

CHARTER TOWNSHIP OF GAINES
MEETING LOCATION: 8555 Kalamazoo Ave., SE, Caledonia, MI 49316
Township Board of Trustees Meeting
PRELIMINARY AGENDA
MONDAY – January 22, 2024
Time: 5:30PM

- 1. Opening Prayer ~ Rob DeWard**
- 2. Pledge of Allegiance**
- 3. Call to Order and Attendance ~**
- 4. Declaration of Conflict of Interest**
- 5. Approval of Agenda**
- 6. Public Comments – *Public may speak regarding anything on the agenda which is NOT scheduled for a public hearing (comments limited to 3 minutes per speaker)***
- 7. Public Hearings-NONE**
- 8. New Business**
 - a. Consider ~ Switch private road waiver request**
- 9. Public Comments ~ *On any topic (comments limited to 3 minutes per speaker)***
- 10. Manager's Comments**
- 11. Supervisors Comments**
- 12. Trustee Comments**

NEXT SCHEDULED BOARD OF TRUSTEES MEETING: February 12, 2024

ANY INTERESTED PERSONS ARE INVITED TO ATTEND AND PARTICIPATE IN ALL TOWNSHIP BOARD OF TRUSTEE MEETINGS. PERSONS WITH DISABILITIES NEEDING ANY SPECIAL ACCOMMODATIONS SHOULD CONTACT THE TOWNSHIP OFFICES ONE WEEK PRIOR TO THE MEETING TO REQUEST MOBILITY, VISUAL OR ANY OTHER ASSISTANCE.

Preliminary Agenda – Subject to Change

The contents of supporting documents (such as text, graphics, images, information, and references) are created and supplied by the author.



MEMO

Staff Communication

DATE: January 22nd, 2024

TO: Township Board of Trustees

FROM: Dan Wells, Community Development Director

RE: Private Road Waiver Request for SWITCH

SUMMARY OF TOPIC:

Switch (D.B.A. MI GRR LLC) requests a waiver from the requirement to reconstruct internal roadways to a Commercial Private Street standard typically required for commercial use under Chapter 22, Section 7(B)(3) "Construction Requirements". Switch would like to continue to use and maintain the roads in their current alignment.

Switch desires to divide the parcel that houses the "Pyramid" and new addition into two resulting parcels, each parcel containing one of the buildings. Since the new building doesn't have an ingress/egress to 60th Street or East Paris Ave, its access road will have to cross the Pyramid parcel, creating a requirement for a shared roadway. Shared roads with commercial use are required to be built to Commercial Private Street standards that include an 86' right-of-way and a 30' paved surface. There is also the intent to add a third data center adjacent to the Pyramid, but it has not been submitted for site plan review.

The ordinance does specify that Commercial Private Street standards are applicable to *commercial* use, and the data center buildings are an *industrial* use. The current zoning ordinance does not address the categorization of data center use, but staff agrees with the applicant that data centers are more industrial in nature than commercial.

Switch believes that the existing roads are adequate to serve both the new and existing facilities due to low need; there will be less than 100 vehicle trips per day

due to employee use and 50 trips per week for deliveries once the Switch campus is built out.

ORDINANCES:

Under 22.10 Modifications and Waivers an applicant may be granted a waiver from the Board if the request meets certain standards.

D. Standards of Approval. The following criteria shall be applied by the Township Board regarding a modification waiver:

- 1. Strict compliance with the requirement(s) would be unreasonable and unnecessarily burdensome because of prior construction; previously established easement arrangements; unique physical surroundings, shape, or topographical conditions of the property as distinguished from a mere inconvenience; or property dispute or economic hardship.*
- 2. The modification or waiver may be granted without detriment to the public safety, health, or general welfare, or damage to any other property by way of the utilization of alternative design features.*
- 3. The conditions upon which the request for a waiver or modification is based are unique to the property involved and not applicable generally to other properties or other private streets or shared driveways.*
- 4. Approval of a waiver or variance will not otherwise result in a violation of any other Township ordinance, including the Zoning Ordinance, or of any other requirement of law.*
- 5. The conditions making the waiver request necessary were not created by the applicant.*

FINANCIAL IMPACT:

There will be no financial impact to the Township.

BUDGET ACTION REQUIRED:

No budget action is necessary.

STAFF RECOMMENDATION:

The Township Attorney has reviewed the “Declaration of Covenants Conditions and Restrictions and Easements” and found it to meet the requirements of that Township Maintenance Agreement, and approved its final form.

Staff has reviewed the application and December 19, 2023 letter that lays out the rationale for the waiver request, agrees with it’s analysis and finds that it addresses

the standards required in 22.10.D. Staff finds the rationale for the waiver request to be sound, and does recommend approval by the Board.



Warner Norcross + Judd LLP

December 19, 2023

Gaines Charter Township
Board of Trustees
Attn: Dan Wells, Community Development Manager
Via Email: dan.wells@gainestownship.org

Re: **Request by MI GRR LLC (“Switch”) for a Waiver to Allow Internal Shared Private Driveways, Rather than Internal Shared Private Streets, to Be Used for the Expansion of Switch’s Facilities at 4200 – 60th Street and 4400 – 60th Street (the “Switch Grand Rapids Campus”)**

Dear Board of Trustees:

This office represents Switch.

Switch requests that the Board of Trustees approve its waiver request to classify the existing driveways on its Grand Rapids Campus as “shared driveways” as opposed to “private streets” and to allow Switch to construct additional internal shared private driveways, rather than internal shared private streets, to improve and expand its data center’s operations.

The Board has the authority to approve such a request provided the standards described in Chapter 22, Private Streets and Driveways, Section 22.10.D. of the Gaines Charter Township Zoning Ordinance are met.

As discussed in more detail below, Switch’s waiver request satisfies each of the five standards of approval because of the low traffic that occurs on these driveways (data centers are not busy places), because it allows Switch to continue to use driveways that have functioned well, because it would be best to keep the two existing entry points, one each to East Paris Avenue and 60th Street, and not add more entry points, and because of the property’s iconic design as a pyramid by the original owner means that adding to the pyramid is impractical and inadvisable and it is better to build new adjacent buildings served by these driveways.

Background

In 2017, Switch, a globally recognized leader in future-proof data centers, opened what was at the time the most advanced data center campus in the eastern U.S. at its Grand Rapids Campus through innovative adaptive re-use of the iconic Steelcase Pyramid. The Pyramid contains 225,000 square feet of data center space and serves major key markets including Chicago, New York, Washington D.C., and Toronto.

Like all Switch data centers, the Switch Grand Rapids Campus is designed to accommodate future-proof high-density deployments, high-performance workloads and always-on applications across a wide spectrum of industries and technical requirements.

The demand for Switch's services have grown exponentially in the last six years and now exceed the capacity of the Switch Pyramid. And, while Switch has room to grow on its Campus, it cannot expand the Pyramid without adversely affecting its iconic look. As a result, Switch is now building a new stand-alone data center to the west of the Pyramid and is preparing land on its campus to the east of the Pyramid to build a third data center.

Enclosed with this letter are the plans showing the boundaries of the proposed two new parcels and the already under construction building on the west parcel. "Parcel A" is the west parcel and will include the new data center, "Parcel B" is the central parcel and contains the Pyramid, and "Parcel C" is the east parcel reserved for future expansion.

Also enclosed with this letter is a proposed cross-access easement for review and approval by Community Development Manager Wells. The location of those easements to connect Parcels A, B and C are shown on the enclosed plans.

For traffic safety reasons, no new curb cuts are planned to either East Paris or to 60th Street so that all traffic going to the Switch Grand Rapids Campus continues to go through the two main entrances.

The daily traffic at a data center is typically very low – on-site maintenance employees plus employees of customer companies that host their servers at the data center coming to do routine maintenance on their own servers.

The current data center located in the Pyramid has traffic volumes of 44 employee passenger vehicles per day and 20 customer passenger vehicles per day. With the expansion of the new data center on Parcel A and the anticipated new data center on Parcel B, Switch expects that traffic count to grow by only eight employees per day and by 30 customers per day.

So, when the Campus is fully built out, the expected total daily passenger vehicle traffic will be less than 100 in/out trips per day. That traffic is spread out over the course of the typical workday – 8 a.m. to 5 p.m. – with slight "bumps" at the start and end of the workday. This is obviously much less than any typical commercial use.

The Campus averages about 50 delivery trucks per week. Switch does not anticipate any semi-truck traffic except for the rare delivery of large equipment.

Waiver Request

Currently, the Township Zoning Ordinance allows shared private driveways to serve up to four parcels and shared private streets to serve five or more parcels. Section 22.3. The Switch Grand Rapids Campus is currently comprised of two parcels, and with the addition of the west and east data centers it will be comprised of three parcels – Parcels A, B and C as shown on the enclosed plans. So, the Campus would satisfy the shared private driveway requirement and Switch would not be obligated to construct the shared private streets.

However, the Township's Zoning Ordinance further provides that "[s]hared driveways shall not serve commercial properties". Section 22.6.A.3.

The Switch Grand Rapids Campus is zoned industrial, not commercial, and the data center use is not a heavy user of traffic like a commercial development. So, arguably the Section 22.6.A.3. requirement does not apply to this Campus.

That being said, in an abundance of caution and at the advice of Community Development Manager Wells, Switch is asking for a waiver to allow the Switch Grand Rapids Campus to be internally accessed by shared private driveways rather than internal shared private streets. Such a waiver is allowed under Section 22.10.D. of the Township's Zoning Ordinance if the applicant satisfies the five standards of approval set out in that subsection.

Switch meets those five standards and therefore requests a waiver to allow it to connect all three of its parcels through internal shared private driveways rather than internal shared private streets.

Switch Meets all Five Section 22.10.D. Standards of Approval

Standard No. 1: *Strict compliance with the requirement(s) would be unreasonable and unnecessarily burdensome because of prior construction; previously established easement arrangements; unique physical surroundings, shape or topographical conditions of the property as distinguished from a mere inconvenience; or property dispute or economic hardship.*

Strict compliance would be unreasonable and unnecessarily burdensome because of the Pyramid iconic design and established paved driveway arrangement. The prior construction of the Steelcase Pyramid prevents Switch from simply adding on to the existing building without adversely affecting its iconic design.

