



## CITY of NOVI CITY COUNCIL

Agenda Item P  
September 26, 2011

**SUBJECT:** Approval of Acceptance of Easements for Water Main Improvements on Pontiac Trail from Occidental Development, LLC and Edward Rose Realty, Inc. (Portsmouth/Springs Apartments), Parcel Nos. 22-04-100-034, 22-04-200-013, and 22-04-100-010

**SUBMITTING DEPARTMENT:** Department of Public Services – Engineering Division

**CITY MANAGER APPROVAL:**

**BACKGROUND INFORMATION:**

During the 2009 construction season, the City of Novi extended a water main along Pontiac Trail, including along the frontage of the Portsmouth and Springs Apartments. The City made good faith offers to the property owners, Occidental Development and Edward Rose Realty, Inc., in 2007 and 2008 to acquire the necessary permanent and temporary easements to install the main, but was unable to reach an agreement as to the specific language of the easements. In part this was because the apartments are not now connected to City water, and the owners of the apartments were concerned that the City would force them to connect to the newly available City of Novi water.

Because the property owners did not object to the project, however, they did grant the City "rights of entry" so that the project could be commenced and finished as contemplated. Discussions then continued regarding both the language of the easements and the compensation for the property interests affected.

Attached are easements with language acceptable to both the City and the property owners acknowledging that the extension of the water along the frontage of the property does not require a connection immediately but acknowledging the potential requirement in the future for public health, safety, and welfare reasons. The property owner is accepting the offers made originally based upon the City's appraisals of the property, but with interest dating back to the date of the right of entry.

Compensation for each of the parcels is as follows: 22-04-100-034: \$33,344 (permanent and temporary easement); 22-04-200-013: \$2,520 (permanent easement only); 22-04-100-010: \$2,664 (permanent and temporary easements). With interest at the statutory rate, the amounts of the actual payments are \$38,584.56, \$2,916.06, and \$3,082.69, respectively.

Note that the form of easements attached still require signature by the property owners' lenders, which will be either received or waived by the City prior to recording.

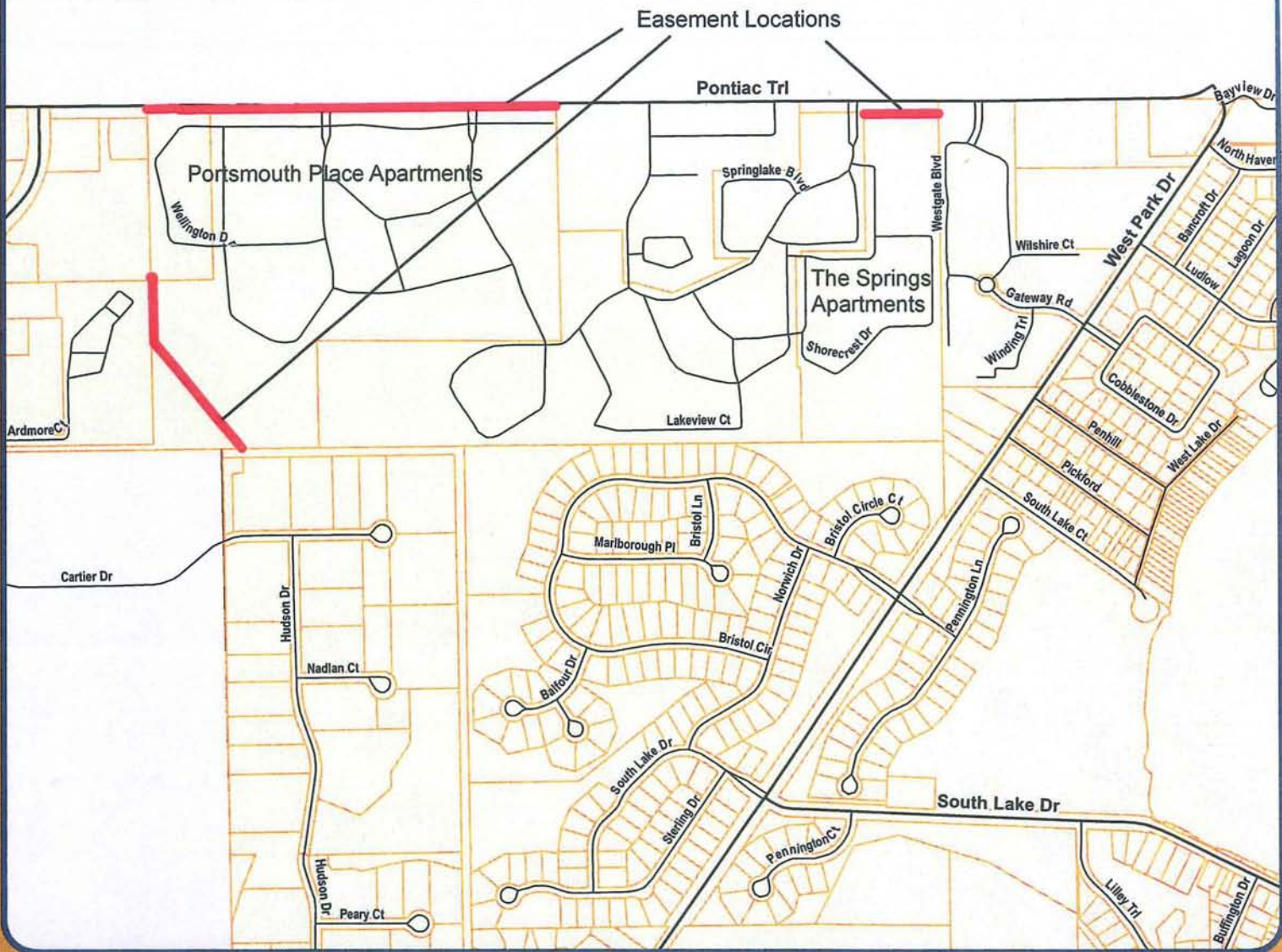
**RECOMMENDED ACTION:** Acceptance of easements for Parcels Nos. 22-04-100-034, 22-04-200-013, and 22-04-100-010 from Portsmouth and Edward Rose Realty for the amount of compensation offered, plus statutory interest to date.

|                         | 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 |   |   |   |   |

# Pontiac Trail Water Main

## Portsmouth and Springs Apartments Easements



Map Author: Aaron J. Staup  
 Date: September 20, 2011  
 Project: Pontiac Trail Water Main  
 Version #: 1

**Amended By:**  
**Date:**  
**Department:**

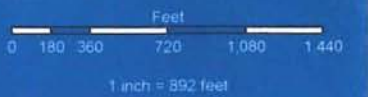
**MAP INTERPRETATION NOTICE**  
 Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent accurate sources available to the people of the City of Novi. Boundary measurements 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 1979 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.

