

**AGREEMENT FOR MAINTENANCE OF  
STORM WATER INTERCEPTOR**

This AGREEMENT FOR MAINTENANCE OF STORM WATER INTERCEPTOR ("**Agreement**") is entered into this \_\_\_\_ day of September, 2006, by and between the CITY OF ROCHESTER HILLS, having offices at 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309 (the "**City**"), and THE MARKETPLACE OF ROCHESTER HILLS LLC (formerly known as Rochester Hills Corporate Center LLC), a Michigan limited liability company, having offices at 28470 Thirteen Mile Road, Farmington Hills, Michigan 48334 ("**The Marketplace**").

**RECITALS**

A. The Marketplace owns the property described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**");

B. The Marketplace has the right to develop the Property pursuant to the terms of that certain Consent Judgment, entered on April 3, 2003, in that certain case between an affiliate of The Marketplace, Grand/Sakwa Acquisitions, LLC, as Plaintiff, vs. the City, as Defendant, in the Circuit Court for the County of Oakland, State of Michigan, having Case No. 02-046199-AW, as reinstated and modified by the terms of that certain Stipulation and Order to Reinstate Consent Judgment of April 3, 2003 and for Amendment of Consent Judgment, entered on or about May 26, 2005, as further amended by that certain First Amendment to Consent Judgment, entered on May 26, 2005, and as further amended by that certain Order for Second Amendment to Consent Judgment, entered on November 22, 2005 (as so amended, and as may have been and/or may be further amended, the "**Consent Judgment**");

C. The Marketplace's intended development of the Property provides for the installation and operation of a storm water interceptor in that portion of the Property more particularly described in **Exhibit "B"** attached hereto and made a part hereof (the "**Storm Water Interceptor**"); and

D. The Marketplace and the City agree that both parties will benefit from the proper use and maintenance of the Storm Water Interceptor, and desire to enter into this Agreement to provide for the same.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Maintenance.** The Marketplace shall be responsible for the proper maintenance of the Storm Water Interceptor. Proper maintenance of the Storm Water Interceptor shall include such maintenance that is reasonable and customary in order to facilitate or accomplish the intended function and purpose of the Storm Water Interceptor.

2. **Action by the City.** In the event The Marketplace, its successors, grantees or assigns neglects or fails to properly maintain the Storm Water Interceptor in accordance with the terms hereof, the City shall notify The Marketplace or its successors, grantees or assigns, in writing, which notice shall include a listing and detailed description of the specific maintenance deficiency cited by the City. In the event The Marketplace, its successors, grantees or assigns do not dispute the claim of alleged maintenance deficiencies, The Marketplace, its successors, grantees or assigns shall commence to cure such deficiencies within thirty (30) days after receipt of such notice, weather permitting, and thereafter diligently prosecute such cure until completion, weather permitting. In the event The Marketplace, its successors, grantees or assigns dispute the claim of alleged

APPROVED AS TO FORM

*J. Staron* 10/23/06

ROCHESTER HILLS COUNSEL

maintenance deficiencies, such dispute shall be resolved pursuant to the arbitration provision set forth in the Consent Judgment.

If The Marketplace, its successors, grantees or assigns fails to commence and diligently prosecute curing any maintenance deficiencies sited by the City which is not disputed by The Marketplace, its successors, grantees or assigns, within thirty (30) days after notice thereof, or if The Marketplace fails to commence and diligently prosecute curing any maintenance deficiencies for which it is held responsible by the arbitrator within the time period established by the arbitrator, then the City may undertake and perform such maintenance deficiencies. The performance of such maintenance deficiencies by the City shall not be deemed a taking of the Storm Water Interceptor or any portion of the Property, nor shall the City's actions be deemed to vest in the public any right to use the Storm Water Interceptor or any portion of the Property. Notwithstanding the foregoing, in the event the City determines, in good faith, that an emergency condition exists that poses an imminent threat to public health, safety or general welfare, caused by or relating to the failure of The Marketplace, its successors, grantees or assigns to properly maintain the Storm Water Interceptor, the City shall have the right to take such action as is reasonable and appropriate to correct the maintenance deficiency causing such emergency condition. In the event the City exercises its rights hereunder to perform maintenance on the Storm Water Interceptor, the City shall access the Storm Water Interceptor via the adjacent public right-of-way.