In addition, the existing driveways are in good condition and meet current and future needs of the site, but may not strictly comply with the design standards set forth in the Kent County Road Commission *Requirements and Specifications for Plat Development; as amended*, which are the requirements that apply to private streets. Using the already established circular internal private driveway is the best re-use of the existing pavement on site.

Standard No. 2: *The modification or waiver may be granted without detriment to the public safety, health, or general welfare, or damage to any other property by way of utilization of alternative design features.*

The requested waiver may be granted without detriment to public safety, health, or general welfare, or damage to any other property by way of the utilization of alternative design features.

In fact, it will improve traffic safety because, rather than adding any curb cuts to East Paris Avenue or 60th Street, the use of internal shared private driveways will consolidate the entering and existing traffic (which is not much in terms of volumes, as already noted above) at the two existing entrances and exits. This will improve traffic safety on both of these roads. Without the waiver, Switch would create additional curb cuts and this will increase the chance for accidents as vehicles enter and exit the Campus.

Standard No. 3: *The conditions upon which the request for a waiver or modification is based are unique to the property involved and not applicable generally to other properties or other private streets or shared driveways.*

The conditions upon which the request for this waiver is based are unique to the property's existing design – adaptive re-use of the iconic Steelcase Pyramid building – and its use as a data center. In addition, it allows adaptive re-use of the existing circular driveway and associated pavement. Finally, there are a very limited number of employees and customers coming and going each day. The proposed shared driveways simply won't have heavy traffic volume, unlike a typical commercial property.

Standard No. 4: *Approval of a waiver or variance will not otherwise result in a violation of any other Township ordinance, including the Zoning Ordinance, or of any other requirement of law.*

Approval of Switch's waiver will not otherwise result in a violation of any other Township ordinance, including the Zoning Ordinance, or of any other requirement of law. Switch has reviewed the Township ordinances, including the Zoning Ordinance, and did not identify any ordinance or legal violations that will result from the waiver's approval. Switch also consulted with Community Development Manager Wells who recommended that Switch submit this waiver request. Switch will abide by all internal shared private driveway requirements, such as ensuring the shared driveways are accessible by emergency vehicles.

Standard No. 5: *The conditions making the waiver request necessary were not created by the applicant.*

Switch purchased the Steelcase Pyramid property in 2016 after it sat vacant for several years and 27 years after it was built by Steelcase. Switch was obviously not involved in its design or construction. This request, which will allow Switch to continue to use the two existing entrances and circular driveway to serve all three parcels without needing to add to the existing iconic pyramid, continues Switch's adaptive re-use of this unique property.

Conclusion

For these reasons, Switch respectfully requests the Township Board approves its waiver request to allow its construction of internal shared private driveways instead of private streets to serve its three parcels.

Very truly yours,



Christian E. Meyer

CEM/ldp

Enclosures

cc: Natalie Stewart, Switch (via email natalie@switch.com)

Kevin J. Wilks, Spicer Group (via email kevinw@spicergroup.com)

29679785-4

PROPOSED AS-SURVEYED PARCEL DESCRIPTIONS

PARCEL A:

Part of the Northwest 1/4 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the Northwest corner of Section 1; thence S.89°-07'-24"E. along the North line of said Section 1, 723.32 feet; thence S.00°-25'-51"W., 1528.47 feet; thence S.89°-34'-09"E., 646.41 feet; thence N.00°-59'-23"E. parallel with the West line of said Section 1, 346.36 feet, thence N.89°-00'-37"W., 91.85 feet to the West line of said Section 1; thence N.00°-59'-23"E. along the West line of said Section 1, 1186.89 feet to the Northwest corner of said Section 1, and the point of beginning, containing 24.96 acres more or less of land.

PARCEL B:

Part of the West 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.00°-59'-23"W. along the West line of said Section 1, 1186.89 feet; thence S.89°-00'-37"E., 91.85 feet; thence S.00°-59'-23"W. parallel with the said West line of Section 1, 346.36 feet to the point of beginning; thence S.89°-34'-09"E., 646.41 feet; thence N.00°-25'-51"E., 1528.47 feet to the North line of said Section 1; thence S.89°-07'-24"E. along the North line of said Section 1, 1368.73 feet; thence S.00°-35'-26"W., 1840.27 feet; thence S.89°-24'-34"E., 1840.27 feet to the North-South 1/4 line of said Section 1; thence S.00°-35'-26"W. along the said North-South 1/4 line of said Section 1, 368.93 feet to the Northerly Right-of-Way of State Route M-6; thence along said Right-of-Way along a 579.47 foot curve having a radius of 23079.11 foot, and chord bearing S.74°-54'-43"W., 579.46 feet; thence S.74°-11'-35"W. continuing along said North Right-of-Way, 630.14 feet; thence continuing along said Right-of-Way along a 161.81 foot curve having a radius of 4349.42 foot, and chord bearing S.75°-15'-32"W., 161.80 feet to the West 1/8 line of said Section 1; thence along said West 1/8 line of said Section 1, N.00°-47'-31"E., 316.61 feet to the East-West 1/4 line of said Section 1; thence along the said East-West 1/4 line of Section 1, N.87°-56'-10"W., 1225.91 feet; thence N.00°-59'-23"E. parallel with the said West line of Section 1, 714.88 feet to the point of beginning, containing 90.99 acres more or less of land.

PARCEL C:

Part of the North 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the North 1/4 corner of Section 1; thence S.89°-00'-36"E. along the North line of said Section 1, 324.96 feet; thence S.00°-35'-26"W., 546.93 feet; thence N.89°-00'-36"W. parallel with the said North line of Section 1, 324.96 feet to the North-South 1/4 line of said Section 1; thence S.00°-35'-26"W. along the North-South quarter line of said Section 1, 1290.71 feet; thence N.89°-24'-34"W., 527.00 feet; thence N.00°-35'-26"E., 1840.27 feet to the North line of said Section 1; thence S.89°-07'-24"E. along the North line of said Section 1, 452.37 feet to the South 1/4 Corner of Section 36, Town 6 North, Range 11 West, thence S.89°-07'-24"E. continuing along said North line of said Section 1, 13.57 feet to the North 1/4 of Section 1, and the place of beginning, containing 26.33 acres more or less of land.

ACCESS EASEMENT 1:

Part of the Northwest 1/4 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.00°-59'-23"W. along the West line of said Section 1, 1735.80 feet; thence N.88°-30'-53"E., 91.84 feet to the West line of Parcel # 412201101002, and the point of beginning; thence continuing N.88°-30'-53"E., 634.00 feet; thence along a 293.53 foot curve having a radius of 258.78 feet, and chord bearing N.59°-00'-23"E., 278.05 feet; thence along a 32.32 foot curve having a radius of 20.00 feet, and chord bearing N.12°-27'-31"W., 28.92 feet; thence N.57°-21'-58"W., 94.52 feet; thence along a 46.35 foot curve having a radius of 89.99 feet, and chord bearing N.74°-12'-24"W., 45.84 feet; thence N.89°-34'-09"W., 91.94 feet; thence N.00°-25'-51"E., 95.00 feet; thence S.89°-34'-09"E., 24.17 feet; thence S.00°-25'-51"E., 18.00 feet; thence S.89°-34'-09"E., 67.79 feet; thence along a 89.08 foot curve having a radius of 160.00 feet, and chord bearing S.73°-37'-09"E., 87.94 feet; thence S.57°-40'-09"E., 91.04 feet; thence along a 33.50 foot curve having a radius of 21.00 feet, and chord bearing N.76°-37'-34"E., 30.06 feet; thence N.30°-55'-18"E., 13.87 feet; thence along a 70.51 foot curve having a radius of 43.74 feet, and chord bearing N.09°-58'-53"W., 63.12 feet; thence N.49°-13'-39"W., 42.79 feet; thence along a 626.12 foot curve having a radius of 674.67 feet, and chord bearing N.21°-34'-20"W., 603.89 feet; thence N.05°-37'-37"E., 1.25 feet; thence along a 6.11 foot curve having a radius of 5.00 feet, and chord bearing N.54°-38'-23"W., 5.74 feet; thence N.89°-34'-09"W., 15.18 feet; thence N.00°-26'-08"E., 95.00 feet; thence S.89°-34'-09"E., 12.45 feet; thence S.00°-25'-51"W., 18.00 feet; thence S.89°-34'-09"E., 1.92 feet; thence along a 27.38 foot curve having a radius of 20.97 feet, and chord bearing N.53°-03'-06"E., 25.48 feet; thence N.13°-36'-44"E., 12.02 feet; thence along a 492.58 foot curve having a radius of 678.90 feet, and chord bearing N.35°-15'-08"E., 481.84 feet; thence S.33°-57'-45"E., 41.00 feet; thence along a 462.53 foot curve having a radius of 637.90 feet, and chord bearing S.35°-15'-56"W., 452.46 feet; thence S.09°-37'-28"W., 103.88 feet; thence along a 755.42 foot curve having a radius of 633.67 feet, and chord bearing S.29°-09'-27"E., 711.48 feet; thence S.30°-56'-33"W., 215.32 feet; thence along a 390.36 foot curve having a radius of 349.78 feet, and chord bearing S.59°-06'-44"W., 370.41 feet; thence S.88°-30'-53"W., 635.74 feet to said west line of Parcel # 412201101002; thence along said Parcel line N.00°-59'-23"E., 91.08 feet to the point of beginning, containing 4.25 acres more or less of land.