**Map Legend**

|                       |                         |
|-----------------------|-------------------------|
| — Road Classification | ▭ Novi Tax Parcel BSA   |
| — Major Streets       | ▭ City of Novi Boundary |
| — Minor Streets       |                         |



**City of Novi**  
 Engineering Division  
 Department of Public Services  
 26300 Delwal Drive  
 Novi, MI 48375  
[cityofnovi.org](http://cityofnovi.org)



### WATER SYSTEM EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that that Occidental Development, LLC, a Michigan limited liability company, whose address is 30057 Orchard Lake Road, Ste. 100, Farmington Hills, MI 48334, (hereinafter referred to as "Grantor"), being title holder to the following described parcel of land, to-wit:

*[See attached and incorporated Exhibit A]*

Tax Identification Number: 50-22-04-100-034 (A/K/A Portsmouth)

for and in consideration of One (\$1.00) Dollar, 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 water main, 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 water main easement for the purpose of exercising the rights and privileges granted herein.

Grantee may install, repair, replace, improve, modify and maintain water main lines, and all necessary appurtenances thereto, within the easement herein granted. After the City or its contractors complete any maintenance work, the City or its contractors shall restore Grantor's property as nearly as possible to its original condition. This includes, but is not limited to, grading and resodding all disturbed lawn areas and replacing any damaged landscaping.

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 approval as part of an approved site plan, the Grantor may construct and/or install surface improvements to the property, including paved driveways, parking and/or walkways; landscaping; utilities and/or similar improvements, which improvements do not interfere with use, operation, maintenance, repair and replacement of the water main in the easement areas shown on the attached and incorporated Exhibit B.

To the extent allowed by law, Grantee will indemnify Grantor (the entity, its officers, agents, and employees) against any claims, damages, losses, suites, costs, or other expenses (including actual reasonable attorneys' fees) for injuries to persons or damages to property, or both, arising directly or indirectly out of the use of this easement by Grantee (its contractors, subcontractors, lessees, licensees and any of its or their agents or employees); provided, however that Grantee will not indemnify Grantor for claims arising out of Grantor's sole negligence:

The water main improvements contemplated herein (which are part of an installation project along Pontiac Trail) have been fully constructed as of the date hereof. Grantee acknowledges and agrees that the construction of the water main is not intended to, and does not, require Grantor, Edward Rose Realty, Inc., a Michigan corporation, and/or Occidental Development LLC, and/or Oakland Development LLC a Michigan limited liability company, (together, the "Rose Entities") to connect to the water main. Grantee further acknowledges that the development approvals received by the Rose Entities for The Springs, The Springs II and Portsmouth Apartments (the Rose "Properties" at issue and affected by the water main installation project) prior to construction of the existing apartment building improvements did not require connection to the water main upon its availability, and that the Rose Properties are currently connected to a private water well system. Grantee also acknowledges and agrees that it will not require, nor will it solicit any third party (public or private) to require, the Rose Entities to disconnect the Rose Properties from the private well system and be connected to the water main, nor will it aid or assist in such a requirement, except in the event the existing private well system or service fails to meet standards for potability or availability for fire suppression as required by or provided in applicable public health, safety, and welfare laws or regulations; provided, however, that the Grantor shall retain any and all rights to challenge the applicability or enforceability of such laws or regulations. Grantee acknowledges that, as of the date of this easement, it is not aware of the existence of any such current condition.

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.

IN WITNESS WHEREOF, the undersigned Grantor has affixed his signature this 3<sup>rd</sup> day of August, 2011.

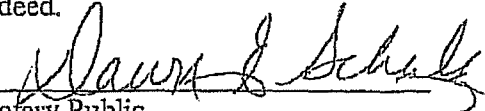
GRANTOR:

Occidental Development, LLC, a  
Michigan limited liability company

By: Warren Rose  
Warren Rose, Its: Manager

STATE OF MICHIGAN     )  
                                  )SS  
COUNTY OF OAKLAND)

On this   3   day of   August  , 2011, before me, personally appeared the above named Warren Rose, the Manager of Occidental Development, LLC, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as his free act and deed.

  
Notary Public,

County, MI

My commission expires:

THIS INSTRUMENT DRAFTED BY:

Elizabeth M. Kudla, Esq.  
30903 Northwestern Highway  
Farmington Hills, MI 48334

DAWN E. SCHULTZ  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Jun 26, 2016  
ACTING IN COUNTY OF OAKLAND

AND WHEN RECORDED RETURN TO:

Maryanne Cornelius, Clerk  
City of Novi  
45175 W. Ten Mile Rd.  
Novi, MI 48375