3. **Charges.** In the event the City cures any maintenance deficiencies in the Storm Water Interceptor pursuant to the terms of this Agreement, the City shall have the right to charge the then current owner of the Storm Water Interceptor for the reasonable costs of such corrective maintenance, plus ten percent (10%) of such costs as an administrative fee, which such charge shall be a lien on the Storm Water Interceptor and shall be collectable and enforceable in the same manner general property taxes are collected and enforced.

4. **Notices.** Any notice required hereunder shall be sent by certified mail to the address for each party set forth above, or such other address as the party may notify the other party in writing.

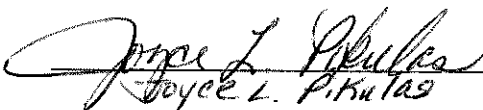
5. **Successors and Assigns.** This Agreement shall be binding on the parties hereto, and their respective successors, grantees and assigns. The rights, obligations and responsibilities of the parties hereunder shall run with the Storm Water Interceptor and shall bind all current and future owners of the Storm Water Interceptor. The Marketplace shall have the right to assign its rights and obligations hereunder, in whole or in part, to one or more future grantees or tenants to all or any portion(s) of the Property.

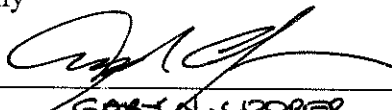
6. **Recording of Agreement.** This Agreement shall be recorded in the Oakland County Register of Deed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

WITNESSES:

THE MARKETPLACE OF ROCHESTER HILLS LLC, a Michigan limited liability company

  
\_\_\_\_\_  
Joyce L. Pitulas

By:   
\_\_\_\_\_  
GARY A. COOPER  
Its: Authorized Representative

THE CITY OF ROCHESTER HILLS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MICHIGAN )  
 )ss  
COUNTY OF OAKLAND )

On this 3rd day of ~~September~~ <sup>October</sup>, 2006, before me personally appeared GARY N. COOPER, Authorized Representative of The Marketplace of Rochester Hills LLC, a Michigan limited liability company, who executed the foregoing instrument on behalf of said limited liability company.

Joyce L. Pikulas  
JOYCE L. PIKULAS Notary Public  
Oakland County, Michigan  
Acting in Oakland County, Michigan  
My Commission Expires: 2-11-07

JOYCE L. PIKULAS  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES FEB 11, 2007  
ACTING IN COUNTY OF Oakland

STATE OF MICHIGAN )  
 )ss  
COUNTY OF OAKLAND )

On this \_\_\_\_\_ day of September, 2006, before me personally appeared \_\_\_\_\_, who executed the foregoing instrument on behalf of the City of Rochester Hills.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
County, Michigan  
Acting in \_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

Drafted by: Chris Corden  
Grand Sakwa Properties, LLC  
28470 Thirteen Mile Rd., Ste 220  
Farmington Hills, MI 48334

When Recorded Return to: City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48334

**EXHIBIT "A"**  
**THE PROPERTY**

**ZEIMET WOZNIAK**  
& ASSOCIATES, INC.28450 FRANKLIN ROAD  
SOUTHFIELD, MICHIGAN 48034  
(248) 352-8950  
FAX (248) 352-1346