ACCESS EASEMENT 2:

Part of the North 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.89°-07'-31"E. along the North line of said Section 1, 1736.32 feet to the point of beginning; thence S.89°-07'-31"E., continuing along the North line of said Section 1 174.68 feet; thence S.00°-52'-29"W., 34.55 feet; thence N.89°-07'-31"W., 5.15 feet; thence along a 53.87 foot curve having a radius of 36.37 feet, and chord bearing S.50°-17'-03"W., 49.01 feet; thence S.03°-39'-04"W., 5.50 feet; thence along a 158.90 foot curve having a radius of 362.67 feet, and chord bearing S.14°-04'-52"W., 157.63 feet; thence S.31°-39'-34"W., 21.14 feet; thence along a 66.92 foot curve having a radius of 46.71 feet, and chord bearing S.05°-43'-00"E., 61.35 feet; thence S.33°-54'-34"W., 45.76 feet; thence along a 793.30 foot curve having a radius of 624.54 feet, and chord bearing N.87°-42'-15"W., 741.03 feet; thence N.33°-57'-45"W., 41.00 feet; thence N.56°-30'-10"E., 6.62 feet; thence along a 36.38 foot curve having a radius of 21.00 feet, and chord bearing N.06°-52'-03"E., 32.00 feet; thence N.42°-46'-04"W., 10.18 feet; thence along a 129.06 foot curve having a radius of 158.00 feet, and chord bearing N.66°-10'-06"W., 125.50 feet; thence N.89°-34'-09"W., 199.43 feet; thence N.00°-25'-51"E., 95.00 feet; thence S.89°-34'-09"E., 33.58 feet; thence S.00°-25'-51"W., 18.00 feet; thence S.89°-34'-09"E., 165.85 feet; thence along a 191.96 foot curve having a radius of 235.00 feet, and chord bearing S.66°-10'-06"E., 186.66 feet; thence S.42°-46'-04"E., 40.94 feet; thence along a 24.21 foot curve having a radius of 21.00 feet, and chord bearing S.75°-47'-16"E., 22.89 feet; thence along a 523.39 foot curve having a radius of 676.48 feet, and chord bearing N.88°-52'-34"E., 510.43 feet; thence S.67°-19'-23"E., 28.13 feet; thence along a 63.61 foot curve having a radius of 42.27 feet, and chord bearing N.75°-12'-06"E., 57.78 feet; thence N.33°-05'-19"E., 15.78 feet; thence along a 115.97 foot curve having a radius of 221.78 feet, and chord bearing N.16°-05'-09"E., 114.65 feet; thence N.00°-24'-41"W., 11.87 feet; thence along a 60.15 foot curve having a radius of 35.31 feet, and chord bearing N.47°-45'-30"W., 53.14 feet; thence N.00°-52'-29"E., 34.83 feet to the North line of said Section 1 and the point of beginning, containing 2.19 acres more or less of land.

ACCESS EASEMENT 3:

Part of the North 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.89°-07'-31"E. along the North line of said Section 1, 1736.32 feet to the point of beginning; thence S.89°-07'-31"E., continuing along the North line of said Section 1 174.68 feet; thence S.00°-52'-29"W., 34.55 feet; thence N.89°-07'-31"W., 5.15 feet; thence along a 53.87 foot curve having a radius of 36.37 feet, and chord bearing S.50°-17'-03"W., 49.01 feet; thence S.03°-39'-04"W., 5.50 feet; thence along a 78.78 foot curve having a radius of 362.67 feet, and chord bearing S.07°-45'-08"W., 78.63 feet; thence S.70°-52'-23"E., 246.64 feet; thence S.00°-35'-26"W., 48.52 feet; thence N.70°-52'-23"W., 351.47 feet; thence along a 86.08 foot curve having a radius of 221.78 feet, and chord bearing N.12°-13'-28"E., 85.54 feet; thence N.00°-24'-41"W., 11.87 feet; thence along a 60.15 foot curve having a radius of 35.31 feet, and chord bearing N.47°-45'-30"W., 53.14 feet; thence N.00°-52'-29"E., 34.83 feet to the North line of said Section 1 and the point of beginning, containing 0.73 acres more or less of land.

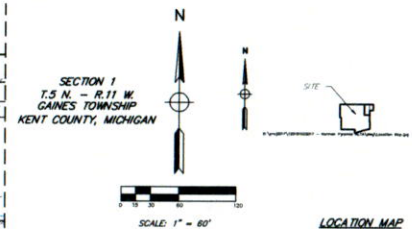
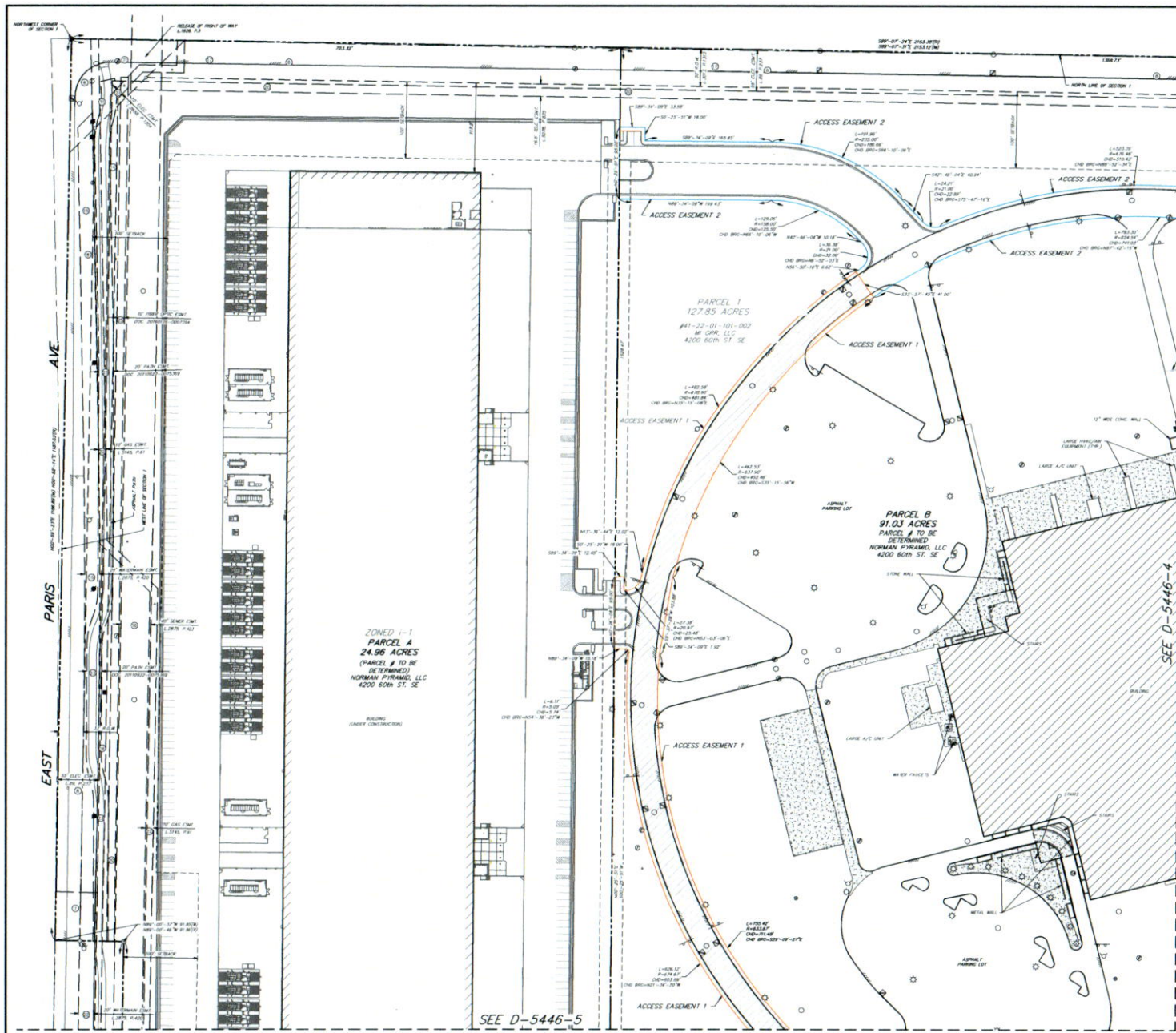
PREPARED BY:
NATHAN G. SHEPHERD
PROFESSIONAL SURVEYOR NO. 4001060684
230 S. WASHINGTON AVENUE
SAGINAW MICHIGAN 48607
TEL 989-754-4717
DRAWN BY: J. INDIANO
DATE: OCTOBER, 2017
JOB NUMBER: 12515152017
REVISED DATE: OCTOBER 6, 2023



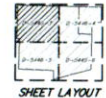
ALTAIR/SPS LAND TITLE SURVEY FOR:
SWITCH, LTD
P.O. BOX 40000
LAS VEGAS, NEVADA 89118

ALTAIR/SPS LAND TITLE SURVEY OF:
PART OF THE WEST 1/2
OF SECTION 1, T.5 N.-R.11 W.,
GAINES TOWNSHIP
KENT COUNTY, MICHIGAN

132276502023
D-5446-2



- LEGEND**
- - MANHOLE
 - ⊗ - CATCHBASIN
 - ⊕ - FIRE HYDRANT
 - ⊖ - WATER VALVE
 - ⊙ - GAS VALVE
 - ⊗ - TELEPHONE POLE
 - ⊕ - POWER POLE
 - ⊖ - LIGHT POLE
 - ⊙ - MAIL BOX
 - ⊗ - SIGN
 - ⊕ - ELECTRIC MANHOLE
 - ⊖ - WATER MANHOLE
 - ⊙ - TELEPHONE MANHOLE
 - ⊗ - TRANSFORMER
 - ⊕ - BARRIER FREE PARKING
 - ⊖ - BITUMINOUS SURFACE
 - ⊙ - CONCRETE SURFACE
 - - TELEPHONE PEDESTAL
 - ⊗ - FOUND SURVEY CORNER
 - ⊕ - SET 1/2" IRON PIPE
 - ⊖ - GUY ANCHOR AND POLE
 - ⊙ - NOT FIELD LOCATED
 - ⊗ - CABLE TV PEDESTAL
 - ⊕ - ANTENNA
 - ⊖ - SATELLITE DISH
 - ⊙ - AIR CONDITIONING UNIT
 - ⊗ - BURIED UTILITY MARKER
 - ⊕ - ELECTRICAL PEDESTAL
 - ⊖ - CONCRETE CURB
 - ⊙ - FENCE LINE
 - ⊗ - OVERHEAD POWER LINES
 - ⊕ - SANITARY SEWER LINES
 - ⊖ - BURIED CABLE LINES
 - ⊙ - BURIED ELECTRIC LINES
 - ⊗ - GASMAINS
 - ⊕ - SANITARY SEWER LINES
 - ⊖ - STORM SEWER LINES
 - ⊙ - TELEPHONE LINES
 - ⊗ - WATERMARKS
 - ⊕ - TREE LINE