# EASEMENT

PARCEL NO.: 50-22-04-100-034


PROPERTY OWNER: OCCIDENTAL DEVELOPMENT LTD  
 30057 ORCHARD LAKE ROAD  
 SUITE 200  
 FARMINGTON, MI 48333

**PROPERTY DESCRIPTION:**

PART OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 4, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT DISTANT SOUTH 89 DEGREES 33 MINUTES 26 SECONDS EAST 360.45 FEET AND SOUTH 89 DEGREES 20 MINUTES 18 SECONDS EAST 940.80 FEET FROM THE NORTHWEST SECTION CORNER; THENCE SOUTH 89 DEGREES 20 MINUTES 18 SECONDS EAST 563.75 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 58 SECONDS WEST 1888.39 FEET; THENCE NORTH 89 DEGREES 39 MINUTES 28 SECONDS WEST 1863.28 FEET; THENCE NORTH 30.00 FEET; THENCE SOUTH 89 DEGREES 39 MINUTES 28 SECONDS EAST 948.21 FEET; THENCE NORTH 805.00 FEET; THENCE SOUTH 89 DEGREES 39 MINUTES 28 SECONDS EAST 382.98 FEET; THENCE NORTH 954.84 FEET TO THE POINT OF BEGINNING, ALSO PART OF THE NORTH 1/2 OF SECTION 4 DESCRIBED AS BEGINNING AT A POINT DISTANT NORTH 89 DEGREES 30 MINUTES 00 SECONDS EAST 1889.12 FEET FROM THE NORTHWEST SECTION CORNER; THENCE NORTH 89 DEGREES 30 MINUTES 00 SECONDS EAST 1353.66 FEET; THENCE SOUTH 00 DEGREES 30 MINUTES 00 SECONDS EAST 1287 FEET; THENCE SOUTH 89 DEGREES 30 MINUTES 00 SECONDS WEST 1353.66 FEET; THENCE NORTH 00 DEGREES 30 MINUTES 00 SECONDS WEST 1287 FEET TO THE POINT OF BEGINNING.

**EXHIBIT A  
 PONTIAC TRAIL WATERMAIN**

10/24/08

|   |   |  |  |  |  |  |  |  |                         |            |        |
|---|---|--|--|--|--|--|--|--|-------------------------|------------|--------|
|  | engineers<br>scientists<br>architects<br>constructors | <b>City of Novi</b><br>Oakland County, Michigan<br>Easement<br>Parcel No. 50-22-04-100-034 | <table border="1" style="width: 100%; height: 40px;"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table> |  |  |  |  | <table border="1" style="width: 100%; height: 40px;"> <tr><td style="font-size: 8px;">PROJECT NO.<br/>00620100</td></tr> <tr><td style="font-size: 8px;">PARCEL NO.</td></tr> <tr><td style="font-size: 12px; text-align: center;">1 of 1</td></tr> </table> | PROJECT NO.<br>00620100 | PARCEL NO. | 1 of 1 |
|   |   |  |  |  |  |  |  |  |                         |            |        |
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| PROJECT NO.<br>00620100   |   |  |  |  |  |  |  |  |                         |            |        |
| PARCEL NO.  |   |  |  |  |  |  |  |  |                         |            |        |
| 1 of 1  |   |  |  |  |  |  |  |  |                         |            |        |
| Copyright 2008 All Rights Reserved  |   | PLOT 27, BAYVIEW, EAST & PACE, INC.  |  |  |  |  |  |  |                         |            |        |



# EASEMENT

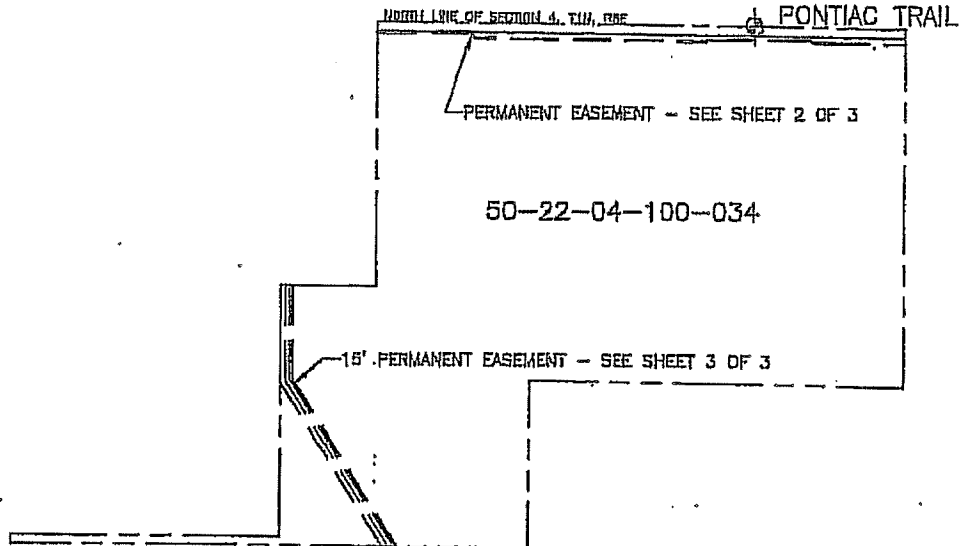
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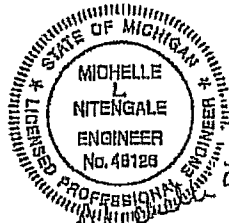
A PERMANENT EASEMENT FOR WATERMAIN DESCRIBED AS:

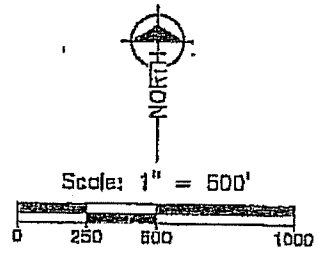
COMMENCING AT THE NORTHWEST CORNER OF SECTION 5, T1N, R8E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE ALONG THE NORTH LINE OF SAID SECTION, NORTH 89°16'52" EAST 360.45 FEET; THENCE NORTH 89°30'00" EAST 840.80 FEET; THENCE SOUTH 01°09'42" EAST 33.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF PONTIAC TRAIL AND THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, NORTH 89°30'00" EAST 1921.05 FEET; THENCE SOUTH 01°09'34" EAST 22.00 FEET; THENCE SOUTH 89°30'00" WEST 357.00 FEET; THENCE NORTH 45°30'51" WEST 8.80 FEET; THENCE SOUTH 89°30'00" WEST 372.80 FEET; THENCE SOUTH 44°29'09" WEST 8.90 FEET; THENCE SOUTH 89°30'00" WEST 827.20 FEET; THENCE NORTH 45°30'51" WEST 25.45 FEET; THENCE SOUTH 89°30'00" WEST 352.55 FEET; THENCE NORTH 01°09'42" WEST 4.00 FEET TO THE POINT OF BEGINNING.

