



CITY of NOVI CITY COUNCIL

Agenda Item L
December 7, 2015

SUBJECT: Approval of a resolution terminating a portion of an existing water main easement (recorded at Liber 19754, Page 369, Oakland County Records) at the request of MI13 Novi LLC, as part of the Eberspaecher Parking Lot Expansion located south of Grand River Avenue and west of Novi Road (parcel 22-22-276-012).

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

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

MI13 Novi LLC, the property owner for the Eberspaecher Parking Lot Expansion project located south of Grand River Avenue and west of Novi Road (parcel 22-22-276-012), has requested the termination of portions of the on-site water main easement. The utility previously located in this area has been relocated as part of the project and placed in a new easement. As such, the applicant has requested that the City terminate and vacate the existing water main easement. The existing easement was recorded at Liber 19754, Page 369 with the Oakland County Register of Deeds.

The enclosed resolution for authorizing the termination of a portion of the existing water main easement in which the utility was abandoned has been prepared for consideration. The proposed easement has been favorably reviewed by the City Attorney (Beth Saarela's letter, attached) and is recommended for approval.

RECOMMENDED ACTION: Approval of a resolution terminating a portion of an existing water main easement (recorded at Liber 19754, Page 369, Oakland County Records) at the request of MI13 Novi LLC, as part of the Eberspaecher Parking Lot Expansion located south of Grand River Avenue and west of Novi Road (parcel 22-22-276-012).

| | 1 | 2 | Y | N |
|----------------------|---|---|---|---|
| Mayor Gatt | | | | |
| Mayor Pro Tem Staudt | | | | |
| Council Member Burke | | | | |
| Council Member Casey | | | | |

| | 1 | 2 | Y | N |
|------------------------|---|---|---|---|
| Council Member Markham | | | | |
| Council Member Mutch | | | | |
| Council Member Wrobel | | | | |

Eberspaecher

Location Map

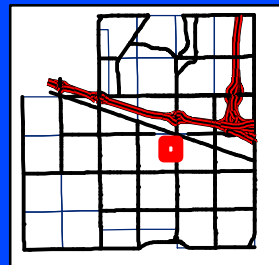


Map Author: A. Wayne
 Date: November 24, 2015
 Project:
 Version #:

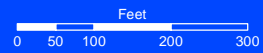
Amended By:
 Date:
 Department:

MAP INTERPRETATION NOTICE

Map information depicted is not intended to replace or substitute for any official or primary source. This map was intended to meet National Map Accuracy Standards and use the most recent, accurate sources available to the people of the City of Novi. Boundary measurements and area calculations are approximate and should not be construed as survey measurements performed by a licensed Michigan Surveyor as defined in Michigan Public Act 132 of 1970 as amended. Please contact the City GIS Manager to confirm source and accuracy information related to this map.



City of Novi
 Engineering Division
 Department of Public Services
 26300 Lee BeGole Drive
 Novi, MI 48375
 cityofnovi.org



1 inch = 250 feet



**RESOLUTION OF THE CITY COUNCIL AUTHORIZING
TERMINATION OF WATER MAIN EASEMENT**

RECITATIONS UNDERLYING THIS RESOLUTION:

The easement for operating, constructing, maintaining and repairing a water main granted to the City of Novi (the "City") whose address is 45175 West Ten Mile Road, Novi, Michigan 48375, which easement is located in Section 22 of the City of Novi, as described on the attached and incorporated Exhibit B is the subject matter of this Resolution, and shall be referred to herein as the "Easement".

The owner of the property described in the attached and incorporated Exhibit A, upon which the Easement is located (the "Property"), granted an easement dated May 5, 1998, recorded on March 29, 1999 at Liber 19754, Page 369, Oakland County Records, for a public water main. Subsequently, the layout of the parking lot on the Property was changed in accordance with an amended site plan for the Property. The portions of the existing water main and attached hydrant were abandoned when a new water main serving the site was constructed. The abandoned water main and hydrant area are no longer required to be maintained as a public water main easement. As such, the City has offered to terminate and vacate that portion of the existing easement. Any costs associated with terminating the easement shall be the Owner's expense.

The appropriate City Officials have investigated the need to maintain the Easement for the benefit of the City's public water system, for the benefit of the Property, and/or for the benefit of surrounding properties. The City Officials have determined it is not necessary to maintain the entire Easement in the location shown on Exhibit B, and hereby agree to terminate it.

