



CITY of NOVI CITY COUNCIL

Agenda Item R
February 7, 2011

SUBJECT: Approval of a Resolution Concerning Acquisition and Approving Declaration of Necessity and Taking and authorization of Offer to Purchase in the amount of \$21,412 for a permanent pathway easement and a temporary grading permit on the Pavilion Apartments property (parcel 50-22-25-400-019) for the purpose of constructing a pedestrian safety path on the north side of Nine Mile Road between Meadowbrook Road and Haggerty Road.

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

CITY MANAGER APPROVAL: *Clay MP*

EXPENDITURE REQUIRED	\$21,412
AMOUNT BUDGETED	\$46,500 (Engineering and Right-of-way acquisition)
APPROPRIATION REQUIRED	\$12,500 (from Municipal Street Fund Balance)
LINE ITEM NUMBER	204-204.00-974.421 (Municipal Street Fund)

BACKGROUND INFORMATION:

As part of the design phase of the proposed shared use pathway along the north side of Nine Mile Road between Meadowbrook Road and Haggerty Road, three permanent pathway easements and 13 temporary grading permits have been identified to facilitate construction. Please see the attached January 31, 2011 memo from Ben Croy for additional background.

As stated in the enclosed documentation, a permanent pathway easement and a temporary grading permit are required for the Pavilion Apartments property located at 22675 Pavilion Drive to facilitate construction of the proposed pathway. The enclosed January 31, 2011 letter was sent to the property owners requesting a donation of the permanent pathway easement. As required by federal law, and in conformance with MDOT's Transportation Enhancement grant requirements for this project, the letter also informs the property owner that they are entitled to compensation in the amount of \$21,412. While engineering and easement acquisition costs are not covered by the grant, these tasks must be performed in compliance with grant requirements to receive the funding.

The attached resolution is being requested in the event that the easement is not donated and the City needs to present the offer. The resolution is being requested at this time in order to remain in compliance with the grant's schedule. The property owner will have until March 1, 2011 to grant the easement either by donation or for the amount stated in the letter. Following the March deadline, the city will begin proceedings to acquire the easements through eminent domain. If the easement is donated, the resolution will not be needed.

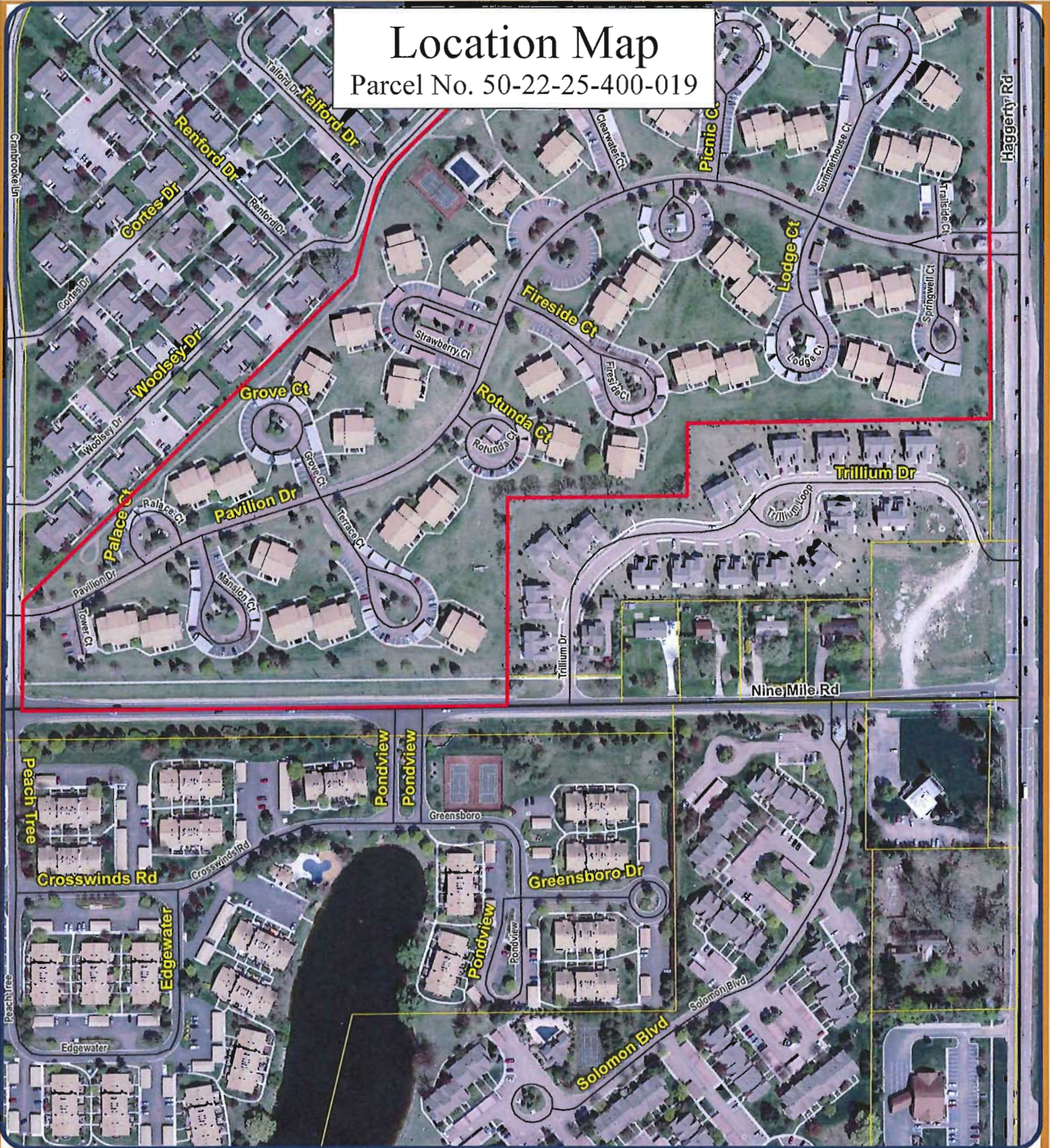
RECOMMENDED ACTION: Approval of a Resolution Concerning Acquisition and Approving Declaration of Necessity and Taking and authorization of Offer to Purchase in the amount of \$21,412 for a permanent pathway easement and a temporary grading permit on the Pavilion Apartments property (parcel 50-22-25-400-019) for the purpose of constructing a pedestrian safety path on the north side of Nine Mile Road between Meadowbrook Road and Haggerty Road.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Fischer				
Council Member Margolis				

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

Location Map

Parcel No. 50-22-25-400-019



Map Legend

- Centerline**
- Type of Route**
- Major
 - Minor
 - TaxParcelBSA



City of Novi

Engineering Division
 Department of Public Services
 45175 W Ten Mile Rd
 Novi, MI 48375
cityofnovi.org



1 inch = 272 feet

Map Author: David Vander Klipp
 Date: 1/28/2011

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.



MEMORANDUM

TO: BRIAN COBURN, P.E.; ENGINEERING MANAGER *BIC*
FROM: BEN CROY, P.E.; CIVIL ENGINEER *BC*
SUBJECT: NINE MILE PATHWAY EASEMENT OFFERS
DATE: JANUARY 31, 2011

Constructing a continuous pathway along the north side of Nine Mile Road between Meadowbrook Road and Haggerty Road is the highest priority project listed in the Pathway and Sidewalk Prioritization and Process report, which was updated in November 2010. The project consists of constructing two major segments (shown in blue on the attached location map) to provide connectivity to Meadowbrook Road, Haggerty Road and the I-275 shared use trail to the east. The City of Novi was awarded \$146,220 in federal funding through the Michigan Department of Transportation (MDOT) Transportation Enhancement grant program to construct the non-motorized pathway. This grant covers 60% of the estimated \$243,700 construction cost, with the City of Novi responsible for the remaining \$97,480. Design engineering for this path was awarded to OHM in September 2010 in the amount of \$26,710. As required by the grant, the path is currently being designed with a width of 10 feet.