ALSO, A 15 FOOT WIDE EASEMENT, 7.5 FEET EACH SIDE OF A CENTERLINE DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 4, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE NORTH 89°16'52" EAST 360.45 FEET; THENCE NORTH 89°30'00" EAST 840.80 FEET; THENCE NORTH 89°30'00" EAST 1710.79 FEET; THENCE NORTH 89°30'00" EAST 210.26 FEET; THENCE SOUTH 01°09'34" EAST 1308.73 FEET; THENCE NORTH 89°55'43" WEST 1358.76 FEET; THENCE SOUTH 01°09'33" EAST 681.84 FEET; THENCE SOUTH 89°11'58" WEST 600.05 FEET TO THE POINT OF BEGINNING; THENCE NORTH 34°23'08" WEST 706.62 FEET; THENCE NORTH 01°09'42" WEST 345.33 FEET TO THE POINT OF ENDING. SAID 15 FEET WIDE EASEMENT IS ADJACENT TO AND EASTERLY OF SANITARY EASEMENT IN LIBER 18142, PAGE 386, OAKLAND COUNTY RECORDS.

SAID PERMANENT EASEMENT CONTAINS 1.12 ACRES, MORE OR LESS.




  
 MICHELLE L. NITENGALE  
 ENGINEER  
 No. 48128  
*M. Nitengale*



**EXHIBIT B  
PONTIAC TRAIL WATERMAIN**

10/24/06

|   |   |  |  |
|---|---|--|--|
|  | engineers<br>scientists<br>architects<br>constructors | <b>City of Novi</b><br>Oakland County, Michigan<br>Easement<br>Parcel No. 50-22-04-100-034 | PROJECT NO.<br>G06201GD<br>FIGURE NO.<br><b>1 of 3</b> |
|   | Copyright 2006, All Rights Reserved                   |  | Date: 10/24/06, 10:24 AM                               |

# EASEMENT

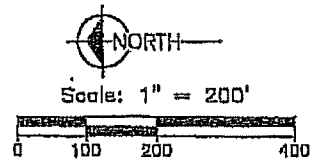
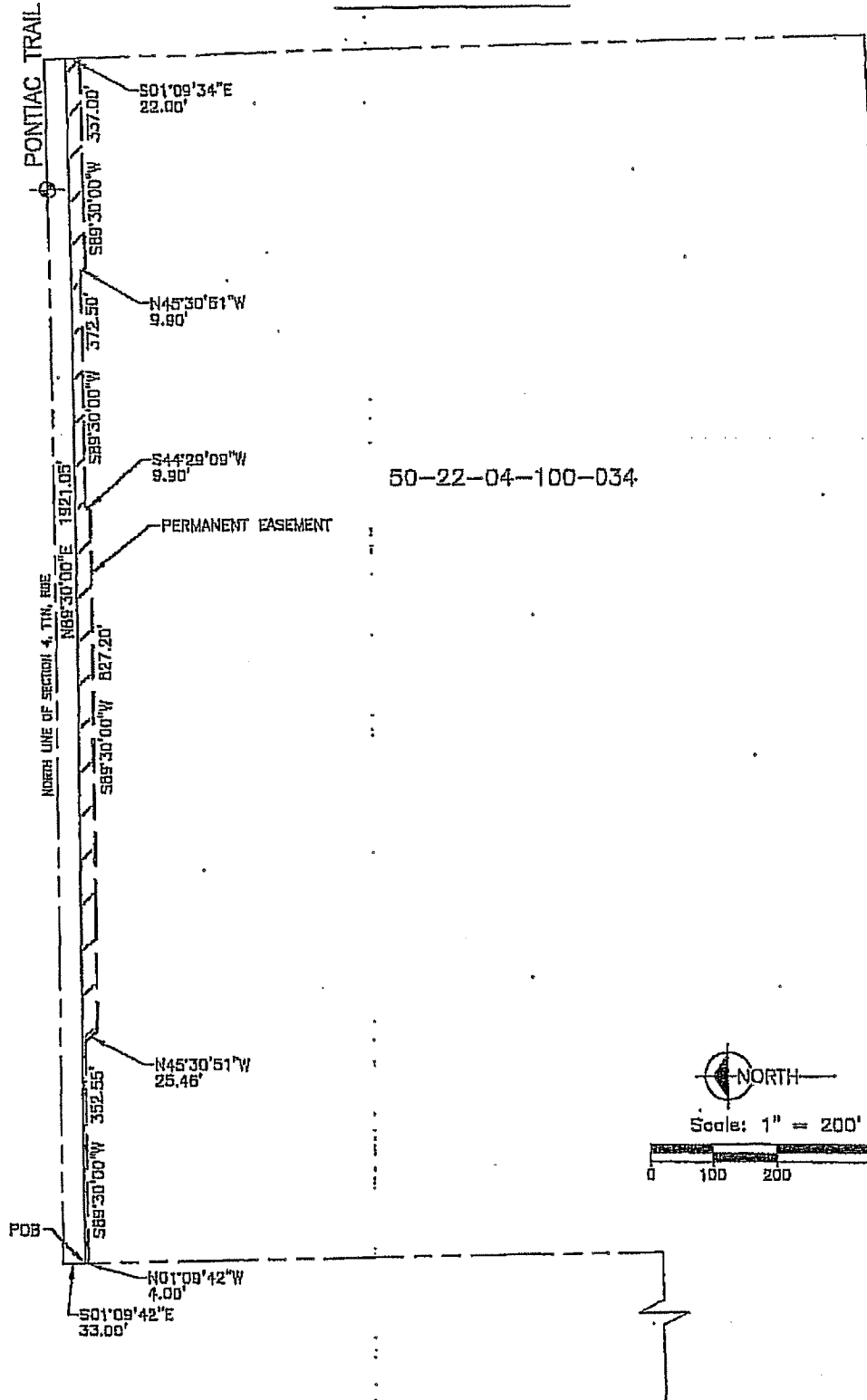