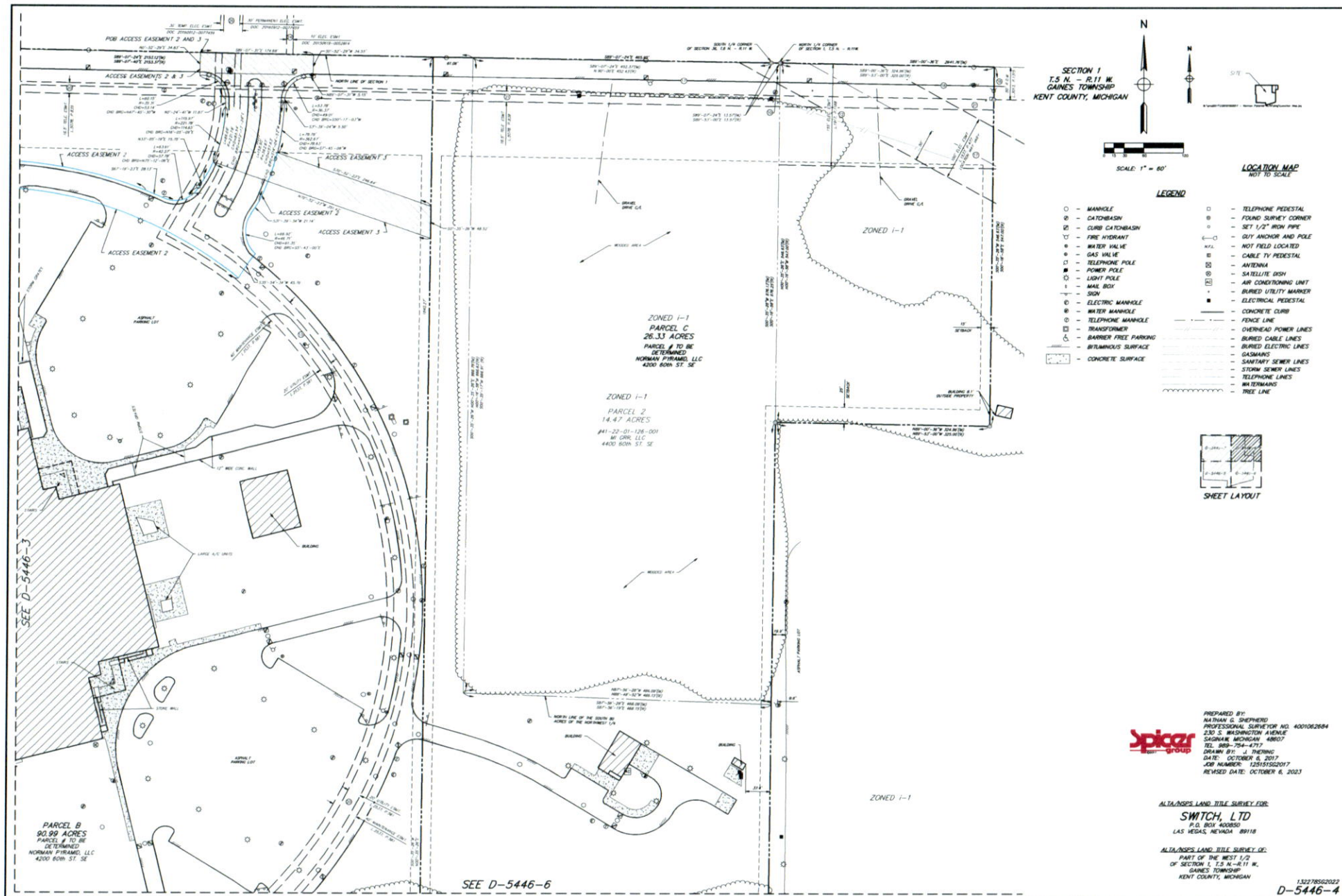


PREPARED BY:
 NATHAN G. SHEPHERD
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 230 S. WASHINGTON AVENUE
 SAIGON, MICHIGAN 48807
 TEL. 906-754-4717
 DRAWN BY: J. TIERING
 DATE: OCTOBER 6, 2017
 JOB NUMBER: 123151502017
 REVISED DATE: OCTOBER 6, 2023

ALTAIR'S LAND TITLE SURVEY FOR:
SWITCH, LTD.
 P.O. BOX 400055
 LAS VEGAS, NEVADA 89118

ALTAIR'S LAND TITLE SURVEY OF:
 PART OF THE WEST 1/2
 OF SECTION 1, T.5 N., R.11 W.,
 GAINES TOWNSHIP
 KENT COUNTY, MICHIGAN

132978502022
D-5446-3



D-5446-6

ALTAIRERS LAND, THE SURVEY, 2004
SWITCH, LTD.
P.O. BOX 400000
LAS VEGAS, NEVADA 89118
PART OF THE WEST 1/2
OF SECTION 1, T.5 N., R.11 W.,
GAINES TOWNSHIP,
KENT COUNTY, MICHIGAN
10/22/2022

PROFESSIONAL SURVEYOR NO. 400100004
NATHAN D. SANCHEZ
220 S. BAYVIEW AVENUE
COLUMBIA, MISSISSIPPI 39201
DRAWN BY: J. SANCHEZ
DATE: OCTOBER 6, 2021
JOB NUMBER: 15015152017
REVISION DATE: OCTOBER 6, 2021

Spicer
GROUP



- | | |
|---------------------------|-------------------------|
| — FENCE LINE | — CONCRETE SURFACE |
| — MAIL MARKS | — BARRIERS FREE PARKING |
| — TELEPHONE LINES | — TELEPHONE MANHOLE |
| — STEEP SLOPE LINES | — ELECTRIC MANHOLE |
| — SANITARY LINES | — MAIL BOX |
| — GAS LINES | — LIGHT POLE |
| — BURIED CABLE LINES | — POWER POLE |
| — OVERHEAD POWER LINES | — TELEPHONE POLE |
| — FENCE LINE | — GAS VALVE |
| — CONCRETE CURB | — WATER TANK |
| — ELECTRIC UTILITY MARKER | — FIRE HYDRANT |
| — AIR CONDITIONING UNIT | — CUMULATIVE CATCHMENT |
| — SATellite DISH | — CATCHMENT |
| — ANTENNA | — MANHOLE |
| — CABLE TV RECEPTACLE | |
| — NOT FIELD LOCATED | |
| — DUTY ANCHOR AND POLE | |
| — SET 1/2" IRON PIPE | |
| — FOUND SURVEY CORNER | |
| — TELEPHONE RECEPTACLE | |

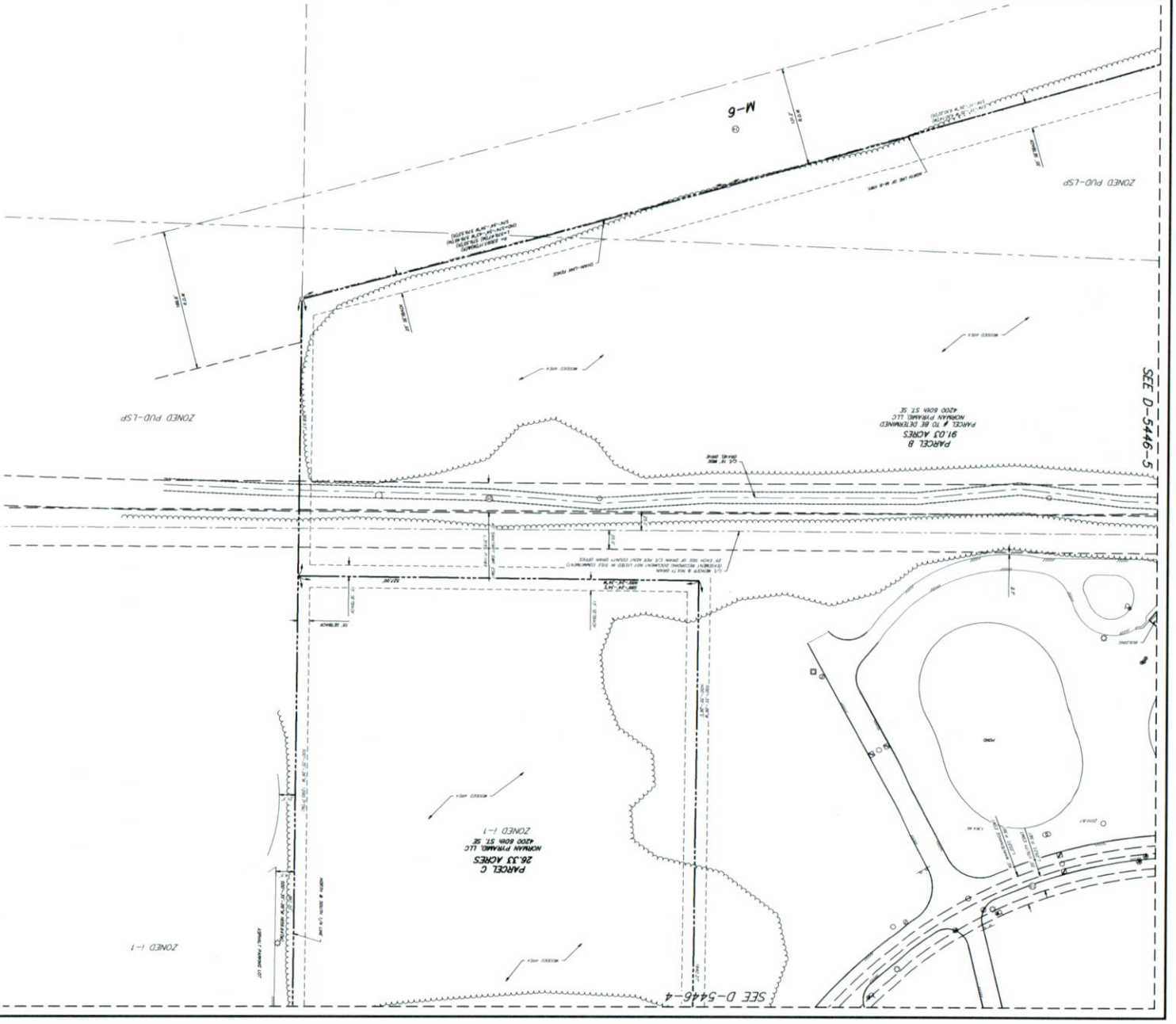
LEGEND

LOCATION MAP

NOT TO SCALE



SECTION 1
T.5 N. - R.11 W.
GAINES TOWNSHIP
KENT COUNTY, MICHIGAN



**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND EASEMENTS**

(GRR, GAINES TOWNSHIP, KENT COUNTY, MICHIGAN)

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND EASEMENTS (this "Declaration") is made and entered into, as of October ____, 2023 ("Reference Date"), by MI GRR, LLC, a Delaware limited liability company ("Declarant").

