

## MAINTENANCE AGREEMENT

### FOR MAINTENANCE AND REPAIR OF PRIVATE ROAD

This Maintenance Agreement made this 3rd day of OCT, 2016, by Bparc, Inc., a Michigan corporation ("Developer") whose address is 14955 Technology Dr., Shelby Township, MI 48315 and the CITY OF ROCHESTER HILLS ("the City") whose address is 1000 Rochester Hills Drive, Rochester Hills, MI 48309.

WHEREAS, Developer owns and proposes to develop the Property described in attached Exhibit A; and

WHEREAS, ingress and egress to the Parcels shall be by a twenty seven (27) foot private easement road which includes a turnaround; and said parcels may be serviced by utilities by means of an easement in and under the area designated for ingress and egress. The easement is described private easement road:

Legal Description

NOW, THEREFORE, IT IS HEREBY DECLARED, GRANTED AND CONVENATED that the land aforescribed now, and if and when conveyed by subject to and changed with all the protective covenants, restrictions, obligations and conditions hereinafter set forth in this instrument.

I.

#### INGRESS AND EGRESS AND MAINTENANCE

- A. Ingress and egress to and from each of the resulting Parcels from the division shall be by means of a private easement road as is provided on the described survey, and ingress and egress shall be in common. Said private easement road shall be established according to the standards and specifications of the City of Rochester Hills applicable road section. None of the record title owners of various Parcels, by exclusion in any conveyance, may disassociate a particular Parcel's right to use the private easement road.
- B. The owners of each of the Parcels shall be responsible for and shall pay the total cost to maintain the road. Each Parcel shall be responsible for an equal share of the cost of maintenance, with the further provision that once at least two of the Parcels actually have buildings constructed on them, the cost of maintenance shall be the responsibility of only the Parcels which have buildings and are therefore, users of the road.
- C. The need for any particular act or item of maintenance or repair shall be determined by two or more of the owners of the Parcels who will be sharing in the cost of maintenance or repair. Each of said Parcels shall have one (1) vote, regardless of the number of owners of any given Parcel. The owners of record of said Parcels compromising the property responsible for the cost of maintenance or repair shall pay the amount determined to be due with thirty (30) days after receipt of written notice of the necessity of a required maintenance project signed by a majority of the Parcel owners.
- D. Any new improvement of the road, which shall be defined as more than ordinary maintenance and repair, of the private road easement shall be paid for entirely by those owners of the Parcels who desire to improve the road, unless all of the owners agree to share cost of the improvement.
- E. Anything herein to the contrary notwithstanding, each party hereto shall be solely responsible for repairing, or causing to be repaired, at his or her own expense, any extraordinary or unusual damage to the aforementioned roadway or easement occasioned by or resulting from his or her use of such roadway or easement for the ingress and egress of construction equipment, or from such other heavy usual or use thereof.
- F. Recognizing that there may presently exist varying views relative to the need for snow plowing of said roadway, or certain portions thereof, it is agreed that plowing of snow shall not, as of the date or dates on which this Agreement is executed, be defined as or considered to be an act or item of maintenance; provided, however, that if a majority of the parties responsible determine that any party hereto is unfairly and unreasonably failing to participate in the cost or effort involved in the plowing or clearing of snow plowing is, in fact, properly an act or item of maintenance and, after due notice in writing of such determination, all affected parties may thereafter be assessed accordingly; and provided further, however, that no party shall be assessed for the cost of snow plowing any portion of roadway not customarily used by him or her, irrespective of the fact that he or she may be the owner thereof.
- G. Failure of any owner to pay his or her pro rata share of the cost of maintenance within the time hereinbefore provided shall entitle the other owners to collect it in a Court of competent jurisdiction.