EXHIBIT B  
PONTIAC TRAIL WATERMAIN

10/24/08

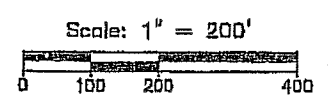
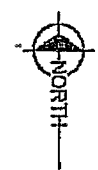
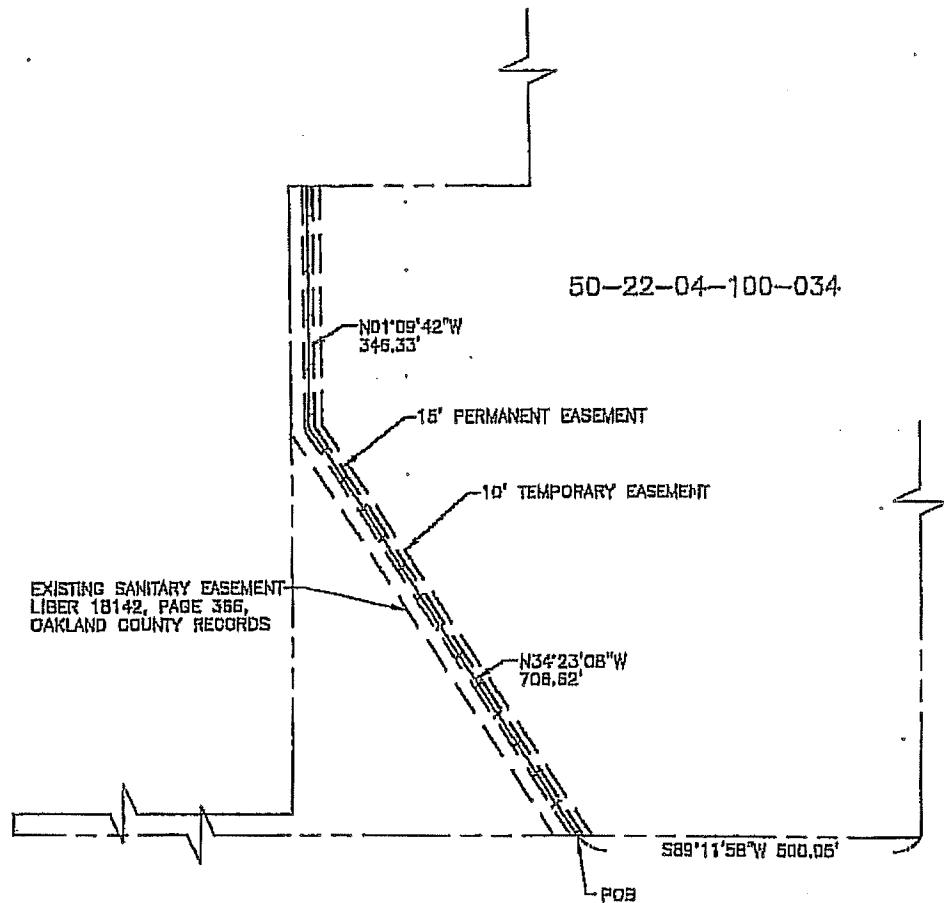
**50** **fiveh**  
engineers  
scientists  
architects  
constructors

**City of Novi**  
Oakland County, Michigan  
Easement  
Parcel No. 50-22-04-100-034

|                         |        |
|-------------------------|--------|
| PROJECT NO.<br>G08201C0 | 2 of 3 |
| FIGURE NO.              |        |


Copyright 2008 FIVEH ENGINEERS, SCIENTISTS, ARCHITECTS & CONSTRUCTORS, LLC. All rights reserved. 10/24/08

# EASEMENT



**EXHIBIT B**  
**PONTIAC TRAIL WATERMAIN**

10/24/08

|   |   |   |                             |
|---|---|---|-----------------------------|
|  | engineers<br>scientists<br>architects<br>constructors | <b>City of Novi</b><br>Oakland County, Michigan | PROJECT NO.<br>08020100     |
|   |   | Easement<br>Parcel No. 50-22-04-100-034         | FIGURE NO.<br><b>3 of 3</b> |

### WATER SYSTEM EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Occidental Development, LLC., a Michigan limited liability company whose address is 30057 Orchard Lake Road, Ste. 100, Farmington Hills, Michigan 48334, (hereinafter referred to as "Grantor"), being title holder to the following described parcel of land, to-wit:

*[See attached and incorporated Exhibit A]*

Tax Identification Number: 50-22-04-100-010 (A/K/A Portsmouth West)

for and in consideration of One (\$1.00) Dollar, 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 water main, 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 water main easement for the purpose of exercising the rights and privileges granted herein.

Grantee may install, repair, replace, improve, modify and maintain water main lines, and all necessary appurtenances thereto, within the easement herein granted. After the City or its contractors complete any maintenance work, the City or its contractors shall restore Grantor's property as nearly as possible to its original condition. This includes, but is not limited to, grading and resodding all disturbed lawn areas and replacing any damaged landscaping.

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 approval as part of an approved site plan, the Grantor may construct and/or install surface improvements to the property, including paved driveways, parking and/or walkways; landscaping; utilities and/or similar improvements, which improvements do not interfere with use, operation, maintenance, repair and replacement of the water main in the easement areas shown on the attached and incorporated Exhibit B.

To the extent allowed by law, Grantee will indemnify Grantor (the entity, its officers, agents, and employees) against any claims, damages, losses, suites, costs, or other expenses (including actual reasonable attorneys' fees) for injuries to persons or damages to property, or both, arising directly or indirectly out of the use of this easement by Grantee (its contractors, subcontractors, lessees, licensees and any of its or their agents or employees): provided, however that Grantee will not indemnify Grantor for claims arising out of Grantor's sole negligence.