R E C I T A L S

A. Declarant is the fee owner of that certain real property situated in Gaines Township, Kent County, Michigan, of approximately 142.28 acres, which is legally described on **Exhibit A** attached hereto and incorporated herein by this reference (the "Project"). Upon the recordation of a record of survey concurrently with the recordation of this Declaration, the Project will consist of three separately assessed legal lots including Parcel A, of approximately 24.96 acres, which is legally described on **Exhibit B** attached hereto and incorporated herein by this reference ("Parcel A"), Parcel B, consisting of approximately 90.99 acres, which is legally described on **Exhibit C** attached hereto and incorporated herein by this reference ("Parcel B"), and Parcel C, consisting of approximately 26.33 acres, which is legally described on **Exhibit D** attached hereto and incorporated herein by this reference ("Parcel C"). Parcel A, Parcel B, and Parcel C may be referred to collectively herein as "Initial Parcels" and each individually as an "Initial Parcel."

B. It is the purpose and intent of Declarant that the Parcels be part of an integrated industrial and/or technology park, which shall initially consist of three (3) Parcels, but which may be divided into additional parcels by the recordation of future records of survey or any other permissible subdivision process, with prior zoning and land division approval by the Gaines Charter Township (each, a "Future Parcel," and together with the Initial Parcels, each, a "Parcel" and with one or more Parcels, the "Parcels").

C. It is the purpose and intent of Declarant by way of this Declaration to subject each of the Initial Parcels and each Future Parcel to the covenants, conditions, and restrictions hereinafter set forth for the mutual benefit of the present and future owners of the Parcels (and any parcels created in the future within the Project) and their respective heirs, executors, successors, assigns, grantees, mortgagees, and tenants, as covenants running with the land, and binding on all Owners, and their heirs, successors, and assigns having any right, title or interest in or to the Project. To effectuate the common use and operation thereof, Declarant desires to declare the existence of certain easements in, to, over and across the Parcels. Each of the limitations, easements, uses, obligations, covenants, conditions and restrictions imposed hereby shall be deemed to be and construed as equitable servitudes enforceable by any of the Owners of any portion of the Project subject to this Declaration against any other Owner, of the Project or portion thereof similarly restricted by this Declaration.

D. Declarant may, but shall not be obligated to, add additional real property to the Project, which upon recordation of an annexation amendment to this Declaration, will become subject to the terms and conditions hereof. Following the creation of any Future Parcel from Parcel A, Parcel B or Parcel C, such Future Parcel shall no longer comprise a part of Parcel A, Parcel B or Parcel C, as applicable, for all purposes hereof, but shall be a stand-alone Parcel hereunder, and the parent parcel (whether Parcel A, Parcel B or Parcel C) shall be deemed modified to be the remainder of such parent parcel following creation of such Future Parcel.

E. Declarant may, in its sole and absolute discretion, convey title or lease portions of the Project to other persons or entities, which conveyances or leases shall be subject to the terms and conditions of this Declaration.

NOW, THEREFORE, in consideration of the foregoing recitals (which are incorporated by reference into this Declaration), Declarant hereby declares that the following shall attach to and run with all of the land comprising the Project and shall be for the benefit of and shall be limitations upon Declarant and any future owner or owners or tenant or tenants of the Parcels (and any parcels created in the future within the Project).

1. INCORPORATION OF RECITALS. The foregoing recitals are incorporated herein by this reference.

2. DEFINITIONS.

(a) “Access Easement” shall mean that certain fifty (50) foot-wide shared portion of the Project described on Exhibit E attached hereto and made a part hereof, to be used by the Owners of the Parcels upon the terms and conditions of this Declaration and otherwise in compliance with all applicable Gaines Charter Township ordinances. The Access Easement may also be used for package delivery and also by firefighting, emergency and other public vehicles and personnel for public services, emergencies, fires and similar events. It is intended that the Access Easement shall permit year-around controlled access for vehicles and foot traffic to and from 60th Street for the Parcels.

(b) “Affiliate” shall mean (i) with respect to a corporation, (A) any Person which is, directly or indirectly, the beneficial owner of more than 10% of any class of shares or other equity security, or (B) any Person which, directly or indirectly, controls or is controlled by or is under common control with such corporation; and (ii) with respect to a partnership, venture or limited liability company, any (A) general partner or member, (B) general partner of a general partner or member, (C) partnership with a common general partner or member, (D) co-venturer thereof, and if any general partner, member or co-venturer is a corporation, any Person which is an Affiliate of such corporation, and (E) any Person which, directly or indirectly, is the beneficial owner of more than 10% of the interests in, or is controlled or is controlled by or is under common with such partnership, venture or limited liability company. For purposes hereof, “controls” (which includes the correlative meanings of “controlled by” and “under common control with”) means effective power, directly or indirectly, to direct or cause the direction of the management and policies of such Person.

(c) “Allocated Taxes” shall mean Taxes attributable to the Maintenance Area and Maintenance Area Facilities, calculated by determining (A) the aggregate square foot area of the Maintenance Area on the applicable Parcel as of the Calculation Date, divided by (B) the aggregate square foot area of all land on such Parcel as of the Calculation Date, multiplied by the Taxes assessed on land (but not any Building)

on the applicable Parcel for the applicable period, as determined by the Manager, which determination shall be conclusive and binding absent manifest error.

(d) “Allocated Insurance Premiums” shall mean insurance premiums attributable to the Maintenance Area and Maintenance Area Facilities, allocated in a method determined by the Manager in its reasonable discretion, which determination shall be conclusive and binding absent manifest error.

(e) “Building” shall mean any structural improvement on any Parcel which is enclosed by exterior walls, floor and roof and is designed for commercial activities, including any outside platforms or docks, canopies and enclosed malls and porches.

(f) “Declaration” shall mean this Declaration Covenants, Conditions and Restrictions and Easements for the Project, as amended from time-to-time.

(g) “Future Parcel” shall have the meaning given in Recital B.

(h) “Initial Parcel” and “Initial Parcels” shall have the meanings given in Recital A.

(i) “Maintenance Area” shall mean and refer to the portion of the Project set aside as Streets, the Access Easement, landscape areas which exist or may hereafter be established within the Project (within or without the Streets), area underlying entry monumentation or directional signage within the Project (but not signage on any Building exclusive to such Building or the Parcel on which such Building is located), all designated parking areas (whether or not exclusive or restricted to use by the Permittees of any Parcel), areas underlying all lighting facilities on the Maintenance Area, Water Facilities and Utility Facilities, and any similar existing or future areas of the Project underlying any amenities which may now or hereafter be established by Declarant or the Owners for the common use and enjoyment of all of the Parcels.

(j) “Maintenance Area Expenses” shall mean all costs of improvements, maintenance, irrigation, utilities, management, operation, repairs and replacement of all Maintenance Area Facilities, reasonable costs of management and performance of such activities in the Maintenance Area (including but not limited to compensation paid to managers, consultants, attorneys, contractors, and employees involved in such activities for the Maintenance Area), costs of any services Manager deems necessary for the benefit of the Project, reserves in amounts determined by Manager, Allocated Taxes, and Allocated Insurance Premiums.

(k) “Maintenance Area Facilities” shall mean all improvements on the Maintenance Areas, including but not limited to paving, landscaping, signage, monuments, lighting facilities, Water Facilities and Utility Facilities.

(l) “Manager” means Declarant as of the Reference Date, and as applicable, any Successor Manager, each of which shall perform its duties hereunder as an independent contractor and not as an employee of any Owner.

(m) “Mortgage” shall mean any mortgage, indenture of mortgage, or deed of trust encumbering the interest of an Owner in a Parcel or, to the extent applicable, any lessee of a Parcel or a portion thereof pursuant to a “sale and leaseback” or “assignment and sub-leaseback” or ground lease transaction.

(n) “Mortgagee” shall mean a mortgagee, or trustee and beneficiary under a Mortgage, and to the extent applicable, a fee owner or lessor or sublessor of a Parcel which is the subject of a lease under

which any Owner becomes a lessee in a so-called "sale and leaseback" or "assignment and sub-leaseback" or ground lease transaction.

(o) "Owner" shall mean and refer to one or more Persons who or which are, alone or collectively, the record owner of fee simple title to a Parcel, including Declarant, but excluding those having an interest merely as security for the performance of an obligation (including, without limitation, a Mortgagee). In the event that the ownership of any improvements on any portion of a Parcel shall ever be severed from the land, whether by lease or by deed, only the owner of the interest in the land shall be deemed an Owner hereunder. The owner of the fee title and not the lessee of a Parcel shall be deemed the Owner regardless of the term of any lease. "Owner" shall include any Person designated in writing by any Owner to act in the manner and at the time provided herein with complete authority and in the place of such Owner in the matter for which action is taken, powers exercised or performance required, provided such written authority shall be recorded in the Official Records of the Kent County Register of Deeds, Kent County, Michigan ("Official Records").

(p) "Parcel" and "Parcels" shall have the meanings given in Recital A.

(q) "Permittee" shall mean and include any Person who, from time to time, is entitled to use or occupancy of any portion of the Project under any lease, license or concession agreement or other similar agreement and any such Person's respective officers, directors, employees, agents, contractors, visitors, invitees, licensees, subtenants and concessionaires.

(r) "Person" shall mean any individual, partnership, firm, association, joint venture, corporation, trust, limited liability company, or any other form of business or governmental entity.

(s) "Project" shall have the meaning given in Recital A.

(t) "Streets" shall mean the vehicular private rights-of-way established to provide access to and from the Parcels, but shall not mean or include any public street adjacent to the Project.

(u) "Successor Declarant" shall mean any Person to whom Declarant specifically assigns any or all of its rights, obligations, or interest as Declarant, as evidenced by an assignment of or deed of record executed by both Declarant and the transferee or assignee and recorded in the Official Records, designating such party as a successor to the Declarant.

(v) "Successor Manager" shall mean any Person to whom Manager specifically assigns any or all of its rights, obligations, or interest as Manager, as evidenced by an assignment of or deed of record executed by both Manager and the transferee or assignee and recorded in the Official Records, designating such party as a successor to the Manager.

(w) "Taxes" shall mean all real estate taxes and assessments imposed on the real property within the Project.