This project requires three permanent sidewalk easements and thirteen temporary grading easements for the construction as shown in the table below:

Temporary Grading Easements

Property Address	Property Owner	Parcel ID	Area (sq. ft)
40715 Oakwood	Yauck, Robert D and Laura A	50-22-25-380-003	810
40661 Oakwood	Frankum, Sandra A Trust	50-22-25-380-004	890
40645 Oakwood	Looney, Michael & Ostrowski, Mary	50-22-25-380-005	890
40627 Oakwood	Boland, James & Terri Sasse	50-22-25-380-006	810
40611 Oakwood	Wolstencroft, David & Panagiota	50-22-25-380-007	810
39650 Nine Mile	Camaj, Vasel & Diane	50-22-25-400-025	1464
39640 Nine Mile	Stowell, Todd	50-22-25-400-028	1136
39640 Nine Mile	ACR, LLC (Stowell)	50-22-25-400-028	100
39630 Nine Mile	Barduca, Angelo S & Laura	50-22-25-400-029	1257
39630 Nine Mile	ACR, LLC (Barduca)	50-22-25-400-029	100
Pavillion Apartments	El-Ad Pavilion LLC	50-22-25-400-019	35046
39620 Nine Mile	Koziarz, William W	50-22-25-400-016	3375
Vacant	DB Development LLC	50-22-25-400-027	7678

Permanent Easements

Property Address	Property Owner	Parcel ID	Area (sq. ft)
Pavillion Apartments	El-Ad Pavilion LLC	50-22-25-400-019	12024
39620 Nine Mile	Koziarz, William W	50-22-25-400-016	234
Vacant	DB Development LLC	50-22-25-400-027	912

As required by the grant, the request and acquisition of each easement is required to follow specific federal guidelines which stipulate the process for requesting the easements and establishes the value of each easement. Permanent and temporary easements are set at 50% and 10% of the assessed property value, respectively. The easement values must be presented to each property owner to notify them of their right to just compensation. However, prior to presenting the offer to each property owner, we are asking that the easements be donated (see attached January 31, 2011 letter). If the property owner chooses not to donate the easement, the City would then be required provide a good faith offer in the amount calculated per the federal grant guidelines as the start to the process to acquire the easement through eminent domain.

Construction is expected to begin in late summer of 2011.

**RESOLUTION CONCERNING THE ACQUISITION
OF PROPERTY AND APPROVING DECLARATION OF NECESSITY AND TAKING**

City of Novi
County of Oakland, Michigan

Minutes of a _____ Meeting of the City Council of the City of Novi,
County of Oakland, Michigan, held in the City Hall in said City on February 7, 2011, at 7:00
o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers _____

ABSENT: Councilmembers _____

The following preamble and Resolution were offered by Councilmember _____
_____ and supported by Councilmember _____.

WHEREAS, present conditions in the City of Novi, Oakland County, Michigan,
necessitate the construction of a non-motorized pathway/sidewalk on Nine Mile Road in, over,
upon and through a portion of the following described premises situated in the City of Novi,
Oakland County, State of Michigan, to-wit:

PARCEL DESCRIPTION (50-22-25-400-019):

A parcel of land situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi,
Oakland County, Michigan, described as follows:

Beginning at a point distant N 89°07'10" E 691.08 feet from the S 1/4 corner of said Section 25;
thence North 226.89 feet; thence N 45°00'00" E 962.01 feet; thence N 14°08'58" E 164.98 feet;
thence along curve to the right, radius of 175 feet, chord bears N 29°34'29" E 93.09 feet, distant
of 94.23 feet; thence N 45°00'00" E 213.77 feet; thence along curve to the left, radius of 170 feet,
chord bears N 22°30'00" E 130.11 feet, distant 133.52 feet; thence North 218.45 feet; thence East
17.38 feet; thence North 25 feet; thence N 89°30'43" E 379.45 feet; thence S 00°21'00" E 85 feet;
thence N 89°30'43" E 623.93 feet to the West line of Haggerty Road; thence S 00°29'17" E
972.03 feet; thence S 88°49'29" W 626.10 feet; thence S 00°21'17" E 150.48 feet; thence S

89°07'10" W 373.15 feet; thence S 00°21'17" E 430 feet to South line of said Section 25; thence S 89°07'10" W 1001.63 feet to the point of Beginning. Subject to all easements and restrictions of record, if any.

WHEREAS, proposed plans showing said improvements have been prepared; and

WHEREAS, it has been determined that said improvements are necessary for the use and benefit of the public; and

WHEREAS, in order to construct said improvements, it is necessary that the City acquire a permanent easement and other interests in that portion of the above-described real estate described as follows:

A permanent Sidewalk Easement in certain real estate described as follows:

A parcel of situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the S 1/4 corner of said Section 25; thence N 89°07'10" E 691.08 feet; thence North 33.0 feet to the Point of Beginning; thence continuing North 11.12 feet; thence 18.82 feet along curve to the left having a radius of 99.0 feet, delta of 10°53'24", chord bears N 83°57'30" E 18.79 feet; thence N 78°30'48" E 58.15 feet; thence 18.73 feet along curve to the right having a radius of 101.0 feet, delta of 10°37'23", chord bears N 83°49'30" E 18.70 feet; thence N 89°08'12" E 906.99 feet to a point on the West line of Haggerty Road; thence along said West line S 00°21'17" E 12.0 feet; thence S 89°08'12" W 906.88 feet; thence 16.50 feet along curve to the left having a radius of 89.0 feet, delta of 10°37'23", chord bears S 83°49'30" W 16.48 feet; thence S 78°30'48" W 58.15 feet; thence 6.51 feet along curve to the right having a radius of 111.0 feet, delta of 03°21'41", chord bears S 80°11'39" W 6.51 feet to a point on the North line of Nine Mile road; thence along said North line S 89°07'10" W 14.66 feet to the point of Beginning. Contains 12,024 square feet of land. Subject to all easements and restrictions of record, if any.

A Temporary Grading Permit in certain real estate described as follows:

A 35 foot wide temporary grading easement being situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

The North 35 feet of the South 68 feet of the above described parent parcel.

Contains 35,046 square feet of land. Subject to all easements and restrictions of record, if any.

WHEREAS, the City has caused an appraisal of the subject property to be prepared by its City Assessor or the basis of assessment records and related information;

WHEREAS, the City has determined that it is in the best interests of the City to offer to purchase the subject property from the owners of such property, and to take such other actions as are deemed necessary to acquire the subject property for the purposes of constructing the improvements;

NOW, THEREFORE, BE IT RESOLVED, by the authority vested in the City of Novi by law, that it is hereby declared and determined that it is necessary to construct a nonmotorized pathway/sidewalk along Nine Mile Road in, over, upon, and through the above-described property within the City of Novi in accordance with the plans prepared by the City Consulting Engineers, and that said improvements are necessary for the use and benefit of the public; and

BE IT FURTHER RESOLVED, that the Mayor of the City is hereby authorized to execute, on behalf of the City, a good faith Offer to Purchase, a copy of which is attached hereto as Exhibit A, calling for the payment of Twenty-One Thousand Four Hundred and Twelve (\$21,412.00) Dollars for the permanent Sidewalk Easement and Temporary Grading Permit acquisition, The above amounts have been established as just compensation for the acquisition of the property, based upon an appraisal of the property by the City Assessor.