The water main improvements contemplated herein (which are part of an installation project along Pontiac Trail) have been fully constructed as of the date hereof. Grantee acknowledges and agrees that the construction of the water main is not intended to, and does not, require Grantor, Edward Rose Realty, Inc., a Michigan corporation, and/or Occidental Development LLC, and/or Oakland Development LLC, a Michigan limited liability company, (together, the "Rose Entities") to connect to the water main. Grantee further acknowledges that the development approvals received by the Rose Entities for The Springs, The Springs II and Portsmouth Apartments (the "Rose Properties" at issue and affected by the water main installation project) prior to construction of the existing apartment building improvements did not require connection to the water main upon its availability, and that the Rose Properties are currently connected to a private water well system. Grantee also acknowledges and agrees that it will not require, nor will it solicit any third party (public or private) to require, the Rose Entities to disconnect the Rose Properties from the private well system and be connected to the water main, nor will it aid or assist in such a requirement, except in the event the existing private well system or service fails to meet standards for potability or availability for fire suppression as required by or provided in applicable public health, safety, and welfare laws or regulations; provided, however, that the Grantor shall retain any and all rights to challenge the applicability or enforceability of such laws or regulations. Grantee acknowledges that, as of the date of this easement, it is not aware of the existence of any such current condition.

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.

IN WITNESS WHEREOF, the undersigned Grantor has affixed his signature this 3<sup>rd</sup> day of August, 2011.

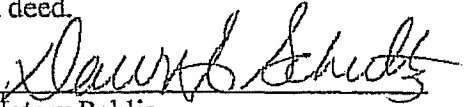
GRANTOR:

**OCCIDENTAL DEVELOPMENT, LLC.,**  
Michigan limited liability company

By: Warren Rose  
Warren Rose, Its: Manager

STATE OF MICHIGAN    )  
                                  )SS  
COUNTY OF OAKLAND    )

On this 3 day of August, 2011, before me, personally appeared the above named Warren Rose, the Manager of Occidental Development, LLC, to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as his free act and deed.

  
Notary Public,

County, MI

My commission expires:

THIS INSTRUMENT DRAFTED BY:

Elizabeth M. Kudla, Esq.  
30903 Northwestern Highway  
Farmington Hills, MI 48334

DAWN E. SCHULTZ  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Jun 30, 2010  
ACTING IN COUNTY OF OAKLAND

AND WHEN RECORDED RETURN TO:

Maryanne Cornelius, Clerk  
City of Novi  
45175 W. Ten Mile Rd.  
Novi, MI 48375



# EASEMENT

PARCEL NO.: 50-22-04-100-010


PROPERTY OWNER: OCCIDENTAL DEVELOPMENT LTD  
30057 ORCHARD LAKE ROAD  
SUITE 200  
FARMINGTON, MI 48333

PROPERTY DESCRIPTION:

PART OF THE NORTHWEST 1/4 OF SECTION 4, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT DISTANT SOUTH 89 DEGREES 33 MINUTES 26 SECONDS EAST 360.45 FEET AND SOUTH 89 DEGREES 20 MINUTES 18 SECONDS EAST 690.80 FEET FROM THE NORTHWEST SECTION CORNER; THENCE SOUTH 89 DEGREES 20 MINUTES 18 SECONDS EAST 350.00 FEET; THENCE SOUTH 954.64 FEET; THENCE NORTH 89 DEGREES 39 MINUTES 28 SECONDS WEST 349.98 FEET; THENCE NORTH 956.49 FEET TO THE POINT OF BEGINNING.

EXHIBIT A  
PONTIAC TRAIL WATERMAIN

10/24/05

|   |              |  |                         |
|---|--------------|--|-------------------------|
|  | engineers    | City of Novi<br>Oakland County, Michigan | PROJECT NO.<br>G0520100 |
|   | scientists   |  |                         |
|   | architects   | Easement                                 | 1 of 1                  |
|   | constructors | Parcel No. 50-22-04-100-010              |                         |



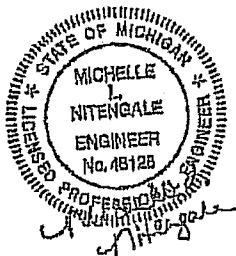
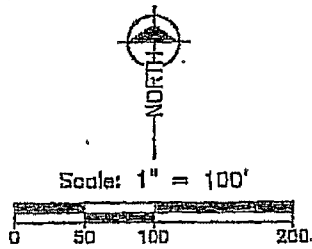
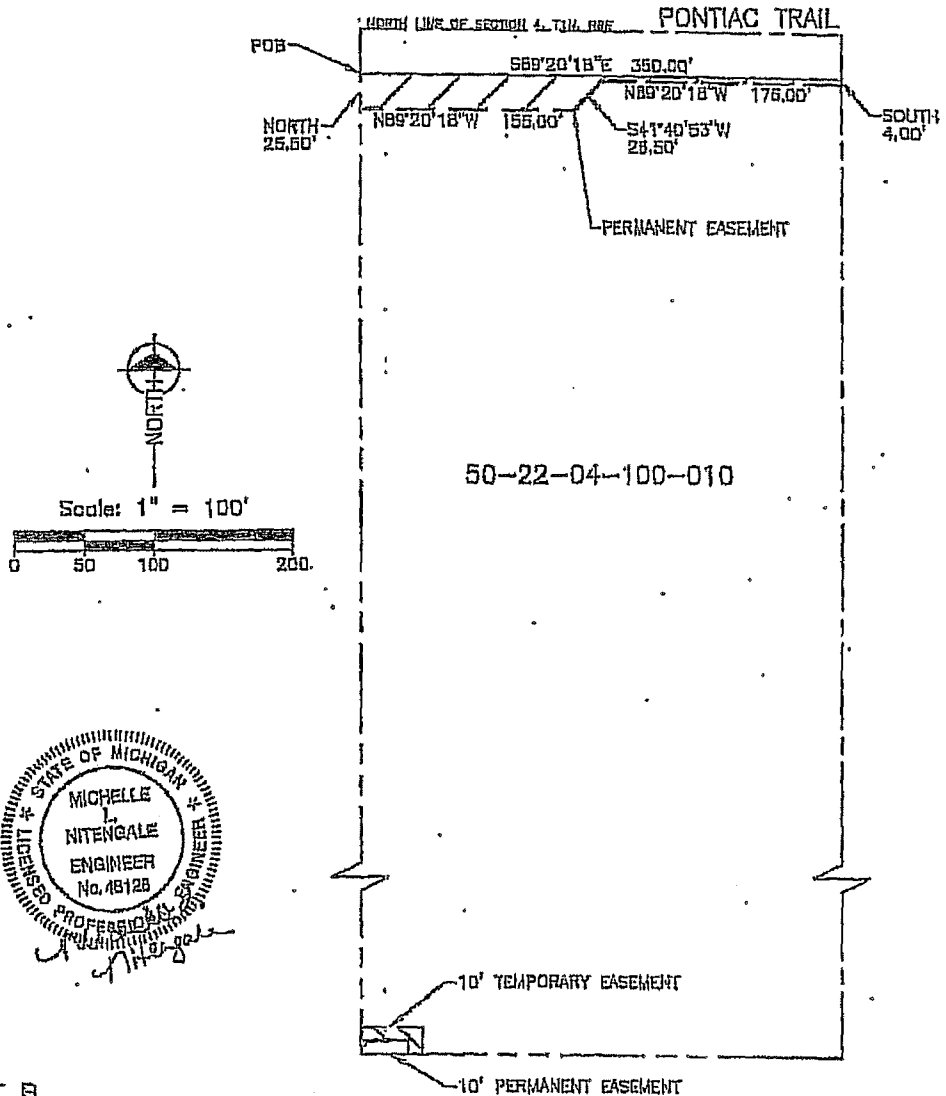
# EASEMENT