CONSULTING CIVIL ENGINEERS - LAND SURVEYORS

10415 EAST GRAND RIVER, STE. 500  
BRIGHTON, MICHIGAN 48116  
(810) 220-5410  
FAX (810) 220-5420

October 31, 2001

**DESCRIPTION**

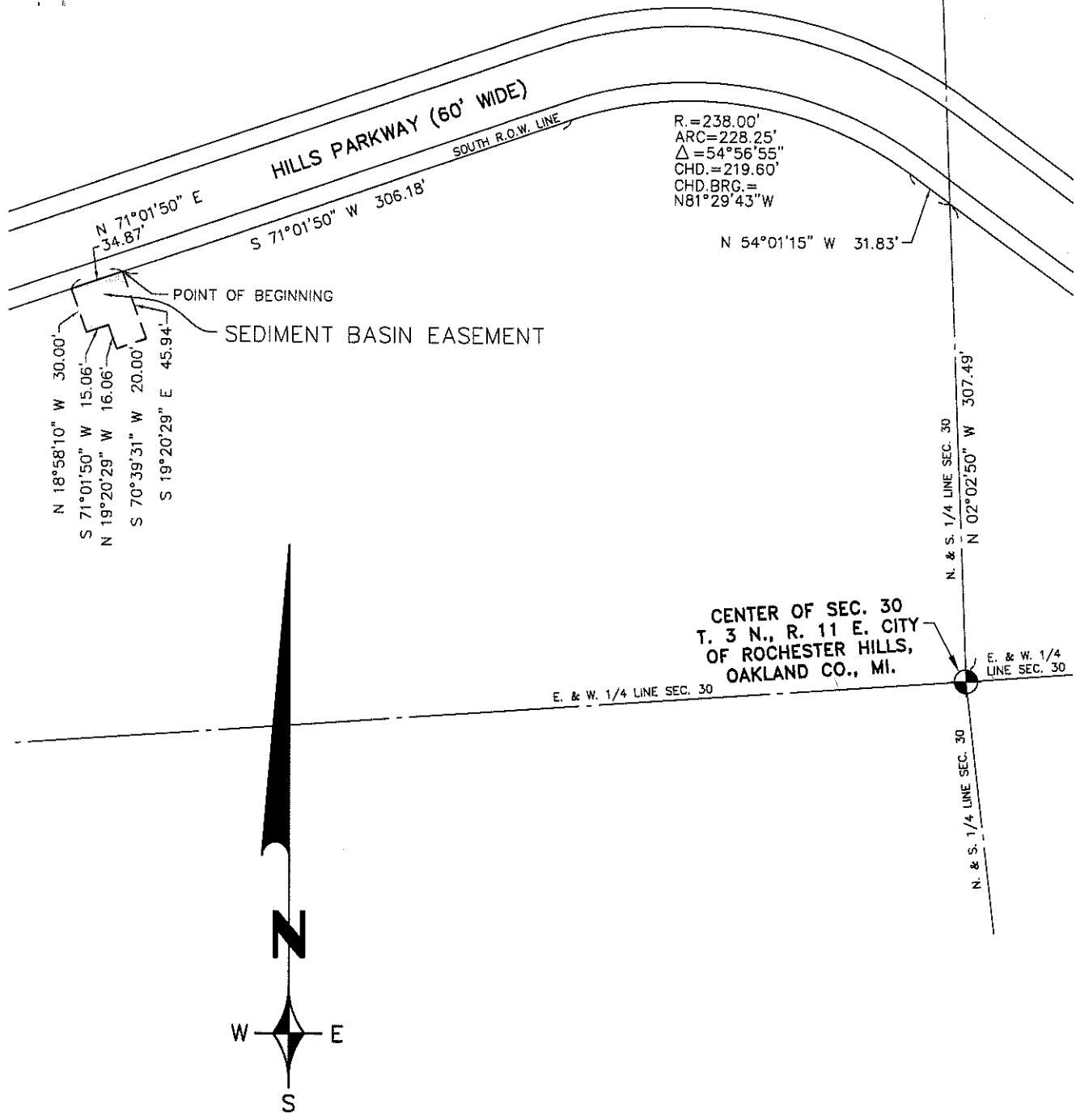
A PARCEL OF LAND LOCATED IN PARTS OF THE NORTH AND SOUTH HALFS OF SECTION 30, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN. MORE PARTICULARLY DESCRIBED AS: BEGINNING AT A POINT DISTANT N. 85°49'02" E. (53.79 FEET) RECORD, 53.63 FEET MEASURED ALONG THE EAST AND WEST 1/4 LINE OF SECTION 30 (AS MONUMENTED) TO THE EASTERLY LINE OF RE-LOCATED ADAMS ROAD (100 FEET WIDE) FROM THE WEST 1/4 CORNER OF SAID SECTION 30; THENCE FROM SAID POINT OF BEGINNING THE FOLLOWING NINE (9) COURSES ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF M-59 HIGHWAY N. 06°10'26" E. 659.50 FEET AND N. 82°38'31" E. 1168.69 FEET AND N. 82°38'32" E. MEASURED, (N. 82°42'35" E. RECORD) 155.60 FEET AND N. 83°38'00" E. 518.80 FEET AND N. 86°15'27" E. 897.47 FEET AND S. 87°04'24" E. 153.45 FEET AND S. 79°45'30" E. 275.05 FEET AND S. 61°31'05" E. 367.64 FEET AND S. 32°42'01" E. 509.13 FEET TO A POINT ON THE EAST AND WEST 1/4 LINE OF SECTION 30; THENCE S. 32°42'01" E. 26.68 FEET; THENCE S. 65°18'11" W. 258.97 FEET; THENCE S. 24°35'28" E. 210.34 FEET MEASURED (210.00 FEET RECORD); THENCE ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE GRAND TRUNK RAILROAD (100 FEET WIDE) 118.92 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 7680.00 FEET, A CENTRAL ANGLE OF 00°53'14", A CHORD LENGTH OF 118.92 FEET AND A CHORD BEARING OF S. 64°04'40" W. TO THE S.E. CORNER OF LOT 38 "AUBURN HIGHLANDS" SUBDIVISION RECORDED IN LIBER 40 PAGE 19 OAKLAND COUNTY RECORDS; THENCE ALONG THE SOUTH LINE OF LOTS 37 AND 38 OF SAID "AUBURN HIGHLANDS" SUBDIVISION, ALSO BEING SAID NORTHERLY LINE OF GRAND TRUNK RAILROAD THE FOLLOWING TWO (2) COURSES 51.98 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 7680.00 FEET, A CENTRAL ANGLE OF 00°23'16" A CHORD LENGTH OF 51.98 FEET AND A CHORD BEARING OF S. 63°26'24" W. AND S. 63°14'47" W. 668.47 FEET; THENCE ALONG THE WEST LINE OF SAID LOT 37 N. 05°55'34" W. 630.94 FEET MEASURED, (626.90 FEET RECORD); THENCE ALONG SAID EAST AND WEST 1/4 LINE OF SECTION 30 S. 85°45'03" W. 512.10 FEET TO THE CENTER OF SECTION 30; THENCE S. 85°59'56" W. 907.82 FEET; THENCE S. 86°01'39" W. 240.00 FEET; THENCE S. 85°38'29" W. 839.20 FEET; THENCE S. 01°30'03" E. 50.00 FEET; THENCE S. 85°38'21" W. 380.04 FEET; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE OF RELOCATED ADAMS ROAD 50.20 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 1382.39 FEET, A CENTRAL ANGLE OF 02°04'51", A CHORD LENGTH OF 50.20 FEET AND A CHORD BEARING OF N. 01°34'32" E. TO THE POINT OF BEGINNING CONTAINING 66.31 ACRES MORE OR LESS, BEING SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