BE IT FURTHER RESOLVED, that after the execution of the good faith Offer to Purchase by the Mayor, the good faith Offer to Purchase shall be submitted to the owners of the property;

BE IT FURTHER RESOLVED, that in the event the Sellers fail to accept the good faith Offer to Purchase within ten (10) days of the date of delivery, the City Manager is hereby authorized to execute the Declaration of Taking, which is attached hereto;

BE IT FURTHER RESOLVED, that in the event the offer is not accepted as set forth above, the Mayor, City Clerk, and City Attorney are authorized to take all actions required to obtain a permanent Sidewalk Easement and Temporary Grading Permit in the subject property by eminent domain.

BE IT FURTHER RESOLVED, that in the event the offer is not accepted as set forth above, and the Declaration is executed, the City finance officer is authorized and directed to place an amount equal to the amount contained in the good faith offer that was made to the property owners (\$21,412.00) into a separate account and to hold such money on deposit as the estimated amount of just compensation to be paid in connection with the eminent domain proceedings.

BE IT FURTHER RESOLVED, that all resolutions and part of resolutions insofar as they conflict with the provisions of this Resolution be and the same hereby are rescinded.

AYES: Councilmembers _____

NAYES: Councilmembers _____

RESOLUTION DECLARED ADOPTED.

MARYANNE CORNELIUS, CITY CLERK

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Novi at _____ meeting held this _____ day of _____, 2011.

MARYANNE CORNELIUS, CITY CLERK

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AGREEMENT OF SALE
OFFER TO PURCHASE REAL ESTATE

1. The City of Novi, a Michigan municipal corporation (hereinafter "City"), hereby offers and agrees to purchase easements on real property within the City of Novi, described as:

PARCEL DESCRIPTION (50-22-25-400-019):

A parcel of land situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Beginning at a point distant N 89°07'10" E 691.08 feet from the S 1/4 corner of said Section 25; thence North 226.89 feet; thence N 45°00'00" E 962.01 feet; thence N 14°08'58" E 164.98 feet; thence along curve to the right, radius of 175 feet, chord bears N 29°34'29" E 93.09 feet, distant of 94.23 feet; thence N 45°00'00" E 213.77 feet; thence along curve to the left, radius of 170 feet, chord bears N 22°30'00" E 130.11 feet, distant 133.52 feet; thence North 218.45 feet; thence East 17.38 feet; thence North 25 feet; thence N 89°30'43" E 379.45 feet; thence S 00°21'00" E 85 feet; thence N 89°30'43" E 623.93 feet to the West line of Haggerty Road; thence S 00°29'17" E 972.03 feet; thence S 88°49'29" W 626.10 feet; thence S 00°21'17" E 150.48 feet; thence S 89°07'10" W 373.15 feet; thence S 00°21'17" E 430 feet to South line of said Section 25; thence S 89°07'10" W 1001.63 feet to the point of Beginning. Subject to all easements and restrictions of record, if any.

A) A permanent sidewalk easement more fully described as follows:

PERMANENT EASEMENT DESCRIPTION

A parcel of situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the S 1/4 corner of said Section 25; thence N 89°07'10" E 691.08 feet; thence North 33.0 feet to the Point of Beginning; thence continuing North 11.12 feet; thence 18.82 feet

along curve to the left having a radius of 99.0 feet, delta of 10°53'24", chord bears N 83°57'30" E 18.79 feet; thence N 78°30'48" E 58.15 feet; thence 18.73 feet along curve to the right having a radius of 101.0 feet, delta of 10°37'23", chord bears N 83°49'30" E 18.70 feet; thence N 89°08'12" E 906.99 feet to a point on the West line of Haggerty Road; thence along said West line S 00°21'17" E 12.0 feet; thence S 89°08'12" W 906.88 feet; thence 16.50 feet along curve to the left having a radius of 89.0 feet, delta of 10°37'23", chord bears S 83°49'30" W 16.48 feet; thence S 78°30'48" W 58.15 feet; thence 6.51 feet along curve to the right having a radius of 111.0 feet, delta of 03°21'41", chord bears S 80°11'39" W 6.51 feet to a point on the North line of Nine Mile road; thence along said North line S 89°07'10" W 14.66 feet to the point of Beginning. Contains 12,024 square feet of land. Subject to all easements and restrictions of record, if any.

B) A Temporary Grading Permit more fully described as follows:

A 35 foot wide temporary grading easement being situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

The North 35 feet of the South 68 feet of the above described parent parcel.

Contains 35,046 square feet of land. Subject to all easements and restrictions of record, if any.

and to pay therefore the sum Twenty-One Thousand Four Hundred and Twelve (\$21,412.00) Dollars, subject to the existing building and use restrictions, easements, and zoning ordinances, if any, upon the following conditions:

- (i) Delivery of the permanent Sidewalk Easement to the City as described above.
- (ii) Delivery of the Temporary Grading Permit to the City as described above.

2. Upon Seller's acceptance of this Offer to Purchase, as evidence of title, the City agrees to obtain a commitment for the title insurance with policy pursuant thereto to be issued insuring the City. The City will pay the cost of the title insurance policy premium.

3. If this offer is accepted by the Seller and if title can be conveyed in the condition required hereunder, the City agrees to complete the sale within fifteen (15) days after the receipt of the commitment for title insurance.

4. If objection to the title is made, based on a written opinion of the City Attorney that the title is not in the condition required for the performance hereunder, the Sellers shall have thirty (30) days from the date they are notified in writing of the particular defects claimed, to fulfill the requirements in the commitment for title insurance or to remedy the title defects set forth in the City's Attorney's opinion. If the Seller is able to comply with such requirements or remedy such defects within the time specified, as evidenced by written notification, revised commitment or endorsement to commitment, the City agrees to complete the sale within twenty (20) days of receipt thereof. If the Seller is unable to furnish satisfactory title within the time specified, the City will commence condemnation proceedings to acquire the Property.

5. The Seller shall deliver and the City shall accept possession of said Property upon the date of closing.

6. It is understood that the Property is being acquired in connection with the Nine Mile Pathway Program to construct a non-motorized pathway system along Nine Mile Road over, across, upon and through the above-described premises in the City of Novi, Michigan.

7. The City shall pay the cost of recording the easement and the cost of all Michigan Real Estate Transfer Tax.

8. The City reserves its right to bring Federal or State cost recovery actions against the present owners of the Property arising out of a release of hazardous substances at the Property.

9. The covenants herein shall bind and inure to the benefit of the executors, administrators, successors, and assigns of the respective parties.

10. If this Offer to Purchase is not accepted by Seller within ten (10) days from the date of its mailing to Seller, this Offer to Purchase shall be considered withdrawn and of no further force and effect.

11. This Offer to Purchase may be executed in one or more counterparts as one Agreement and shall be binding upon the City and the hereafter named Seller when executed by the City of Novi and all of the hereafter named Seller.

The closing of this sale shall take place at the City of Novi offices located at 45175 West Ten Mile Road, Novi, Michigan.

WITNESSES:

PURCHASER:

CITY OF NOVI, a Michigan
municipal corporation

By: DAVID LANDRY
Its: Mayor

By: MARYANNE CORNELIUS
Its: City Clerk

Dated: _____, 2011

To the Above Named Purchaser:

The foregoing offer is hereby accepted and the Seller agrees to sell the Property upon the terms stated:

By the execution of this instrument, the Seller acknowledges the receipt of a copy of this Agreement.

IN THE PRESENCE OF:

SELLER:

EL-AD PAVILION, LLC

By: _____

PURCHASER'S RECEIPT OF ACCEPTED OFFER

The Purchaser hereby acknowledges receipt of the Seller's signed acceptance of the foregoing Offer to Purchase.