**PERMANENT EASEMENT DESCRIPTION:**

A PERMANENT EASEMENT FOR WATERMAIN DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 5, T1N, R6E, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE ALONG THE NORTH LINE OF SAID SECTION, NORTH 89°33'28" EAST 350.45 FEET; THENCE NORTH 89°20'18" EAST 590.80 FEET; THENCE SOUTH 33.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF PONTIAC TRAIL AND THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, NORTH 89°20'18" EAST 350.00 FEET; THENCE SOUTH 4.00 FEET; THENCE NORTH 89°20'18" WEST 176.00 FEET; THENCE SOUTH 41°40'53" WEST 28.50 FEET; THENCE NORTH 89°20'18" WEST 165.00 FEET; THENCE NORTH 25.50 FEET TO THE POINT OF BEGINNING, ALSO, THE SOUTH 10 FEET OF THE WEST 34 FEET OF SUBJECT PARCEL.

SAID PERMANENT EASEMENT CONTAINS 0.12 ACRES, MORE OR LESS.



**EXHIBIT B**  
**PONTIAC TRAIL WATERMAIN**

10/24/05

|  |   |  |  |
|--|---|--|--|
|  | <b>City of Novi</b><br>Oakland County, Michigan |  | PROJECT NO.<br>60B201CD<br>FIGURE NO.<br><b>1 of 1</b> |
|  | Easement<br>Parcel No. 60-22-04-100-010         |  |  |

### WATER SYSTEM EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Edward Rose Realty, Inc., a Michigan Corporation, whose address is 30057 Orchard Lake Road, Ste. 100, Farmington Hills, Michigan 48334, (hereinafter referred to as "Grantor"), being title holder to the following described parcel of land, to-wit:

*[See attached and incorporated Exhibit A]*

Tax Identification Number: 50-22-04-200-013 (A/K/A Springs II)

for and in consideration of One (\$1.00) Dollar, 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 water main, 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 water main easement for the purpose of exercising the rights and privileges granted herein.

Grantee may install, repair, replace, improve, modify and maintain water main lines, and all necessary appurtenances thereto, within the easement herein granted. After the City or its contractors complete any maintenance work, the City or its contractors shall restore Grantor's property as nearly as possible to its original condition. This includes, but is not limited to, grading and reseeding all disturbed lawn areas and replacing any damaged landscaping.

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 approval as part of an approved site plan, the Grantor may construct and/or install surface improvements to the property, including paved driveways, parking and/or walkways; landscaping; utilities and/or similar improvements, which improvements do not interfere with use, operation, maintenance, repair and replacement of the water main in the easement areas shown on the attached and incorporated Exhibit B

To the extent allowed by law, Grantee will indemnify Grantor (the entity, its officers, agents, and employees) against any claims, damages, losses, suites, costs, or other expenses (including actual reasonable attorneys' fees) for injuries to persons or damages to property, or both, arising directly or indirectly out of the use of this easement by Grantee (its contractors, subcontractors, lessees, licensees and any of its or their agents or employees): provided, however that Grantee will not indemnify Grantor for claims arising out of Grantor's sole negligence.

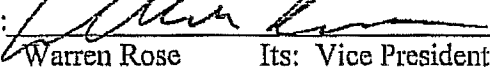
The water main improvements contemplated herein (which are part of an installation project along Pontiac Trail) have been fully constructed as of the date hereof. Grantee acknowledges and agrees that the construction of the water main is not intended to, and does not, require Grantor Edward Rose Realty, Inc., a Michigan corporation, and/or Occidental Development L.L.C. and/or Oakland Development L.L.C. a Michigan limited liability company. (together, the "Rose Entities") to connect to the water main. Grantee further acknowledges that the development approvals received by the Rose Entities for The Springs, The Springs II and Portsmouth Apartments (the "Rose Properties" at issue and affected by the water main installation project) prior to construction of the existing apartment building improvements did not require connection to the water main upon its availability, and that the Rose Properties are currently connected to a private water well system. Grantee also acknowledges and agrees that it will not require, nor will it solicit any third party (public or private) to require, the Rose Entities to disconnect the Rose Properties from the private well system and be connected to the water main, nor will it aid or assist in such a requirement, except in the event the existing private well system or service fails to meet standards for potability or availability for fire suppression as required by or provided in applicable public health, safety, and welfare laws or regulations; provided, however, that the Grantor shall retain any and all rights to challenge the applicability or enforceability of such laws or regulations. Grantee acknowledges that, as of the date of this easement, it is not aware of the existence of any such current condition.

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.

IN WITNESS WHEREOF, the undersigned Grantor has affixed his signature this 3<sup>rd</sup> day of August, 2011.