H. Each of the parties hereto shall absolutely desist and refrain from prohibiting, restricting, limiting or in any manner interfering with normal access to and use of the easement and roadway which is the subject matter of this Agreement by any of the other parties hereto it being expressly understood and agreed that such normal access and use shall include use by family, guest, invitees, tradesmen, emergency vehicles and personnel, and other bound for or returning from the premises of any of the said parties.

II.

### **EASEMENT FOR PUBLIC VEHICLES**

Proprietors hereby grant an easement to the public for all reasonable and necessary emergency and public vehicles over the easement described herein and designated on the above-referred to survey as the private road easement. Said easement shall be for the purposes of said emergency and public officials performing whatever emergency and public services which appear reasonably necessary, in their sole discretion, under the circumstances.

III.

### **EASEMENT FOR UTILITIES**

A non-exclusive easement for utilities to serve any of the Parcels is hereby granted over and under the private road easement which is referred to herein.

IV.

### **SEVERABILITY**

The voiding or invalidation of any one or more of the covenants herein by judgments or court order shall in no way affect any of the remaining provisions and all of said covenants shall remain totally and severably enforceable.

V.

### **APPLICATION**

The benefits, covenants obligations and restrictions herein provided, shall run with the land and shall inure to the benefit of and be binding upon the heirs, administrators, executors, personal representatives, assigns, grantees, transferees and successors in title of Proprietors. Every deed, land contract or other document of assignment, transfer, conveyance or sale of any of the aforesaid property shall contain an express reference to this Maintenance Agreement.

VI.

### **RESERVATION OF RIGHTS**

The Proprietors hereby reserve the right at their sole discretion to improve additional tributary properties to use the road easement. Future parties afforded this road easement vested interest shall be obligated, bound to join and become part of this Maintenance Agreement.

[Signatures and Acknowledgements on Following Page]

IN WITNESS WHEREOF, the parties have executed this agreement on the date first written above.

Bparc, Inc.  
a Michigan corporation

By: *Mike Gesuale*  
Mike Gesuale, its President

CITY OF ROCHESTER HILLS

By: \_\_\_\_\_  
Bryan K. Barnet, Mayor

By: \_\_\_\_\_  
Tina Barton, City Clerk

STATE OF MICHIGAN  
COUNTY OF Macomb

The foregoing instrument was acknowledged before me this 3rd day of October, 2016, by Mike Gesuale, President of Bparc, Inc., a Michigan corporation, on behalf of and by authority of the corporation.

**KRISTIE WHITCOMB**  
Notary Public, State of Michigan  
County of Macomb  
My Commission Expires 10-17-2021  
Acting in the County of Macomb

*Kristie Whitcomb*  
\_\_\_\_\_  
, Notary Public  
State of Michigan, County of Macomb  
My commission expires: 10-17-2021  
Acting in the County of Macomb

STATE OF MICHIGAN  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Bryan Barnett, Mayor and Tina Barton, City Clerk, of the City of Rochester Hills, on behalf of and by authority of the City.

\_\_\_\_\_  
, Notary Public  
State of Michigan, County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_  
Acting in the County of \_\_\_\_\_

Drafted by:  
Demetrios J. Polyzois  
14955 Technology Dr.  
Shelby Township, MI 48315

*John Staran*  
*Approved 10/19/16*

When recorded, return to:  
Clerks Dept.  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

# EXHIBIT A

## BRAMPTON PARK

LOT 9, EXCEPT THE WEST 27.00 AND EXCEPT THE EAST 252.00 FT. OF THE NORTH 177 FT. AND EXCEPT THE EAST 242 FT. OF THE SOUTH 90 FT., OF "FERRYVIEW HOMELANDS", A SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4, SECTION 24, T.3N. R.11E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 27 OF PLATS, PAGE 22, OAKLAND COUNTY RECORDS. BEING MORE PARTICULARLY DESCRIBED AS, COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 9 THENCE S89°40'12"E 27.00 FT. TO THE POINT OF BEGINNING; THENCE S89°40'12"E 477.67 FT.; THENCE S00°09'24"E 267.00 FT.; THENCE N89°40'33"W 477.63 FT. TO THE EAST RIGHT OF WAY OF JOHN R ROAD (60 FT. 1/2 WIDTH); THENCE ALONG SAID EAST RIGHT OF WAY OF JOHN R ROAD N00°10'00"W 267.05 FT. TO THE POINT OF BEGINNING.