CITY OF NOVI, a Michigan
municipal corporation, Purchaser

BY: _____

Its: _____

Dated: _____, 2011

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DECLARATION OF TAKING

A Resolution of Necessity having been adopted by the City of Novi setting forth that present conditions necessitate the construction of a non-motorized pathway/sidewalk on Nine Mile Road (the “Improvements”) in the City of Novi, Oakland County, Michigan, in accordance with prepared plans are needed in the interest of the public health, safety, and welfare, and that it is necessary to acquire an easement over certain property within the City of Novi for said Improvements, and that a good faith written offer to purchase said property has heretofore been made.

NOW, THEREFORE, by virtue of the authority vested in the City of Novi, by Act 279 of the Public Acts of 1909, as amended, and/or Act 149 of the Public Acts of 1911, as amended, or other applicable statutes, and in accordance with the provisions of Act 87 of Public Acts of 1980, as amended, it is now declared and determined that the real property hereinafter described shall be taken for the purpose of constructing a non-motorized pathway/sidewalk on Nine Mile Road, in accordance with prepared plans showing said Improvements.

A statement of the estate of interest in the property being taken; a description of the property to be acquired, sufficient for its identification; the name of each known owner of said property; the name of each known person, other than the owner, having an interest in said property; a statement of the sum of money estimated by the City of Novi as just compensation

for the property being acquired; and a statement whether the City of Novi reserves or waives its rights to bring federal or state cost recovery actions against the present owner of the property are as follows:

1. Statement of the Estate of Interest Being Taken and Description of the Property.
 - A) ***Proposed permanent sidewalk easement taking*** containing 234 sq.ft. more or less of the following described parcel:

PARCEL DESCRIPTION (50-22-25-400-019):

A parcel of land situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Beginning at a point distant N 89°07'10" E 691.08 feet from the S 1/4 corner of said Section 25; thence North 226.89 feet; thence N 45°00'00" E 962.01 feet; thence N 14°08'58" E 164.98 feet; thence along curve to the right, radius of 175 feet, chord bears N 29°34'29" E 93.09 feet, distant of 94.23 feet; thence N 45°00'00" E 213.77 feet; thence along curve to the left, radius of 170 feet, chord bears N 22°30'00" E 130.11 feet, distant 133.52 feet; thence North 218.45 feet; thence East 17.38 feet; thence North 25 feet; thence N 89°30'43" E 379.45 feet; thence S 00°21'00" E 85 feet; thence N 89°30'43" E 623.93 feet to the West line of Haggerty Road; thence S 00°29'17" E 972.03 feet; thence S 88°49'29" W 626.10 feet; thence S 00°21'17" E 150.48 feet; thence S 89°07'10" W 373.15 feet; thence S 00°21'17" E 430 feet to South line of said Section 25; thence S 89°07'10" W 1001.63 feet to the point of Beginning. Subject to all easements and restrictions of record, if any.

The permanent Sidewalk Easement being described as follows:

A parcel of situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the S 1/4 corner of said Section 25; thence N 89°07'10" E 691.08 feet; thence North 33.0 feet to the Point of Beginning; thence continuing North 11.12 feet; thence 18.82 feet along curve to the left having a radius of 99.0 feet, delta of 10°53'24", chord bears N 83°57'30" E 18.79 feet; thence N 78°30'48" E 58.15 feet; thence 18.73 feet along curve to the right having a radius of 101.0 feet, delta of 10°37'23", chord bears N 83°49'30" E 18.70 feet; thence N 89°08'12" E 906.99 feet to a point on the West line of Haggerty Road; thence along said West line S 00°21'17" E 12.0 feet; thence S 89°08'12" W 906.88 feet; thence 16.50 feet along curve to the left having a radius of 89.0 feet, delta of 10°37'23", chord bears S 83°49'30" W 16.48 feet; thence S 78°30'48" W 58.15 feet; thence 6.51 feet along curve to the right having a radius of 111.0 feet, delta of 03°21'41", chord bears S 80°11'39" W 6.51 feet to a point on the North line of Nine Mile road; thence along said North line S 89°07'10" W 14.66 feet to the point of Beginning.

Contains 12,024 square feet of land. Subject to all easements and restrictions of record, if any.

B) **Proposed Temporary Grading Permit taking** containing 3,375 sq.ft. more or less being described as follows:

A 35 foot wide temporary grading easement being situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

The North 35 feet of the South 68 feet of the above described parent parcel. Contains 35,046 square feet of land. Subject to all easements and restrictions of record, if any.

2. Names of Property Owner: EL-AD PAVILLION, LLC

3. Names of each person, other than the Owners, having a potential interest in the property:

US Bank National Association, as trustee for the registered holders of Merrill Lynch Mortgage Trust 2006-C2, Commercial Mortgage Pass-Through Certificates, Series 2006-C2, the City of Novi, the Detroit Edison Company, and Michigan Bell Telephone.

4. Estimated Just Compensation: \$ 21,412.00

5. The City of Novi reserves it rights to bring Federal or State cost recovery actions against the present owner of the property.

CITY OF NOVI

BY: _____
CLAY J. PEARSON
City Manager

Dated: _____, 2011

The foregoing Declaration of Taking was acknowledged before me this ____ day of _____, 2011, by Clay J. Pearson, as the City Manager, on behalf of the City of Novi.

Notary Public

_____ County, Michigan

My Commission Expires: _____

Prepared by and when recorded return to:
Thomas R. Schultz (P 42111)
Secrest, Wardle, Lynch, Hampton, Truex & Morley
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
(248) 851-9500

Tax Identification No. 50-22-25-400-019

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January 31, 2011

CITY COUNCIL

Mayor
David B. Landry

Mayor Pro Tem
Bob Gatt

Terry K. Margolis

Andrew Mutch

Dave Staudt

Justin Fischer

Wayne M. Wrobel

City Manager
Clay J. Pearson

**Director of Public Services/
City Engineer**
Rob Hayes, P.E.

Kendrick Thomas
Apartment Manager
El-Ad Pavilion LLC
22675 Pavilion Drive
Novi, MI 48375

Re: Proposed Nine Mile Pathway Project
Permanent and Temporary Pathway Easements

Mr. Thomas:

As you may be aware, the City is planning to construct a pathway along the north side of Nine Mile Road between Meadowbrook and Haggerty. The proposed pathway crosses frontage of your property and will require a permanent easement for the pathway and temporary easement for its construction. The proposed pathway would be 10-foot wide, and will generally follow the same route as the existing 5-foot pathway (the project would include the removal and replacement of the existing pathway). The proposed easements and associated exhibits have been enclosed for your review. The proposed permanent easement is 12 feet wide and is centered over the proposed pathway. A 35-foot wide temporary grading easement is needed to facilitate the construction of the proposed pathway and would expire once the project is complete.

The City is asking that the easements be donated in an effort to minimize costs for the project. A property owner may choose to donate all or a portion of his or her property that is needed for a project. However, we are obligated by law to determine the fair market value of the easement and offer compensation to the property owner. After being fully informed of his or her rights, the property owner may then decide to donate the easement and waive any right to just compensation.

If you agree to donate the easement, we ask that you complete the attached donation form. The fair market value for the easement was determined based on the value of the property per square foot. We then multiplied that by the area of the proposed easement (per federal guidelines). MDOT and Federal guidelines require that the valuation of temporary easements be set at 10% of that value, and that permanent easements be set at 50% of that value. The valuation for your property is estimated to be \$21,412 (see attached Valuation Statement summarizing the calculation).

