONDS EAST 867.9 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE WEST LINE OF THE EAST 990 FEET OF SAID SECTION NORTH 02 DEGREES 07 MINUTES 48 SECONDS EAST 657.9 SOUTH 43 DEGREES 53 MINUTES 19 SECONDS EAST 16.2 FEET; THENCE PARALLEL WITH THE SOUTH LINE OF SAID SECTION SOUTH 87 DEGREES 40 MINUTES 48 SECONDS EAST 5.0 FEET; THENCE PARALLEL WITH THE WEST LINE OF THE EAST 990 FEET OF SAID SECTION SOUTH 02 DEGREES 07 MINUTES 46 SECONDS WEST 37.4 FEET; THENCE PARALLEL WITH THE SOUTH LINE OF SAID SECTION NORTH 87 DEGREES 40 MINUTES 48 SECONDS WEST 15.7 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SAID PERMANENT EASEMENT CONTAINS 689 SQUARE FEET, MORE OR LESS.

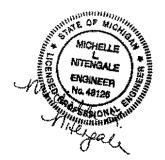


EXHIBIT B COUNTRY PLACE PUMP STATION

PROJECT NO. City of Novi G6202CD engineers n.n scientists Oakland County, Michigan FRAME NO. architects Easement 1 of 2 Parcel No. 50-22-35-400-005 constructors the montained that a further and amore D.

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EXHIBIT B COUNTRY PLACE PUMP STATION PROJECT NO City of Novi Oakiand County, Michigan engineers Ø62020D trah FIGURE NO. scientists architects Easement 2 of 2 constructors Parcel No. 50-22-35-400-005 IN GAT & NOW, ST 1 200 AURIDAE

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CONSENT TO EASEMENT

As the halder of a mortgagee's interest in and to the property referenced in the Sanitary Sewer Pump Station Easement, dated $\underline{Tuy'}$ 16, 2006, whereby SMJ Marketing, Inc., a Michigan corporation, 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 $\frac{1000}{1000}$ day of $\frac{1000}{10000}$, 2000

COMERICA BANK, a Michigan banking corporation

Kire Allance By: Melanie K. Rice Its: Vice President

STATE OF MICHIGAN)) 58. COUNTY OF WAYNE)

The foregoing Consent to Easement was acknowledged before me this $\frac{\partial U^{th}}{\partial t}$ day of \underline{JUU} , 2006, by Melanie K. Rice, the Vice President of Comerica Bank, a Michigan banking corporation, on behalf of such entity.

6 Notary Public, County, MI -into

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My commission expires: 8-18-2014

KATHRYN J ZERAFA Nolary Public - Michigan Wayne County My Commusion Expires Aug 18, 2012 Acting in the County of

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