NOW, THEREFORE, IT IS RESOLVED AS FOLLOWS:

- I. That a portion of the water main easement described in the attached and incorporated Exhibit B and C, located in Section 22 of the City, described in the Easement which is recorded at Liber 19754, Pages 369 through 375 Oakland County Records, for operating, constructing, maintaining and repairing a water main, be terminated as shown.

2. This Resolution shall be recorded with the Oakland County Register of Deeds evidencing the termination called for herein.

AYES:

NAYES:

ABSTENTIONS:

Resolution declared adopted.

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Novi at the regular meeting held on _____, 2015.

MARYANNE CORNELIUS, CITY CLERK

Drafted by:
Elizabeth Saarela
Johnson, Rosati, Schultz & Joppich
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331
(248) 489-4100

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

Exhibit A

PARCEL DESCRIPTION

LEGAL DESCRIPTION - PARCEL

(PER LEHNER ASSOCIATES, INC. ALTA SURVEY DATED 02-05-07)
NFE HAS NOT PERFORMED A BOUNDARY SURVEY TO CONFIRM THIS LEGAL DESCRIPTION.

PARCEL 1:

A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 22, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS COMMENCING AT THE EAST 1/4 CORNER OF SECTION 22, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE N89°14'52"W, 667.05 FEET ALONG THE EAST AND WEST 1/4 LINE OF SECTION 22 TO THE POINT OF BEGINNING. PROCEEDING ALONG THE EAST AND WEST 1/4 LINE SECTION 22, N89°14'52"W, 674.23 FEET; THENCE N00°37'45"W, 438.61 FEET TO A POINT ON THE EAST LINE OF NOVI HEIGHTS SUBDIVISION NO.3; THENCE ALONG THE EAST LINE OF NOVI HEIGHTS SUBDIVISION NO.3, N00°12'00"E, 136.35 FEET; THENCE N89°56'56"E, 570.64 FEET TO A POINT OF THE WEST RIGHT-OF-WAY LINE OF GENMAR DRIVE; THENCE ALONG THE WEST AND SOUTH LINE OF GENMAR DRIVE THE FOLLOWING TWO (2) COURSES: (1) S00°03'04"E, 82.00 FEET AND (2) 155.96 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 77.00 FEET, CENTRAL ANGLE OF 116°02'56". THE LONG CHORD BEARS S58°04'32"E, 130.63 FEET; THENCE S00°23'56"W, 433.26 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH

PARCEL 1-A:

AN EASEMENT FOR THE CONSTRUCTION, ALTERATION, MAINTENANCE, AND USE OF A RAILROAD SPUR, TWENTY (20) FEET IN WIDTH, TEN (10) FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE: A STRIP OF LAND BEING A PART OF THE NORTHEAST 1/4 OF SECTION 22, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN. DESCRIBED AS: COMMENCING AT THE EAST 1/4 CORNER OF SECTION 22, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE N00°23'56"E, 593.78 FEET ALONG THE EAST LINE OF SECTION 22; THENCE S89°56'56"W, 685.50 FEET ALONG THE NORTH LINE OF GENMAR DRIVE 70 FEET WIDE TO THE POINT OF BEGINNING, PROCEEDING THENCE S00°23'56"W, 157.48 FEET TO THE POINT OF ENDING.

COMMONLY KNOWN AS: 43700 GENMAR, NOVI, MICHIGAN
PARCEL IDENTIFICATION NO. 22-22-276-012

Exhibit B

VACATION OF WATER MAIN EASEMENT DESCRIPTION

LEGAL DESCRIPTION - VACATION OF WATER MAIN EASEMENT

VACATION OF AN EXISTING 20 FOOT WIDE WATER SUPPLY EASEMENT ASSOCIATED WITH REMOVAL OF AN EXISTING FIRE HYDRANT SERVICE LINE. THE CENTERLINE OF THE EASEMENT TO BE VACATED IS MORE PARTICULARLY DESCRIBED AS COMMENCING AT SOUTHEAST CORNER OF PARCEL ID NO. 22-22-276-012 LOCATED IN SECTION 22, TOWN 1 NORTH, RANGE 8 EAST, CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, POINT BEING LOCATED N89°14'52"W, 667.05 FEET FROM THE EAST 1/4 CORNER OF SECTION 22; THENCE N89°14'52"W, 674.23 FEET; THENCE N00°37'45"W, 438.61 FEET, THENCE N00°12'00"E 126.80 FEET; THENCE S89°48'00"E 103.18 FEET TO THE POINT OF BEGINNING (P.O.B.); THENCE N89°56'56"E 56.83 FEET; THENCE S45°03'04"E 33.17 FEET TO THE POINT OF ENDING (P.O.E.).