Department of Public Services
Field Services Complex
26300 Delwal Drive
Novi, Michigan 48375
248.735.5640
248.735.5659 fax

cityofnovi.org

If you are satisfied with the enclosed easement documents and choose to donate the easement, please return one signed, notarized copy of each document for approval by our City Council and subsequent recording with the Register of Deeds along with the donation form. If you choose not to donate the easements for the project, please contact our office by March 1st to discuss the next steps in the easement acquisition process.

Please note that the approved site plan for this development proposed dedication of a 60-foot wide right-of-way along the Nine Mile Road frontage, however the dedication was never executed. Furthermore, this proposed pathway project should be considered a positive feature for the Pavillion Court Apartment complex linking your residents to the I-275 pathway which extends to Hines Park.

We appreciate your cooperation in moving this project forward and invite you to contact our office at 248-347-0454 with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ben Croy", with a stylized flourish at the end.

Benjamin Croy, P.E.
Civil Engineer

Enclosures

cc: Brian Coburn; Engineering Manager
Beth Kudla; Secret Wardle

SIDEWALK EASEMENT

NOW ALL MEN BY THESE PRESENTS, that El-Ad Pavilion whose address is 22675 Pavilion Drive, Novi, Michigan for and in consideration of One (\$1.00) Dollar, receipt and sufficiency of which is hereby acknowledged, hereby grants and conveys to the City of Novi, a Michigan Municipal Corporation, whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, being exempt pursuant to MCLA 207.505(a), and MCLA 207.526 (a) a permanent easement for a public non-motorized pathway over across and through property located in Section 25, T.1N., R.8E., City of Novi, Oakland County, State of Michigan, more particularly described as follows:

Parcel No. 50-22-25-400-019

{See attached and incorporated Exhibit A}

The permanent easement for the public walkway is more particularly described as follows:

{See attached and incorporated Exhibit A}

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

Grantee may, construct, install, repair, replace, improve, modify and maintain a non-motorized sidewalk in the easement area as shown in the attached and incorporated Exhibit A.

Construction activities required for the construction of a 10-foot wide non-motorized pathway, may also include, but is not limited to the removal or relocation of trees and landscaping in accordance with approved plans.

Grantor agrees not to build or to convey to others permission to build any structures or improvements on, over, across, in, through, or under the above-described easement.

All portions of the Premises damaged or disturbed by Grantee's exercise of temporary easement rights, shall be reasonably restored by Grantee to the condition that existed prior to the damage or disturbance;

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.

This easement shall allow public non-motorized traffic and shall permit maintenance, repair and replacement of the paving in the easement area.

Exempt pursuant to MCLA 207.505(a)
And MCLA 207.526(a)

This instrument shall be binding and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns.

Dated this _____ day of _____, 20__.

Signed by:

[name]

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by

Notary Public
_____ County, Michigan
My Commission Expires:

Drafted by:
Benjamin Croy, PE
City of Novi
45175 W Ten Mile Road
Novi, MI 48375

When recorded return to:
City of Novi
City Clerk
45175 W. Ten Mile Road.
Novi, MI 48375

438616_1.DOC

VALUATION STATEMENT

Updated 09-10-08

Property Owner(s): EL-AD Pavilion, LLC

Address: Pavilion Court Apartments

22675 Pavilion Drive

Novi, MI 48375

Area to be acquired: 12,024 SF

Price per square foot/acres x \$ 2.25

Total \$ N/A Fee (Permanent)

x 50% \$ 13,527.00 Easement (Permanent)

x 10% \$ N/A Grading Permit (Temporary)

Just Compensation \$ 13,527.00

ADDITIONAL INFORMATION:

LPA Approval: _____ Date: _____

JOB NUMBER	PARCEL	NAME
------------	--------	------

DONATION

to

LOCAL PUBLIC AGENCY (LPA)

This information is required by the LPA in order for a property owner to donate property.
Updated 02-14-08

Property Owner(s): EL-AD Pavilion, LLC

Address: Pavilion Court Apartments

22675 Pavilion Drive

Novi, MI 48375

- Right(s) to be acquired:
- Fee (Total Take)
 - Fee (Partial Take)
 - Easement (Permanent)
 - Permit (Temporary)

Just Compensation \$ 13,527.00

- Just Compensation determined by:
- Market Study and/or Valuation Analysis
 - Appraisal by 3rd party

The undersigned owner(s) of the subject property identified below agrees with the following statements:

- I/We have been informed and fully understand that I/we have the right to receive just compensation for the subject property.
- I/We have been informed and fully understand that by signing this document, I/we are agreeing to donate the subject property in lieu of just compensation.
- I/We agree that the decision to donate the subject property was made without undue influences or coercive action of any nature.
- I/We agree to donate the subject property in lieu of compensation.

Owner's Signature: _____ Date: _____

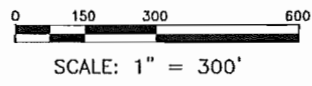
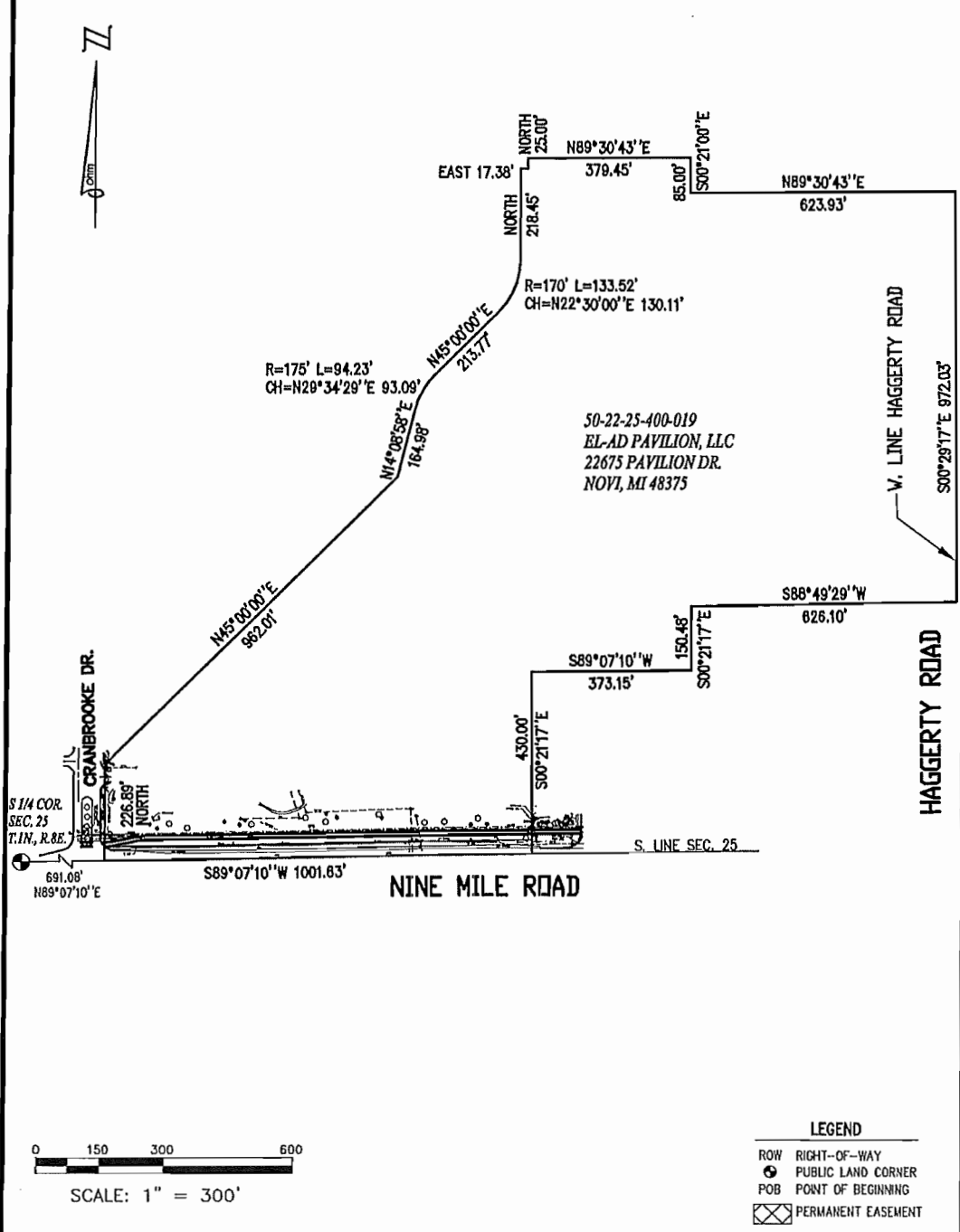
Owner's Signature: _____ Date: _____