(x) "Utility Facilities" shall mean those facilities and systems for transmission of utility services, including, but not limited to, the Water Facilities, storm water drainage and storage systems or structures or both; fire protection, irrigation and domestic water mains and manholes; lift stations; sewer lines and systems; fire and landscape water sprinkler systems (including without limitation, fire hydrants, water backflow prevention devices, fire risers, and fire sprinkler lines); telephone lines and manholes; electrical conduits or systems; gas mains and other public or private utilities providing service to any Parcel

and its Permittees. Utility Facilities shall not include any utility facilities or systems located on only one Parcel, which solely serve the Parcel on which they are located.

(y) "Water Facilities" shall mean that portion of the Utility Facilities constituting existing or contemplated water facilities, including, without limitation, pipelines, meters, valves, fire hydrants, and associated appurtenances for fire service, domestic service, and irrigation service, including, without limitation, gauges, foundations, backflow prevention assemblies, and vaults. Water Facilities shall not include any water facilities or systems located on only one Parcel, which solely serve the Parcel on which they are located.

3. USE RESTRICTIONS AND IMPROVEMENTS.

(a) A Parcel shall not be used or developed in any way which is inconsistent with the provisions of this Declaration and/or, except to the extent a variance has been approved by any applicable authority in Gaines Township or Kent County, Michigan, with any applicable Gaines Charter Township ordinance requirements and standards and/or the zoning ordinances of Kent County, Michigan.

(b) No Owner or Permittee of any Parcel, or any portion thereof shall handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its agents, employees, contractors or invitees to handle, store, deposit, use, process, manufacture, dispose of or release any hazardous substances (as defined by applicable statutes and regulations) of any kind without complying with all applicable environmental laws.

(c) No Owner or Permittee shall perform any activity in relation to the use of the Owner's Parcel which would (i) cause the cancellation of any insurance required to be maintained pursuant to this Declaration, or (ii) result in a material increase in the insurance rates for any insurance required to be maintained pursuant to this Declaration; provided, that, each Owner acknowledges that the use of any Parcel as a telecommunications facility, including but not limited to a data center, industrial and/or technology park or office development, shall not result in non-compliance with this Section.

(d) Everything done, installed or constructed on a Parcel by an Owner (or with its permission or consent) shall conform to, and all operations on a Parcel shall, to such Owner's commercially reasonable ability, conform to every applicable requirement of law in all material respects. Each Owner shall use commercially reasonable efforts to conduct or cause the occupant of a Parcel to conduct its activities in conformity with all applicable laws, ordinances, rules, and regulations of any applicable governmental authority in all material respects, and in such manner as not to constitute a nuisance or create unreasonable interference with other occupants or users of the Project.

4. MANAGER. Declarant hereby appoints Manager to maintain or cause the maintenance of the Maintenance Area and Maintenance Area Facilities and perform all duties of Manager provided for herein, granting unto Manager the power and duty to perform any and all acts necessary or proper for or incidental to the express powers granted to it by the laws of the State of Michigan and this Declaration. Manager shall have the duty and power to incur and pay (subject to reimbursement as provided for herein) all Maintenance Area Expenses; and to manage, operate, repair, temporarily close, restore, and replace any and all components of the Maintenance Area and Maintenance Area Facilities. In performing its duties hereunder, Manager may maintain or support certain activities designed to make the Project safer than it otherwise might be, but Manager shall not be considered to be an insurer or guarantor of the safety or security of the Project, and shall not be held liable for any loss or damage by reason of any failure to provide security or

the ineffectiveness of any safety measures. No representation or warranty is made by Declarant or Manager that any system or security measures implemented will be effective to prevent loss. Notwithstanding anything contained in this Declaration, Manager shall maintain, repair and snowplow the Maintenance Areas so as to always comply with the requirements of all applicable Gaines Charter Township ordinances and in such a manner as to assure that the Access Easement is safe for travel at all times.

5. MAINTENANCE AREA.

(a) Maintenance. Manager shall maintain or cause the maintenance of the Maintenance Area and Maintenance Area Facilities (including, without limitation, the Utility Facilities and other improvements constituting part of such Maintenance Area) in a manner comparable to the standard of maintenance followed in other industrial and/or technology park developments of comparable size in the Gaines Township, Kent County, Michigan, area and in compliance with all applicable governmental laws, rules, regulations, order and ordinances and the provisions of this Declaration; provided, that, Manager shall perform such maintenance required of it hereunder in such a manner as to reasonably minimize interference with any other Owner's permitted use and enjoyment of such Maintenance Area and Maintenance Area Facilities. Manager's maintenance and repair obligations hereunder shall include, without limitation, all of those tasks for which Manager shall be entitled to reimbursement pursuant to the provisions of Paragraph 5(b) below. Manager shall have the right to select, from time to time, a Person or Persons to maintain the Maintenance Area and Maintenance Area Facilities, provided that such Person shall be duly qualified and licensed in the State of Michigan to perform such work and shall carry such insurance as is commercially reasonable for contractors performing the same work on similar facilities or systems. Before Manager performs work, or causes the performance of work, on any Utility Facilities which would cause an outage to any portion of the Project, Manager shall first notify the other Owner(s), in writing at least forty-eight hours (48 hours) prior to commencing such work, of such work, and Manager and Owner(s) shall reasonably coordinate and cooperate to avoid unnecessary material interference, disturbance or damage as a result of such work; provided, however, that no such prior notification shall be required for any work that is determined by Manager in its reasonable discretion as needing to be immediately performed to prevent physical harm to health or safety of persons, damage to the environment, violation of applicable law or material damage to real or personal property (any such event, an "Emergency Maintenance Event"), provided that Manager shall use good faith efforts to contact the impacted Owner(s) prior to commencing such work and in any event give the impacted Owner(s) written notice of such work reasonably promptly following the commencement of such work. Manager shall undertake and perform its duties hereunder diligently and in a commercially reasonable manner.

(b) Maintenance Area Expenses. The Owners shall each bear their Pro Rata Share (hereinafter defined) of all actual Maintenance Area Expenses, and an assessment for such Maintenance Area Expenses is hereby imposed on each Parcel. Such maintenance and repair obligations shall include (but not be limited to) the following:

(i) All general maintenance and repairs to the Maintenance Area and Maintenance Area Facilities whether required by the enactment or operation of law, or otherwise, including, without limitation, cleaning, sweeping, snow removal, repairing, repaving, restriping, resealing, and resurfacing all paved surfaces and curbs as necessary and appropriate and repairing and replacing all other improvements located within the Maintenance Area and all Maintenance Area Facilities as necessary and appropriate;

- (ii) All general maintenance and repair to all landscaped and other areas identified herein as Maintenance Area, including, without limitation, cleaning, sweeping, irrigating, weeding, pruning, fertilizing and replacing shrubs and other landscaping as necessary and the maintenance, repair and replacement of the Project identification sign (if any), tenant directory signs and markers (if any), including, without limitation, the pylon, panel, base, utilities service therefor, and any and all appurtenances to any of the aforesaid; and maintenance repair and replacement of all lighting facilities in the Maintenance Area;
- (iii) Periodic sweeping and removal of all papers, debris, snow, and refuse from the Maintenance Area;
- (iv) Maintenance, repair and replacement of the Water Facilities;
- (v) Maintenance, repair and replacement of any fire protection systems, security alarm systems, lighting systems, storm drainage systems, sanitary sewer systems, electrical systems, and any other utility systems constituting the Utility Facilities;
- (vi) Any public utility or governmental charges or surcharges, and any other costs levied, assessed, or imposed pursuant to laws, statutes, regulations, codes and ordinances promulgated by a governmental or quasi-governmental authority in connection with the operation and use of the Maintenance Area and Maintenance Area Facilities; and
- (vii) Allocated Taxes, Allocated Insurance Premiums, and any other costs and fees identified in this Declaration as Maintenance Area Expenses.

(c) Consent Requirements. Prior to incurring a Maintenance Area Expense for an item or service other than Allocated Taxes or Allocated Insurance Premiums, which exceeds \$100,000.00, Manager shall send written notice of such expense, and a reasonably detailed explanation of the necessity thereof, to the Owners, and Manager shall not incur said expense until approved by the Owners, which approval shall not be unreasonably withheld, conditioned or delayed. If the Owners do not agree as to the necessity of the expense, the Owners and Manager shall negotiate in good faith to resolve their differences. If such differences are not resolved within a period of sixty (60) days from the date notice is originally given to the Owners, Manager may elect to proceed with arbitration in accordance with the Commercial Arbitration Rules of JAMS. Any Maintenance Area Expense which does not require the prior approval of the Owners may be incurred without such consent. In the event such maintenance work resulting in a Maintenance Area Expense constitutes an Emergency Maintenance Event, Manager may perform the work without the consent of the Owners; provided, however, the amount and necessity of such work may subsequently be objected to by the Owners pursuant to the objection process set forth in this Section.

(d) Payment of Maintenance Area Expenses. Each Owner shall be responsible for its Pro Rata Share of Maintenance Area Expenses. Manager will provide the Owners, not more often than every three (3) months but at least annually, a written statement itemizing in detail (including such backup material and cost breakdowns as may be reasonably requested) the Maintenance Area Expenses actually expended for the period covered by the statement (a "Maintenance Area Expense Statement"). For the purposes of this Declaration, the "Pro Rata Share" of Maintenance Area Expenses shall be a percentage calculated as follows: the quotient of (A) the aggregate square foot area of all Buildings on the relevant Parcel owned as of the date on which the computation is made (the "Calculation Date"), divided by (B) the aggregate square foot area of all the Buildings in the Project as of the Calculation Date.

(e) Disputed Expenses. Any dispute as to the payment of a Maintenance Area Expense, if not resolved between the Owners and Manager within sixty (60) days of the date of delivery of the Maintenance Area Expense Statement, shall be resolved through arbitration in accordance with the Commercial Arbitration Rules of JAMS. Upon the final resolution of any such dispute, the amount determined to be owing, together with interest thereon at a rate equal to the sum of the "Prime Rate" of interest as published by *The Wall Street Journal*, Southwest Edition, in its listing of "Money Rates," plus three percent (3%) per annum (the "Interest Rate"), from the date of the Maintenance Area Expense Statement to the date of payment shall be paid to Manager; provided, that, in the event the applicable Owner(s) makes a payment of Maintenance Area Expenses to Manager under protest (a "Protest Payment"), and the final resolution of such arbitration proceeding pursuant to this Section 4(e) is in favor of such Owner, Manager shall reimburse the applicable Owner(s) the excess portion of such Protest Payment above the amount determined to be due pursuant to such final resolution, together with interest thereon at the Interest Rate from the date of the Maintenance Area Expense Statement to the date such reimbursement is paid to the applicable Owner(s).