SAID EASEMENT TO BE VACATED CONTAINS 1,799.89 SQUARE FEET, OR 0.0413 ACRES.



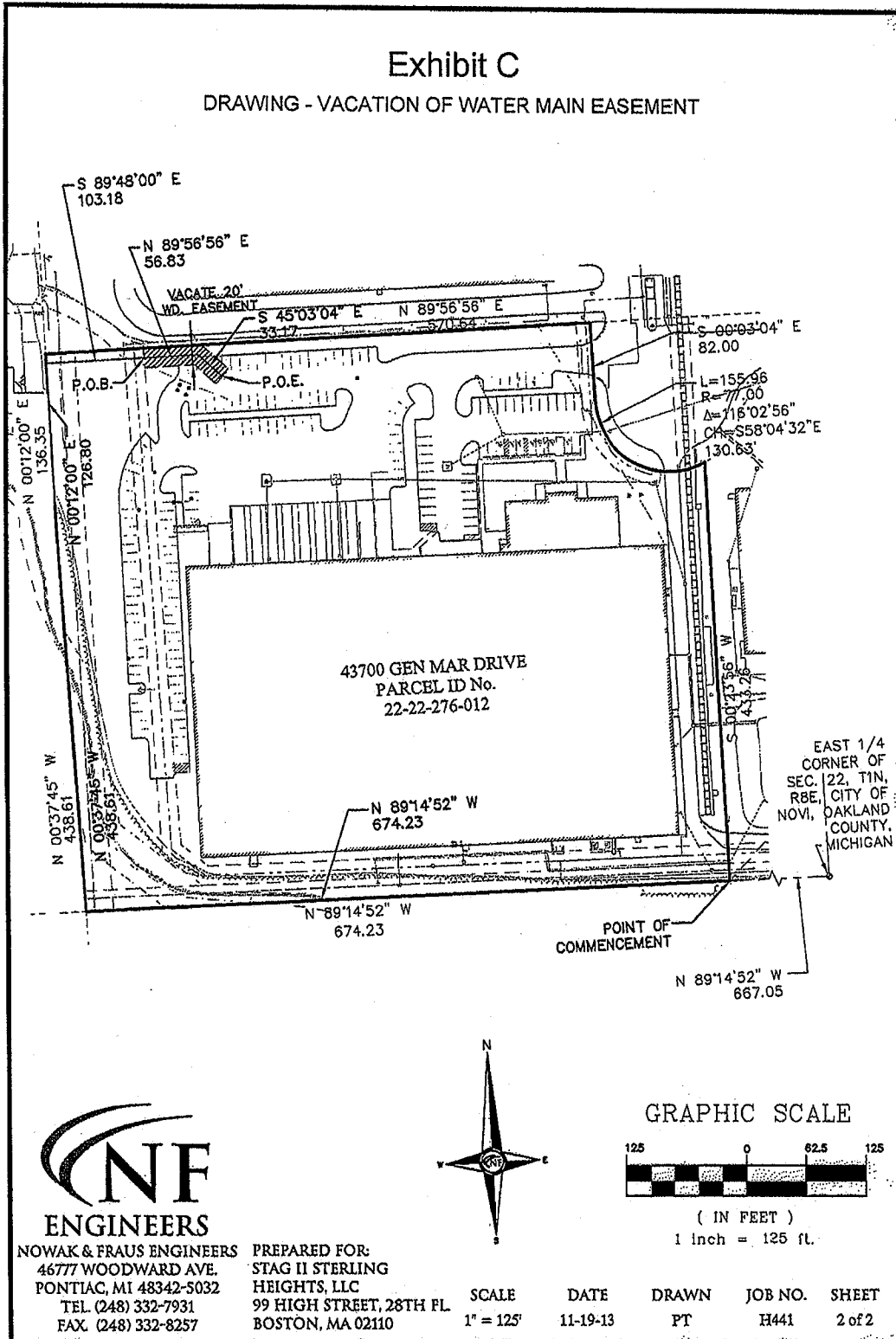
NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257

PREPARED FOR:
STAG II STERLING
HEIGHTS, LLC
99 HIGH STREET, 28TH FL.
BOSTON, MA 02110

| SCALE | DATE | DRAWN | JOB NO. | SHEET |
|-------|----------|-------|---------|--------|
| NONE | 11-19-13 | PT | H441 | 1 of 2 |