LPA APPROVAL: _____ Date: _____

JOB NUMBER	PARCEL	NAME

PERMANENT EASEMENT SKETCH

Exhibit "A"



LEGEND

—	ROW	RIGHT-OF-WAY
⊙	PUBLIC LAND CORNER	
⊙	POB	POINT OF BEGINNING
⊠	PERMANENT EASEMENT	

PERMANENT EASEMENT

PART OF THE SE 1/4 OF SEC. 25
 T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY
 TAX ID NO.: 50-22-25-400-019

CLIENT: CITY OF NOVI



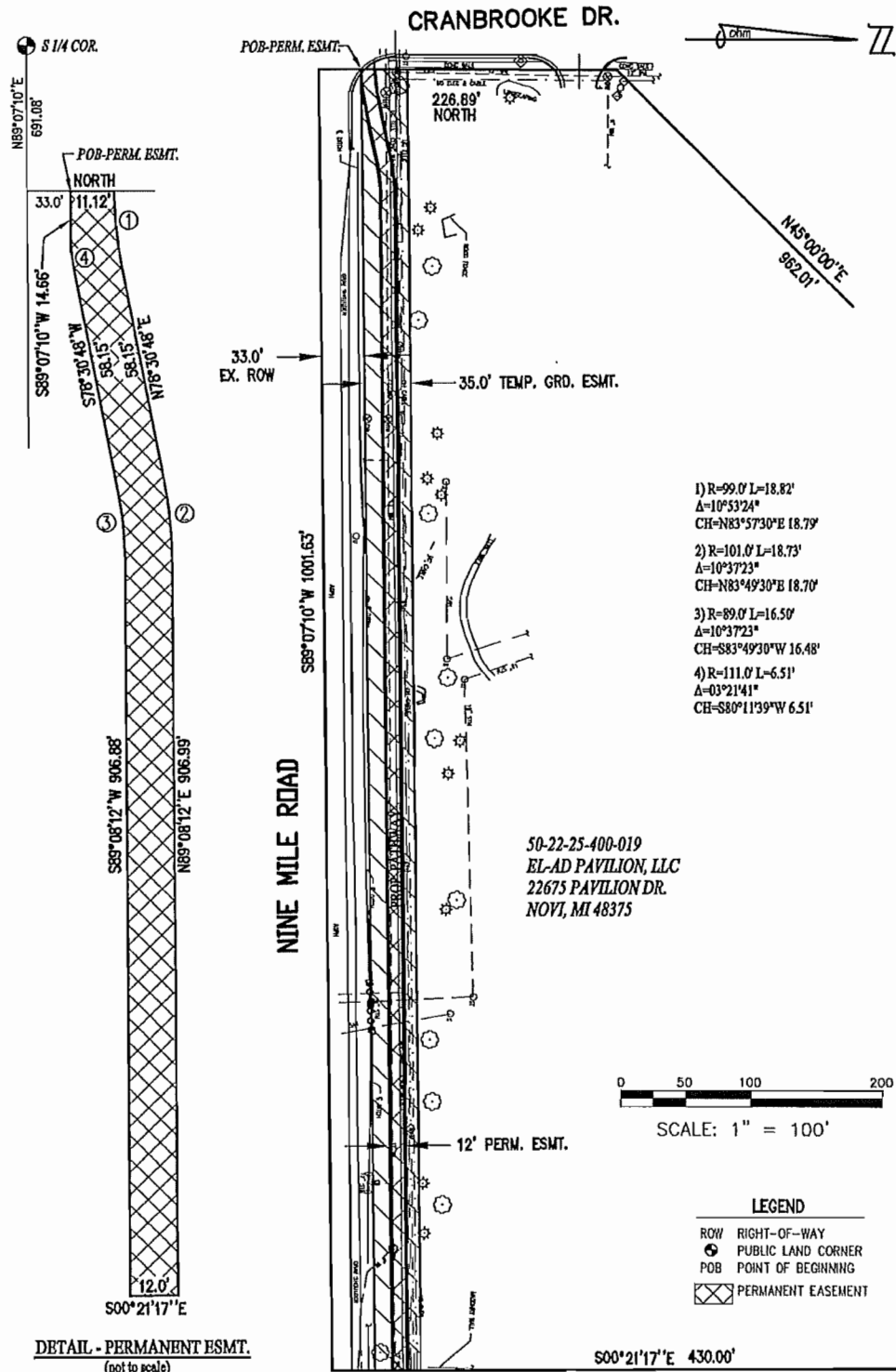
34000 Plymouth Road | Livonia, MI 48150
 p (734) 522-6711 | f (734) 522-6427

Advancing Communities

DATE: 01-19-11	SHEET	JOB NO.
DRAWN BY: SH	1 OF 3	0163-10-0130
DWG: 25-400-019		

PERMANENT EASEMENT SKETCH

Exhibit "A"



PERMANENT EASEMENT

PART OF THE SE 1/4 OF SEC. 25
 T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY
 TAX ID NO.: 50-22-25-400-019

CLIENT: CITY OF NOVI



34000 Plymouth Road | Livonia, MI 48150
 p (734) 522-6711 | f (734) 522-6427

Advancing Communities

DATE: 01-19-11
 DRAWN BY: SH
 DWG: 25-400-019

SHEET
 2 OF 3

JOB NO.
 0163-10-0130

PERMANENT EASEMENT DESCRIPTION

Exhibit "A"

PARCEL DESCRIPTION (50-22-25-400-019): (PER OAKLAND COUNTY TAX ROLLS)

A parcel of land situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Beginning at a point distant N 89°07'10" E 691.08 feet from the S 1/4 corner of said Section 25; thence North 226.89 feet; thence N 45°00'00" E 962.01 feet; thence N 14°08'58" E 164.98 feet; thence along curve to the right, radius of 175 feet, chord bears N 29°34'29" E 93.09 feet, distant of 94.23 feet; thence N 45°00'00" E 213.77 feet; thence along curve to the left, radius of 170 feet, chord bears N 22°30'00" E 130.11 feet, distant 133.52 feet; thence North 218.45 feet; thence East 17.38 feet; thence North 25 feet; thence N 89°30'43" E 379.45 feet; thence S 00°21'00" E 85 feet; thence N 89°30'43" E 623.93 feet to the West line of Haggerty Road; thence S 00°29'17" E 972.03 feet; thence S 88°49'29" W 626.10 feet; thence S 00°21'17" E 150.48 feet; thence S 89°07'10" W 373.15 feet; thence S 00°21'17" E 430 feet to South line of said Section 25; thence S 89°07'10" W 1001.63 feet to the point of Beginning. Subject to all easements and restrictions of record, if any.