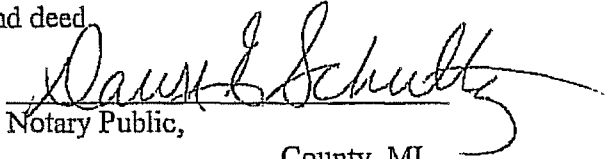
GRANTOR:

**EDWARD ROSE REALTY, INC.**, a  
Michigan corporation

By:   
Warren Rose                      Its: Vice President

STATE OF MICHIGAN )  
 )SS  
COUNTY OF OAKLAND )

On this 3 day of August, 2011, before me, personally appeared the above named Warren Rose, the Vice President of Edward Rose Realty, Inc., to me known to be the person described in and who executed the foregoing instrument and acknowledged that they executed the same as his free act and deed.

  
Notary Public,

County, MI

My commission expires:

THIS INSTRUMENT DRAFTED BY:

Elizabeth M. Kudla, Esq.  
30903 Northwestern Highway  
Farmington Hills, MI 48334

DAWNE E. SCHULTZ  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Jun 26, 2018  
ACTING IN COUNTY OF OAKLAND

AND WHEN RECORDED RETURN TO:

Maryanne Cornelius, Clerk  
City of Novi  
45175 W. Ten Mile Rd.  
Novi, MI 48375



# EASEMENT


PARCEL NO.: 50-22-04-200-013  
 PROPERTY OWNER: EDWARD ROSE REALTY INC.  
 30067 ORCHARD LAKE ROAD SUITE 200  
 FARMINGTON, MI 48333-9154

**PROPERTY DESCRIPTION:**

PART OF THE NORTHEAST 1/4 OF SECTION 4, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT DISTANT SOUTH 00 DEGREES 35 MINUTES 51 SECONDS EAST 60.00 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 4; THENCE CONTINUING SOUTH 00 DEGREES 35 MINUTES 51 SECONDS EAST 1818.68 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 09 SECONDS WEST 783.84 FEET; THENCE NORTH 00 DEGREES 39 MINUTES 51 SECONDS WEST 415.00 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 09 SECONDS WEST 20.00 FEET; THENCE NORTH 00 DEGREES 39 MINUTES 51 SECONDS WEST 804.00 FEET; THENCE NORTH 89 DEGREES 20 MINUTES 09 SECONDS EAST 31.02 FEET; THENCE NORTH 00 DEGREES 35 MINUTES 51 SECONDS WEST 33.88 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 09 SECONDS EAST 357.00 FEET; THENCE NORTH 00 DEGREES 35 MINUTES 51 SECONDS WEST 785.30 FEET; THENCE NORTH 89 DEGREES 30 MINUTES 00 SECONDS EAST 417.00 FEET TO THE POINT OF BEGINNING.

**EXHIBIT A**  
**PONTIAC TRAIL WATERMAIN**

10/3/06

|   |   |  |   |             |           |          |  |        |  |
|---|---|--|---|-------------|-----------|----------|--|--------|--|
|  | engineers<br>scientists<br>architects<br>constructors | <b>City of Novi</b><br>Oakland County, Michigan<br>Easement<br>Parcel No. 50-22-04-200-013 | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="font-size: small;">PROJECT NO.</td><td>608201 CD</td></tr> <tr><td style="font-size: small;">FORM NO.</td><td></td></tr> <tr><td style="font-size: x-large; text-align: center;">1 of 1</td><td></td></tr> </table> | PROJECT NO. | 608201 CD | FORM NO. |  | 1 of 1 |  |
|   | PROJECT NO.   | 608201 CD  |   |             |           |          |  |        |  |
| FORM NO.  |   |  |   |             |           |          |  |        |  |
| 1 of 1  |   |  |   |             |           |          |  |        |  |
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# EASEMENT

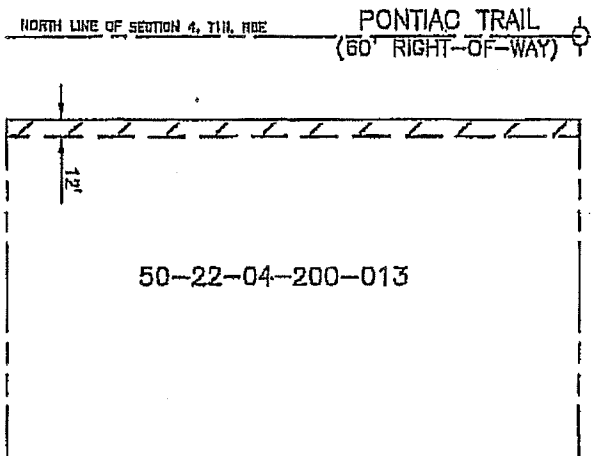
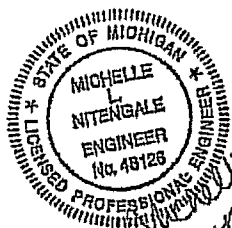
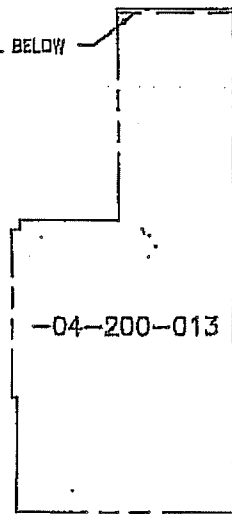
**PERMANENT EASEMENT DESCRIPTION:**

**A PERMANENT EASEMENT FOR WATERMAIN DESCRIBED AS:**

THE NORTH 12 FEET OF THE EAST 417 FEET OF SUBJECT PARCEL, PARALLEL WITH THE NORTH SECTION LINE OF SECTION 4, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN.


SAID PERMANENT EASEMENT CONTAINS 0.11 ACRES, MORE OR LESS.

12' PERMANENT EASEMENT — SEE DETAIL BELOW



**EXHIBIT B  
PONTIAC TRAIL WATERMAIN**

10/3/05

|   |   |  |  |
|---|---|--|--|
|  | engineers<br>scientists<br>architects<br>constructors | <b>City of Novi</b><br>Oakland County, Michigan<br>Easement<br>Parcel No. 50-22-04-200-013 | PROJECT NO.<br>608201CD<br>PAGE NO.<br><b>1 of 1</b> |
|   | Copyright 2005 Fitch 50, Inc.                         |  | Novati, Novi, MI 48164, USA                          |