(f) Interest. Any Maintenance Area Expense Statement which is not satisfied within thirty (30) days of the date of receipt of the Maintenance Area Expense Statement shall bear interest at the Interest Rate, without duplication of any interest accrued pursuant to clause (e) above.

6. UTILITIES IN MAINTENANCE AREA. Notwithstanding anything to the contrary herein, (a) each Owner shall be solely responsible to maintain and repair the utility improvements that serve only the Buildings and/or other improvements constructed on such Owner's Parcel, and (b) each Owner shall, in addition, repair any damage to any part of the Maintenance Area caused as a result of such Owner's use, or use by such Owner's Permittees.

7. BUILDING UPKEEP AND MAINTENANCE. Except as otherwise specifically provided herein, each Owner shall provide for appropriate upkeep and maintenance of all improvements located in or on each Owner's Parcel in order to assure that the Project and each part thereof is maintained in a safe, clean, and attractive condition.

8. INSURANCE.

(a) Insurance on Parcel and Improvements. Each Owner shall at all times during the term of this Declaration, at its sole expense, maintain insurance on its Parcel and any portion of such Owner's Parcel located within Maintenance Areas, and all fixtures, furnishings, equipment, improvements and contents constituting Maintenance Area Facilities, including but not limited to the Water Facilities and the Utility Facilities, as the same may exist from time to time. Insurance shall be in the amount of the full replacement value of such improvements as ascertained by the insurance carrier and shall insure against all risks and perils normally covered under an "extended coverage all risk" policy as that term is ordinarily used in the insurance industry. Any landlord of any lease on any building in the Project, if not the Owner, shall be named as an additional insured on any insurance policy required to be maintained in accordance with this Section.

(b) Liability Insurance. Each Owner shall at all times, at its sole expense, maintain a policy of public liability and property damage insurance with respect to such Owner's Parcel, the business operated by such Owner, and any Permittees, concessionaires, or licensees of the Owner on its Parcel with limits of public liability coverage of not less than \$3,000,000 per occurrence and with limits of property damage liability coverage of not less than \$2,000,000 per accident or occurrence.

(c) Requirements for Insurance Policies. Insurance required to be maintained by each Owner hereunder shall be in companies holding a "General Policyholders' Rating" of A or better and a "Financial Rating" of X or better, as set forth in the most current issue of "Best's Insurance Guide." Each Owner shall promptly deliver to the other Owner(s), within ten (10) days of request, copies of certificates evidencing the existence and amounts of insurance. No policy shall be cancelable or subject to reduction of coverage except after thirty (30) days prior written notice to the other Owner(s). All public liability, property damage, and other liability policies shall be written as primary policies, not contributing with and not in excess of any other coverage which may be applicable. The foregoing requirements are not intended to and will not in any manner limit or qualify any Owner's liabilities, whether imposed by applicable law or assumed pursuant to this Declaration, including, but not limited to, the applicable provisions herein concerning indemnification. Declarant does not warrant that the minimum limits contained and required herein are sufficient to protect Owners from liabilities that might arise under this Declaration, and any Owner is free to purchase such additional insurance as it may determine to be necessary. Each policy of insurance required under this Declaration shall name the Owner(s) of the other Parcels as an additional insured.

(d) Lenders. Any Mortgagee may, at its option, be afforded coverage under any policy required to be secured by each Owner hereunder, by use of a mortgagee's endorsement to the policy concerned.

(e) Owner's Failure to Maintain Insurance. In the event any Owner fails to maintain the insurance coverage required hereunder, following written notice to the non-compliant Owner and the expiration of a two (2) business day cure period, Manager may, but shall have no obligation to, obtain coverage at the non-compliant Owner's expense. The reasonable and actual premiums paid for such insurance, plus a charge equal to five percent (5%) of such premiums for overhead incurred by Manager, and interest at the Interest Rate (commencing ten (10) days from the date such premium payments are invoiced to the non-compliant Owner until reimbursed), shall be reimbursed to Manager by the non-compliant Owner within ten (10) days following presentation of a bill therefor, and, if not so reimbursed, such sum shall become a lien against the non-compliant Owner's Parcel, which may be enforced as provided for herein for the enforcement of an Obligation Lien (defined below),

(f) Waiver of Subrogation/Blanket Policies and Certificates/No Cancellation or Reduction Without Notice. Each Owner, on its behalf and on behalf of its insurance company(ies), waives all subrogation and other rights of recovery as it might have against each other and their respective Permittees, agents, servants, employees, invitees, and insurers with respect to (i) all perils actually covered by insurance, and (ii) all perils required by the terms of this Declaration to be covered by insurance, whether or not such insurance is actually obtained. Any insurance required to be carried by an Owner pursuant to this Section may be carried by any Owner or such Owner's Permittee and under a blanket policy or under policies maintained by the Owner or Permittee with respect to other premises or property owned or operated by the Owner or Permittee or its or their subsidiaries or Affiliates.

9. DAMAGE TO IMPROVEMENTS. In the event of any damage or destruction to any part of any improvements located within the Maintenance Area, whether insured or uninsured, Manager shall be obligated to restore, repair or rebuild the damaged or destroyed area within the Maintenance Area and Maintenance Area Facilities with all due diligence to at least as good a condition as existed immediately prior to such damage or destruction; and all costs and expenses incurred by Manager in such restoration, repair or rebuilding, net of insurance proceeds, shall be Maintenance Area Expenses.

10. EMINENT DOMAIN. If the whole or any part of the real property comprising the Project shall be taken by right of eminent domain or any similar authority of law (a "Taking"), the entire award for the value

of the land and improvements so taken shall belong to the Owner of the property so taken or to such Owner's Mortgagees or Permittees, as their interests may appear, and the other Owner(s) shall not have a right to claim any portion of such award by virtue of any interest created by this Declaration. The Owner of the Parcel which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the land being so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or Maintenance Area Facilities or other improvements so taken if such claim does not operate to reduce the award allocable to the Owner of the property taken.

11. RIGHTS OF MORTGAGEES.

(a) Priority of Mortgage Lien. No breach of the covenants, conditions, or restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat, or render invalid the lien or charge of any Mortgage made in good faith and for value encumbering a Parcel, but all of the covenants, conditions, and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale or otherwise with respect to a Parcel.

(b) Curing Defaults. A Mortgagee or the immediate transferee of such Mortgagee who acquires title by judicial foreclosure, deed in lieu of foreclosure, or trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which occurred prior to the date such Mortgagee acquired the title to a Parcel which is incurable or of the type which is not feasible to cure.

(c) Resale. It is intended that any loan to facilitate the resale of any Parcel after judicial foreclosure, deed in lieu of foreclosure, or trustee's sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Mortgagees.

(d) Relationship of Liens.

(i) The lien for nonpayment of an Owner's share of Maintenance Area Expenses, or other sums due hereunder from any Owner to Manager, provided for herein shall be subordinate to the lien of any Mortgage, and the foreclosure of any lien created by this Declaration shall not affect or impair the lien of any Mortgage.

(ii) The foreclosure of the lien of any Mortgage, acceptance of a deed in lieu of foreclosure of the Mortgage, or sale under a power of sale included in any such Mortgage (such events being hereinafter referred to as "Events of Foreclosure") shall not operate, affect or impair the lien hereof, except that Persons who obtain an interest through an Event of Foreclosure, and their successors in interest, shall take title free of the lien hereof or any personal obligation as shall have accrued up to the time of any Event of Foreclosure, but subject to any subsequent lien hereunder for any sums that shall accrue subsequent to the Event of Foreclosure.

(e) Other Rights of Mortgagees. Any Mortgagee or its mortgage servicing contractor shall, following written request, be entitled to receive written notification of any default in the performance of the obligations imposed by this Declaration on the Owner whose Parcel is encumbered by such Mortgagee's Mortgage, which default has not been cured within thirty (30) days of notice, and, notwithstanding anything to the contrary herein, such Mortgagee shall be permitted to, and shall have, with respect to monetary defaults, a period of ten (10) business days, and with respect to non-monetary defaults, a period of thirty (30) days (or such additional time as is needed to cure such default (provided that the Mortgagee is diligently pursuing such cure)), following such Mortgagee's receipt of the notice of default, in order to, cure any such

default on behalf of such Owner, which cure shall be treated hereunder as a timely cure by the applicable Owner under this Declaration.

12. APPROVAL OF OWNER(S)/DEEMED APPROVAL. Except as otherwise specifically provided herein, if any Owner having a right of approval hereunder fails to give such approval or specify grounds for disapproval within thirty (30) days of receipt of the written request therefor, said Owner shall be deemed to have given its approval, provided that the written request therefor recites such deemed approval deadline. Except as otherwise specifically provided herein, no such approval shall be unreasonably withheld, conditioned, or delayed.

13. NO PUBLIC DEDICATION. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Project to the general public or for the general public or for any public purposes whatsoever, it being the intention of Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed. The right of the public or any Person to make any use whatsoever of the Project or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is by permission and subject to control of the Owner(s). Notwithstanding any other provisions herein to the contrary, Declarant or the Owners by mutual agreement, may periodically restrict ingress to and egress from the Project in order to prevent a prescriptive easement from arising by reason of continued public use; provided, that, such restriction shall be for the minimum period of time necessary to prevent such prescriptive easement rights from arising and in a manner intended to minimize disruption to the use and operation of each Parcel.

14. DEFAULT. Except as otherwise set forth in this Declaration, in the event of failure of any Owner to comply with its respective obligations contained in this Declaration, before exercising any remedies relating thereto, the non-defaulting Owner and/or the Declarant or Manager shall give written notice thereof and the defaulting Owner shall have thirty (30) days from receipt of such notice to cure such default; provided that, if the default cannot reasonably be accomplished during the thirty (30) day cure period, the defaulting Owner shall have commenced such cure within such time and thereafter be diligently pursuing the same to completion. Upon failure to timely effect or pursue a cure hereunder, the non-defaulting Owner and/or the Declarant or Manager shall be entitled to seek any and all available remedies at law or in equity, including, without limitation, injunctive relief and/or an action for specific performance of this Declaration. No breach of this Declaration shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which an Owner, Declarant or Manager may have hereunder by reason of any breach. Notwithstanding the cure periods set forth in the foregoing, the Parties acknowledge the rights of Owners to enter upon and perform certain remedial work upon the areas of the Easements (as defined below) upon the occurrence of an Emergency Maintenance Event, as set forth elsewhere in this Declaration.