PERMANENT EASEMENT DESCRIPTION

A parcel of situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

Commencing at the S 1/4 corner of said Section 25; thence N 89°07'10" E 691.08 feet; thence North 33.0 feet to the Point of Beginning; thence continuing North 11.12 feet; thence 18.82 feet along curve to the left having a radius of 99.0 feet, delta of 10°53'24", chord bears N 83°57'30" E 18.79 feet; thence N 78°30'48" E 58.15 feet; thence 18.73 feet along curve to the right having a radius of 101.0 feet, delta of 10°37'23", chord bears N 83°49'30" E 18.70 feet; thence N 89°08'12" E 906.99 feet to a point on the West line of Haggerty Road; thence along said West line S 00°21'17" E 12.0 feet; thence S 89°08'12" W 906.88 feet; thence 16.50 feet along curve to the left having a radius of 89.0 feet, delta of 10°37'23", chord bears S 83°49'30" W 16.48 feet; thence S 78°30'48" W 58.15 feet; thence 6.51 feet along curve to the right having a radius of 111.0 feet, delta of 03°21'41", chord bears S 80°11'39" W 6.51 feet to a point on the North line of Nine Mile road; thence along said North line S 89°07'10" W 14.66 feet to the point of Beginning.

Contains 12,024 square feet of land. Subject to all easements and restrictions of record, if any.

TEMPORARY GRADING EASEMENT DESCRIPTION

A 35 foot wide temporary grading easement being situated in the SE ¼ of Section 25, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan, described as follows:

The North 35 feet of the South 68 feet of the above described parent parcel.

Contains 35,046 square feet of land. Subject to all easements and restrictions of record, if any.

PERMANENT EASEMENT

PART OF THE SE 1/4 OF SEC. 25
T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY
TAX ID NO.: 50-22-25-400-019

CLIENT: CITY OF NOVI



34000 Plymouth Road | Livonia, MI 48150
p (734) 522-6711 | f (734) 522-6427

Advancing Communities

DATE: 01-19-11
DRAWN BY: SH
DWG: 25-400-019

SHEET
3 OF 3

JOB NO.
0163-10-0130

TEMPORARY GRADING PERMIT

I, _____, the owner of the property as described as 22675 Pavilion
(print name)

Drive, Novi, Michigan (Parcel No. 50-22-25-400-019) grant the City of Novi and its contractor (or subcontractors) permission to access, move men and equipment on and through, the right to store materials and excavated earth, remove vegetation and alter the underlying land in, over, upon and through the property described above in the particular areas shown in Exhibit A, attached.

The work will include:

Grading and related construction activities required for the construction of a 10-foot wide non-motorized pathway, including but not limited to the removal or relocation of trees and landscaping in accordance with approved plans. All work is contained in the set of construction plans entitled "Nine Mile Road Nonmotorized Pathway" by Orchard, Hiltz & McCliment.

All portions of the Premises damaged or disturbed by Novi's exercise of temporary easement rights, shall be reasonably restored by Novi to the condition that existed prior to the damage or disturbance;

I understand this only grants permission to the Contractor to perform work directly relating to the listed project and upon completion of required grading operations the property will be fully restored.

Owner (signature)

Date

Contact Mailing Address

City, State, Zip

Phone Number

Fax Number

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by

Notary Public
_____ County, Michigan
My Commission Expires:

Drafted by:
Benjamin Croy, PE
City of Novi
45175 W Ten Mile Road
Novi, MI 48375

VALUATION STATEMENT

Updated 09-10-08

Property Owner(s): EL-AD Pavilion, LLC

Address: Pavilion Court Apartments

22675 Pavilion Drive

Novi, MI 48375

Area to be acquired: 35,046 SF

Price per square foot/acres x \$ 2.25

Total \$ N/A Fee (Permanent)

x 50% \$ N/A Easement (Permanent)

x 10% \$ 7,885 Grading Permit (Temporary)

Just Compensation \$ 7,885

ADDITIONAL INFORMATION:

LPA Approval: _____ Date: _____

JOB NUMBER	PARCEL	NAME
------------	--------	------

DONATION

to

LOCAL PUBLIC AGENCY (LPA)

This information is required by the LPA in order for a property owner to donate property.
Updated 02-14-08

Property Owner(s): EL-AD Pavilion, LLC

Address: Pavilion Court Apartments

22675 Pavilion Drive

Novi, MI 48375

Right(s) to be acquired: Fee (Total Take)
 Fee (Partial Take)
 Easement (Permanent)
 Permit (Temporary)

Just Compensation \$ 7,885

Just Compensation determined by: Market Study and/or Valuation Analysis
 Appraisal by 3rd party

The undersigned owner(s) of the subject property identified below agrees with the following statements:

- I/We have been informed and fully understand that I/we have the right to receive just compensation for the subject property.
- I/We have been informed and fully understand that by signing this document, I/we are agreeing to donate the subject property in lieu of just compensation.
- I/We agree that the decision to donate the subject property was made without undue influences or coercive action of any nature.
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Owner's Signature: _____ Date: _____