CONTAINING 127,537.84 SQ. FT. OR 2.928 ACRES

#15-24-301-052

## BRAMPTON PARK - HAMPSHIRE COURT RIGHT OF WAY

PART OF LOT 9 OF "FERRYVIEW HOMELANDS", A SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4, SECTION 24, T.3N. R.11E., CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 27 OF PLATS, PAGE 22, OAKLAND COUNTY RECORDS. BEING MORE PARTICULARLY DESCRIBED AS, COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 9 THENCE S89°40'12"E 27.00 FT. TO THE EAST RIGHT OF WAY OF JOHN R ROAD (60 FT. 1/2 WIDTH) AND S00°10'00"E 121.81 FT. ALONG SAID EAST RIGHT OF WAY OF JOHN R ROAD TO THE POINT OF BEGINNING; THENCE N89°50'00"E 33.50 FT.; THENCE S80°26'19"E 17.75 FT.; THENCE N89°50'00"E 120.90 FT.; THENCE SOUTHEASTERLY 54.95 FT. ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS OF 135.00 FT., CENTRAL ANGLE OF 23°19'22", LONG CHORD BEARS S78°30'19"E 54.57 FT.); THENCE SOUTHEASTERLY 56.28 FT. ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS OF 78.00 FT., CENTRAL ANGLE OF 41°20'37", LONG CHORD BEARS S87°30'57"E 55.07 FT.); THENCE SOUTHWESTERLY 272.36 FT. ALONG THE ARC OF A CURVE TO THE RIGHT (RADIUS OF 57.00 FT., CENTRAL ANGLE OF 273°46'35", LONG CHORD BEARS S28°42'02"W 77.91 FT.); THENCE NORTHWESTERLY 103.13 FT. ALONG THE ARC OF A CURVE TO THE LEFT (RADIUS OF 78.00 FT., CENTRAL ANGLE OF 75°45'19", LONG CHORD BEARS N52°17'20"W 95.78 FT.); THENCE S89°50'00"W 167.14 FT. TO SAID EAST RIGHT OF WAY LINE OF JOHN R ROAD; THENCE N00°10'00"W 26.00 FT. ALONG SAID EAST RIGHT OF WAY LINE OF JOHN R ROAD TO THE POINT OF BEGINNING.