T.R.P.

15-30-176-001  
15-30-326-008OK. M.T. WOOD  
10-19-06

**EXHIBIT "B"**

**THE STORM WATER INTERCEPTOR**



SCALE: 1" = 100'

**DESCRIPTION**  
**SEDIMENT BASIN EASEMENT**

A DESCRIPTION OF A SEDIMENT BASIN EASEMENT LOCATED IN THE NORTHWEST 1/4 OF SECTION 30, T. 3 N., R. 11 E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE CENTER OF SAID SECTION 30 AND PROCEEDING ALONG THE NORTH AND SOUTH 1/4 LINE OF SAID SECTION 30 N. 02°02'50" W. 307.49 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF HILLS PARKWAY (60 FEET WIDE); THENCE THE FOLLOWING THREE (3) COURSES ALONG SAID SOUTH RIGHT-OF-WAY LINE N. 54°01'15" W. 31.83 FEET AND 228.25 FEET ALONG AN ARC OF A CURVE TO THE LEFT, RADIUS 238.00 FEET, CENTRAL ANGLE 54°56'55" AND A CHORD THAT BEARS N. 81°29'43" W. 219.60 FEET AND S. 71°01'50" W. 306.18 FEET TO THE POINT OF BEGINNING OF SAID EASEMENT; THENCE S. 19°20'29" E. 45.94 FEET; THENCE S. 70°39'31" W. 20.00 FEET; THENCE N. 19°20'29" W. 16.06 FEET; THENCE S. 71°01'50" W. 15.06 FEET; THENCE N. 18°58'10" W. 30.00 FEET TO A POINT ON SAID SOUTH RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT OF WAY LINE N. 71°01'50" E. 34.87 FEET TO THE POINT OF BEGINNING.

*CK J. Tovar 10-19-06*

H:\Projects\97144\dwg\97144-ESM.TS.dwg, 9/27/2006 3:34:10 PM, pgenova

REVISIONS			DRAWING OF SEDIMENT BASIN EASEMENT		DATE	SCALE	
ITEM	DATE	BY				HOR: 1" = 100'	FIELD BOOK NO.
					9-26-06		
						DESIGNED BY	JOB NO.
							<b>97144</b>
						DRAWN BY	SHEET NO.
						PTG	<b>1/1</b>

ROCHESTER HILLS MICHIGAN

**Z EIMET W OZNIAK**  
 & ASSOCIATES  
 Civil Engineers & Land Surveyors  
 40024 GRAND RIVER AVE, SUITE 100  
 NOVI, MICHIGAN 48375  
 P: (248) 442-1101 F: (248) 442-1241 www.zeimetwozniak.com