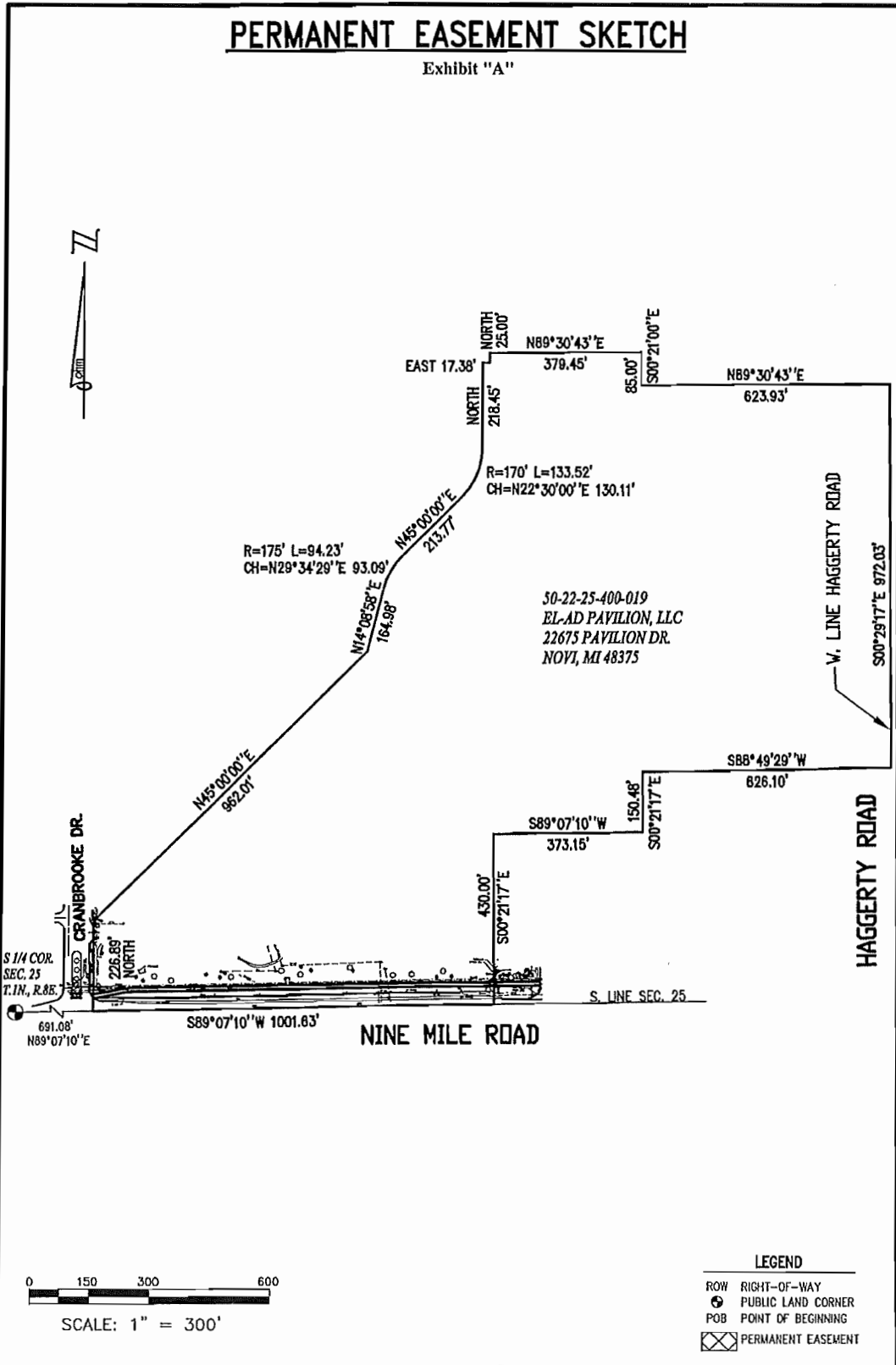
Owner's Signature: _____ Date: _____

LPA APPROVAL: _____ Date: _____

JOB NUMBER	PARCEL	NAME
------------	--------	------

PERMANENT EASEMENT SKETCH

Exhibit "A"



PERMANENT EASEMENT

PART OF THE SE 1/4 OF SEC. 25
T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY
TAX ID NO.: 50-22-25-400-019

CLIENT: CITY OF NOVI



34000 Plymouth Road | Livonia, MI 48150
p (734) 522-6711 | f (734) 522-6427

Advancing Communities

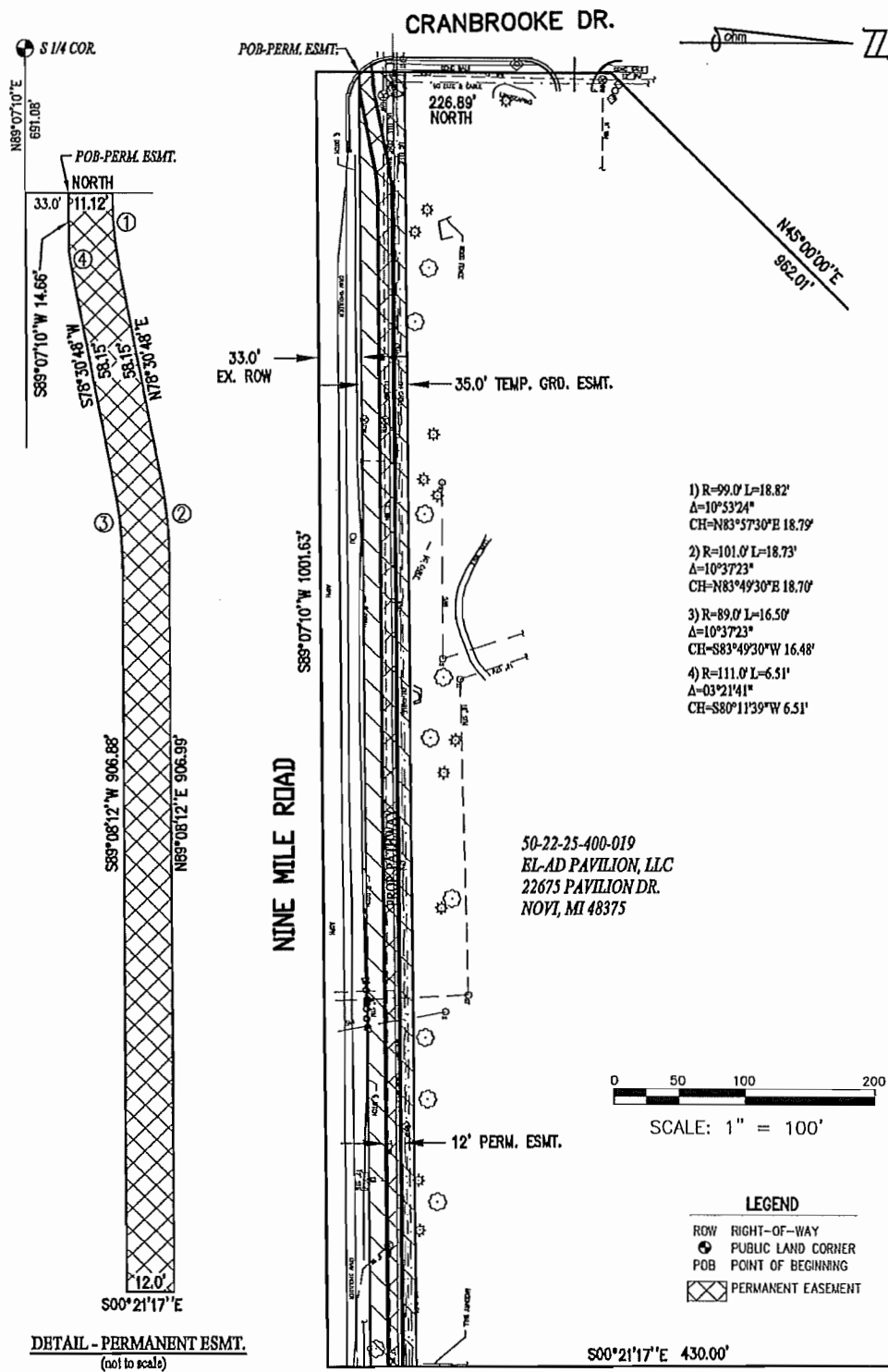
DATE: 01-19-11
DRAWN BY: SH
DWG: 25-400-019

SHEET
1 OF 3

JOB NO.
0163-10-0130

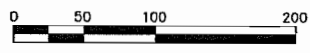
PERMANENT EASEMENT SKETCH

Exhibit "A"



- 1) $R=99.0' L=18.82' A=10^{\circ}53'24'' CH=N83^{\circ}57'30''E 18.79'$
- 2) $R=101.0' L=18.73' A=10^{\circ}37'23'' CH=N83^{\circ}49'30''E 18.70'$
- 3) $R=89.0' L=16.50' A=10^{\circ}37'23'' CH=S83^{\circ}49'30''W 16.48'$
- 4) $R=111.0' L=6.51' A=03^{\circ}21'41'' CH=S80^{\circ}11'39''W 6.51'$

50-22-25-400-019
 EL-AD PAVILION, LLC
 22675 PAVILION DR.
 NOVI, MI 48375



SCALE: 1" = 100'

LEGEND

- ROW RIGHT-OF-WAY
- ⊕ PUBLIC LAND CORNER
- POB POINT OF BEGINNING
- ⊗ PERMANENT EASEMENT

DETAIL - PERMANENT ESMT.
 (not to scale)

PERMANENT EASEMENT

PART OF THE SE 1/4 OF SEC. 25
 T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY
 TAX ID NO.: 50-22-25-400-019

CLIENT: CITY OF NOVI



34000 Plymouth Road | Livonia, MI 48150
 p (734) 522-6711 | f (734) 522-6427

Advancing Communities

DATE: 01-19-11
 DRAWN BY: SH
 DWG: 25-400-019

SHEET
 2 OF 3

JOB NO.
 0163-10-0130

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(PER OAKLAND COUNTY TAX ROLLS)

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PERMANENT EASEMENT

PART OF THE SE 1/4 OF SEC. 25
T. 1 N., R. 8 E., CITY OF NOVI, OAKLAND COUNTY
TAX ID NO.: 50-22-25-400-019

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DATE: 01-19-11
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SHEET
3 OF 3

JOB NO.
0163-10-0130