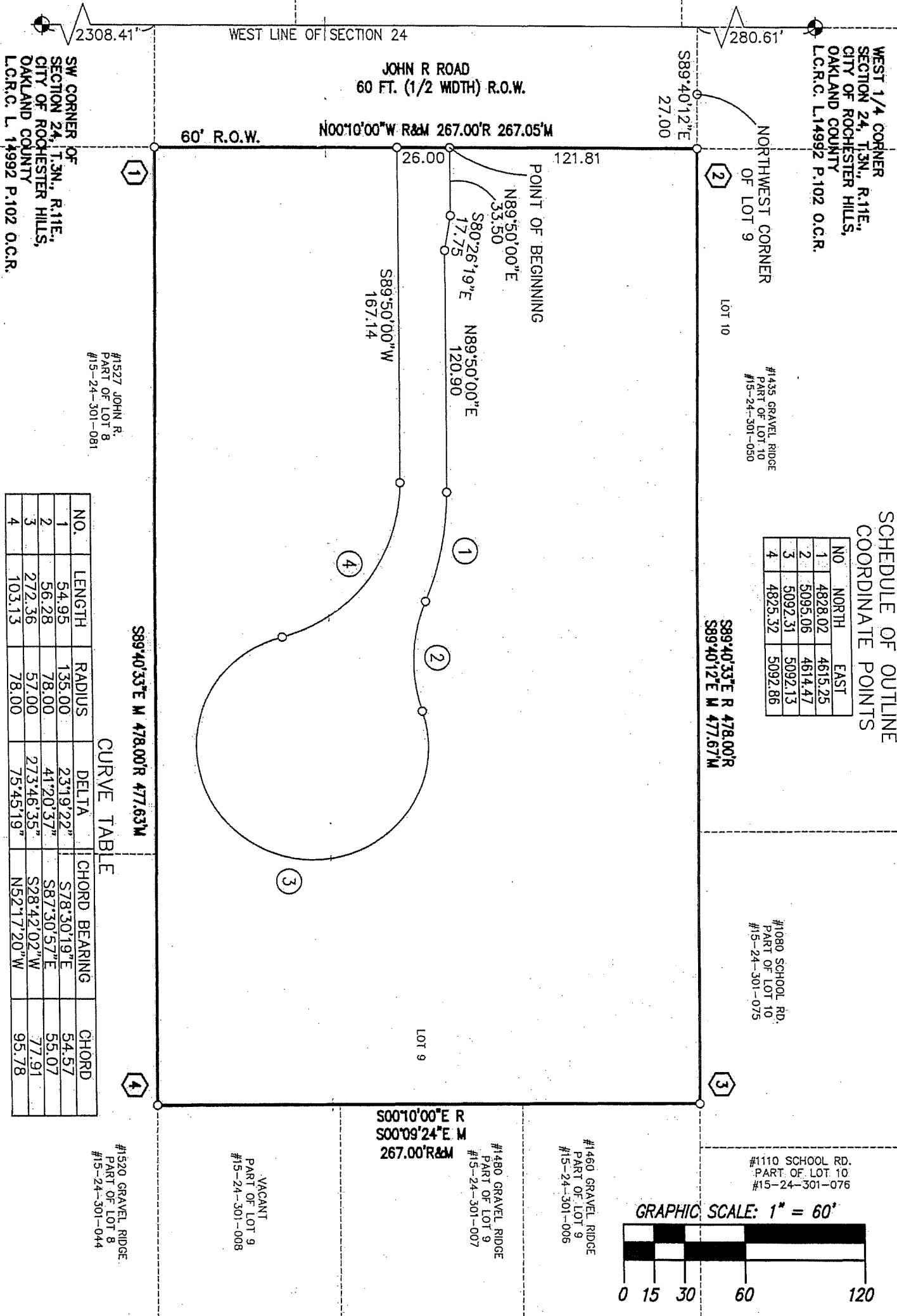
CONTAINING 16,981 SQ. FT. OR 0.390 ACRES

Mike Tavant  
Approved 9/27/16

 **J ASSOCIATES, INC.**  
Civil Engineering and Surveying

**FORMERLY**  
**MCS ASSOCIATES, INC.**  
1055 SOUTH BOULEVARD E., SUITE 200  
ROCHESTER HILLS, MICHIGAN 48307  
TELEPHONE (586) 726-9111 FAX (248) 852-7707

# EXHIBIT B



SCHEDULE OF OUTLINE  
COORDINATE POINTS

NO	NORTH	EAST
1	4828.02	4615.25
2	5095.06	4614.47
3	5092.31	5092.13
4	4825.32	5092.86

SCHEDULE OF CURVE DATA

NO.	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
1	54.95	135.00	23°19'22"	S78°30'19"E	54.57
2	56.28	78.00	41°20'37"	S87°30'57"E	55.07
3	272.36	57.00	273°46'35"	S28°42'02"W	77.91
4	103.13	78.00	75°45'19"	N52°17'20"W	95.78

**JF ASSOCIATES, INC.**  
Civil Engineering and Surveying

**FORMERLY MCS ASSOCIATES, INC.**  
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