Exhibit C

DRAWING - VACATION OF WATER MAIN EASEMENT



NOWAK & FRAUS ENGINEERS
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 99 HIGH STREET, 28TH FL.
 BOSTON, MA 02110

| SCALE | DATE | DRAWN | JOB NO. | SHEET |
|-----------|----------|-------|---------|--------|
| 1" = 125' | 11-19-13 | PT | H441 | 2 of 2 |



JOHNSON ROSATI SCHULTZ JOPPICH PC

27555 Executive Drive Suite 250 ~ Farmington Hills, Michigan 48331
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

November 19, 2015

Rob Hayes, Public Services Director
CITY OF NOVI
45175 Ten Mile Road
Novi, Michigan 48375

**Re: *Eberspaecher North America Parking Lot Rehabilitation JSP 13-0060*
Review for Acceptance – Utilities**

Dear Mr. Hayes:

We have received and reviewed the following documents for the Eberspaecher North America Parking Lot Rehabilitation:

- Water System Easement
- Bill of Sale for Water Main
- Commitment for Title Insurance
- Termination of Existing Water System Easement
- Maintenance and Guarantee Bond

Water System Easement

In order to accommodate expansion rehabilitation of the existing parking lot, the hydrant serving the site was relocated. The location of the former hydrant has been abandoned and is no longer required for public water system facilities. In order to vacate the Water System Easement over the prior hydrant location, we have prepared and enclosed the Resolution of the City Council Authorizing Termination of Water System Easement.

In connection with the termination of the water main easement for the hydrant being relocated, the applicant has provided the enclosed Water System Easement for the relocated hydrant. The Water System Easement is consistent with the City's standard easement format. The title commitment confirms that ownership is accurate as shown in the easement. Finally the City's Consulting Engineer has reviewed and approved the attached exhibits. Once a new Water System Easement has been accepted by the City pursuant to affidavit, the enclosed Resolution may be placed on a City Council Agenda for approval.

Rob Hayes, Public Services Director
November 19, 2015
Page 2

The Bill of Sale provided for the purpose of conveying the relocated portion of the water main and hydrant to the City is satisfactory for the purpose provided.

A Maintenance and Guarantee Bond for the relocated hydrant was not required.

Once approved by City Council, the Resolution Terminating the existing Water System Easement should be recorded along with the replacement Water System Easement.

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

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla Saarela

EKS

Enclosures

C: Maryanne Cornelius, Clerk (w/Enclosures)
Charles Boulard, Community Development Director (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)
Sheila Weber, Treasurer's Office (w/Enclosures)
Kristin Pace, Treasurer's Office (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)
Adam Wayne, Construction Engineer (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Brittany Allen and Ted Meadows, Spalding DeDecker(w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Chris Coleman, Eberspaecher North America (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

New Easement to
be recorded

WATER SYSTEM EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that MI13 Novi LLC, a Delaware limited liability company, whose address is 1521 Westbranch Drive, Suite 100, McLean, Virginia 22102, (hereinafter referred to as "Grantor"), being title holder to the following described parcel of land, to-wit:

[See attached and incorporated Exhibit A (the "Property")]

Tax Identification Number: 22-22-276-012

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 Exhibits B and C]

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.

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

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, Grantor may construct and/or install surface improvements to the Property, including paved driveways, parking and/or

Exhibit A

PARCEL DESCRIPTION

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COMMONLY KNOWN AS: 43700 GENMAR; NOVI, MICHIGAN
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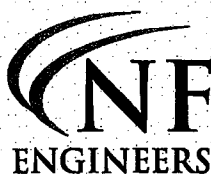
Exhibit B

WATER MAIN EASEMENT DESCRIPTION

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SAID EASEMENT CONTAINS 533.42 SQUARE FEET, OR 0.0122 ACRES.



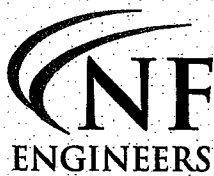
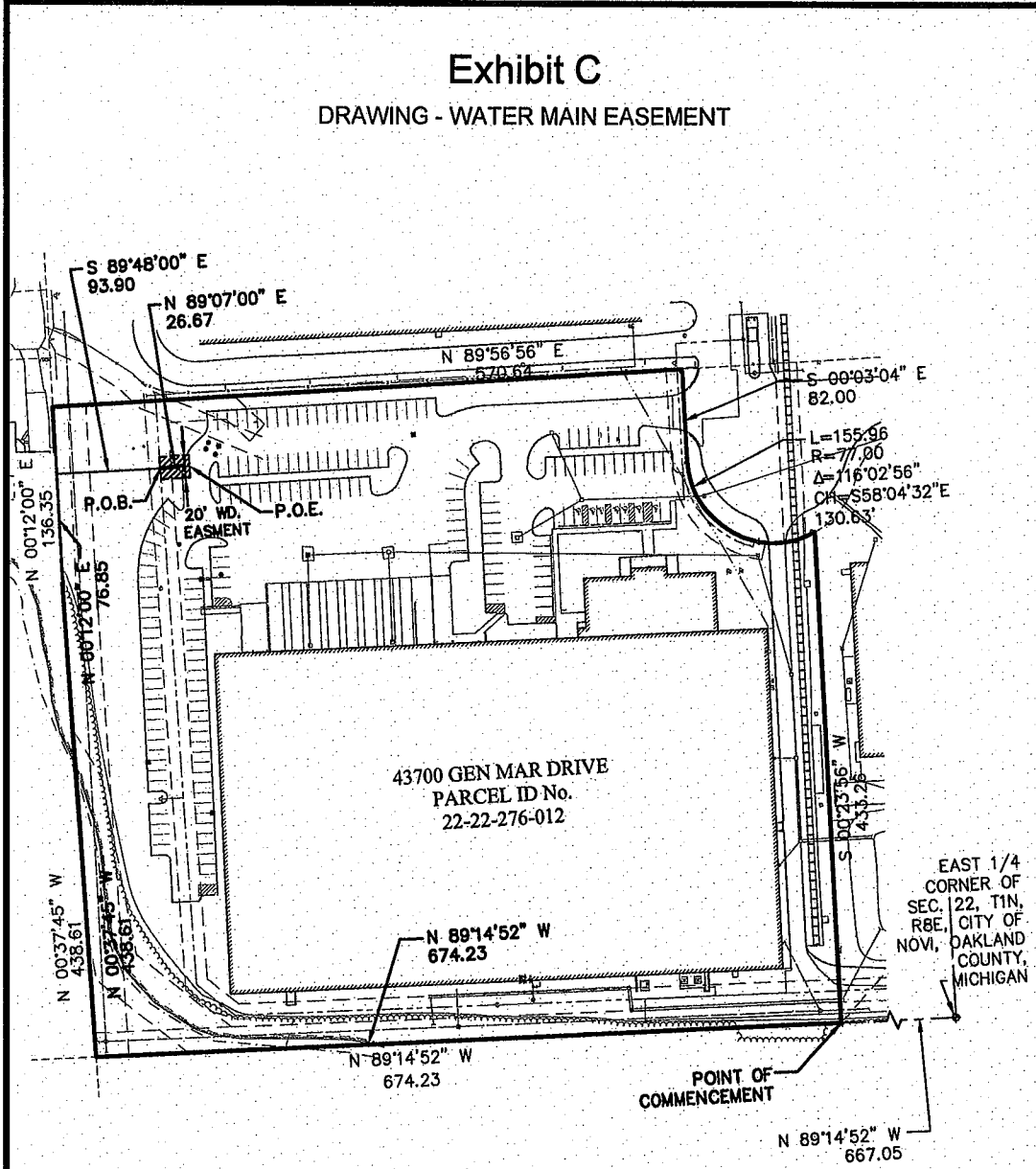
NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL (248) 332-7931
FAX (248) 332-8257

PREPARED FOR:
STAG II STERLING
HEIGHTS, LLC
99 HIGH STREET, 28TH FL.
BOSTON, MA 02110

| SCALE | DATE | DRAWN | JOB NO. | SHEET |
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| NONE | 11-19-13 | PT | H441 | 1 of 2 |

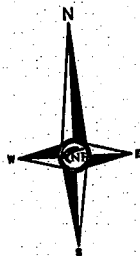
Exhibit C

DRAWING - WATER MAIN EASEMENT



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GRAPHIC SCALE



(IN FEET)
 1 inch = 125 ft.

| SCALE | DATE | DRAWN | JOB NO. | SHEET |
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| 1" = 125' | 11-19-13 | PT | H441 | 2 of 2 |

Exhibit A
PARCEL DESCRIPTION

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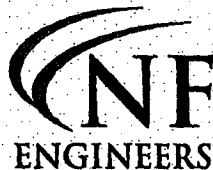
COMMONLY KNOWN AS: 43700 GENMAR, NOVI, MICHIGAN
PARCEL IDENTIFICATION NO. 22-22-276-012

Exhibit B
WATER MAIN EASEMENT DESCRIPTION

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SAID EASEMENT CONTAINS 533.42 SQUARE FEET, OR 0.0122 ACRES.



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