15. INDEMNITY.

(a) Each Owner (the "Indemnifying Owner") shall protect, indemnify, defend, and hold each other Owner, Declarant and Manager (collectively, the "Indemnified Party") harmless from and against all claims, expenses, liabilities, loss, damage, and costs, including any actions or proceedings in connection therewith and including reasonable attorneys' fees, incurred in connection with, arising from, due to or as a result of the death of or any accident, injury, loss, or damage, howsoever caused, to any person or loss or damage to the property of any Person as shall occur in, or about the Indemnifying Owner's Parcel as a result of: (i) the Indemnifying Owner (and/or their Permittees) using the easements granted in this Declaration, (ii) any breach by the Indemnifying Owner (and/or their Permittees) of the Indemnifying Owner's

obligations under this Declaration, and/or (iii) mechanics liens, stop notices, or other claims regarding materials supplied or work performed on behalf of the Indemnifying Owner (and/or their Permittees), except claims resulting from the gross negligence or willful act or omission of the Indemnified Party or any Permittee of such Indemnified Party, wherever the same may occur. Notwithstanding any of the provisions of this Section to the contrary, each Owner for itself and its Permittees waives any right of recovery against the other Owner and its Permittees for any loss, damage, or injury to the extent the same (i) is actually covered by insurance, or (ii) would have been covered by such insurance as is required to be carried pursuant to the provisions of this Declaration.

(b) Declarant, its successors, and any and all future owners of any Parcel shall indemnify, save and hold Gaines Charter Township (as well as its officers, agents, and employees) harmless for, from and against any and all claims, causes of action, costs, or damages for personal injury and/or property damages arising out of or related to the use of the Access Easement, costs of construction, or the failure to properly construct, maintain, repair, and/or install any appurtenance thereto. If any portion of an entrance to the Access Easement is secured by a gate, retractable gate or similar barrier or mechanism, then the Gaines Charter Township fire chief or his or her designee shall always be given a current key, security code or other mechanism, as reasonably determined by Declarant, to ensure access to all portions of the Access Easement in case of fire or other emergency.

16. NONPAYMENT OF EXPENSES.

(a) Delinquency. Any Maintenance Area Expense obligation or other sum due hereunder from any Owner to Manager (as such amount may be reduced pursuant to the final decision of any arbitration pursued pursuant to and in accordance with the express terms of this Declaration) ("Obligation") which is not paid on or prior to the Delinquency Date shall be considered delinquent. For the purposes of this Declaration, "Delinquency Date" shall mean the date that is (i) sixty (60) days after the date written notice is given of the Obligation (which notice shall include, without limitation, a reasonably detailed description of the maintenance work performed, copies of relevant contracts for the work performed, evidence that such amounts have been fully paid, and such other supporting documentation as the obligor Owner may reasonably request) or (ii) if any such Maintenance Area Expense is submitted to arbitration in accordance with the express terms of this Declaration, the date that is ten (10) business days following final resolution of such arbitration. Any delinquent Obligation which is not subject to interest under Section 4(f) or 7(e) shall bear interest at the Interest Rate from thirty (30) days after the date written notice is given of such Obligation until paid. Upon any Obligation being deemed delinquent pursuant to this Section, Manager may, at its option, and without waiving the right to foreclose its lien against the obligor Owner's Parcel, pursue any available remedies, including, without limitation, bringing an action at law against the obligor Owner and upon compliance with the notice provisions set forth in Section 16(c) herein, non-judicially foreclosing the lien against the obligor Owner's Parcel. If an action is commenced pursuant to this Section 16(a), there shall be added to the amount of the Obligation, in addition to interest at the Interest Rate in accordance with this Section 16(a) or Section 4(f) or 7(e), as applicable, the reasonable costs of such action, and reasonable attorneys' fees incurred in connection with such action; and in the event a judgment is obtained, such judgment shall include such interest at the Interest Rate, reasonable costs and reasonable attorneys' fees.

(b) Lien; Personal Obligation. There shall be a lien against each Parcel in an amount equal to any delinquent Obligation together with interest at the Interest Rate, reasonable attorneys' fees and reasonable costs of collection and enforcement (an "Obligation Lien"), in favor of Manager, from the applicable Delinquency Date until the date on which such delinquency is cured in accordance with Section

16(e) below. Notwithstanding anything to the contrary in this Declaration, upon a delinquency being cured in accordance with Section 16(e), the related Obligation Lien shall immediately terminate and Manager shall have no right to pursue, or continue to pursue, any remedies on account of such Obligation Lien. Each Obligation shall be the personal obligation of the Person who or which was the Owner of the applicable Parcel at the time such assessment became due and payable. If more than one Person owns a Parcel, the personal obligation to pay such Obligation shall be both joint and several. A purchaser of a Parcel shall be jointly and severally obligated with the seller for all unpaid Obligations against a Parcel without prejudice to the purchaser's right to recover from seller the amount paid for such Obligations. Suite to recover a money judgment for such personal obligation shall be maintainable by Manager without foreclosure or waiver of the lien securing any Obligation. No Owner may avoid or diminish such personal obligation by abandonment of its Parcel.

(c) Notice of Delinquent Obligation. No action shall be brought to foreclose an Obligation Lien or to proceed under the power of sale herein provided until the later of (i) the first business day following the Delinquency Date, and (ii) the date that is thirty (30) days after the date a written notice of Delinquent Obligation ("Notice of Delinquent Obligation") is deposited in the United States mail, certified or registered, postage prepaid, to the obligor Owner, and a copy thereof is recorded in the Official Records (such date, the "Foreclosure Notice Date"). The Notice of Delinquent Obligation must be entitled "Notice of Delinquent Obligation" in bold print, and must recite a good and sufficient legal description of the obligor Owner's Parcel, the record Owner or reputed Owner thereof, the nature of the obligor Owner's ownership interest in the Parcel, the amount which is delinquent (which may include, without duplication, any interest thereon payable in accordance with this Section 15, reasonable attorneys' fees and reasonable expenses of collection in connection with the Obligation), the fact that the Obligation Lien is a lien against the obligor Owner's Parcel and the name and address of the trustee authorized to enforce the Obligation Lien by sale.

(d) Foreclosure Sale. Following the Foreclosure Notice Date and prior to such delinquency being cured, any Obligation Lien may be enforced by sale by Manager, its attorney, or any other Person authorized by Manager to make the sale after failure of the obligor Owner to make the payments specified in the Notice of Delinquent Obligation on or before the Foreclosure Notice Date. Any such sale provided for above is to be conducted in accordance with the provisions of the Michigan Compiled Laws, as said statutes may from time to time be amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. Manager, through its duly authorized agents, shall have the power to bid on the Parcel, using as a credit bid the amounts secured by its lien, and to thereafter acquire and hold, lease, mortgage, and convey the obligor Owner's Parcel.

(e) Curing of Delinquency. Any delinquency shall be deemed cured, and any foreclosure proceeding terminated, upon the timely payment or other satisfaction of:

- (i) All delinquent Obligations specified in the Notice of Delinquent Obligation;
- (ii) All other Obligations which have become due and payable with respect to the Parcel as to which such Notice of Delinquent Obligation was recorded; and
- (iii) Without duplication of any amounts already included in the Obligations identified in such Notice of Delinquent Obligation, interest payable pursuant to this Section, reasonable attorneys' fees and other reasonable costs of collection pursuant to this Declaration and the Notice of Delinquent Obligation which have accrued.

17. CONFORMITY TO LAWS. Each Owner shall maintain, or cause to be maintained, in a safe and clean condition and in good order and repair and replace as needed, all Buildings and improvements which may from time to time be located within its Parcel, so that the Buildings and improvements materially conform to, and materially comply with, all applicable laws, ordinances, rules, and regulations of any governmental authority having jurisdiction with respect to construction and maintenance of the Project and the health and safety of the Owners, Permittees, occupants, business invitees, customers, and other Persons using the Project, and in such a manner as to not constitute a nuisance or create unreasonable interference. Declarant and each Owner acknowledges, as of the date of this Declaration, the Project, and all Buildings and areas therein, comply with all applicable laws and regulations in all material respects. The Owners acknowledge that certain laws and regulations may be amended from time to time in ways that result in improvements no longer complying with the updated laws and regulations but expressly allowing certain existing improvements from being modified, and such legal non-conforming condition shall not be a violation of this Section so long as it is modified at such times, and to the extent, as may be required by applicable laws and regulations.

18. EASEMENTS.

(a) Ingress, Egress and Parking. Declarant declares the existence of, and hereby grants and conveys to the Owners of Parcel A, Parcel B and Parcel C, for its use and for the use of its Permittees, in common with others entitled to use the same, a perpetual non-exclusive easement for the passage and accommodation of pedestrians and vehicles and parking over and across the Access Easement and all portions of the Project utilized for ingress and egress as of the Reference Date or in the future (the "Easement Area"), as the same may from time to time be constructed and maintained for such use, and the right of ingress, egress, parking and access to and within the Project. The Access Easement shall: (i) never serve more than the Parcels without zoning and land division approval by Gaines Charter Township; and (ii) not be maintained by the Board of Kent County (Michigan) Road Commissioners, nor shall any public funds of Gaines Charter Township be used to build, repair or maintain the Access Easement. A sign built to the specifications of the Kent County Road Commission shall be maintained at the intersection of the Access Easement with 60th Street. No other structures (except utilities), signs, or similar items shall be placed, installed, or maintained within the Access Easement.

(b) Utilities.

(i) Declarant declares the existence of, and each Owner hereby grants and conveys to each other Owner, a non-exclusive, perpetual easement in, to, over, under, along, and across the Maintenance Area and any portion of a grantor's Parcel necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, replacement, relocation, and removal of the Water Facilities and Utility Facilities serving the grantee's Parcel. Any Person installing or maintaining additional utilities pursuant to the provisions of this Declaration shall pay all costs and expenses with respect thereto and shall cause all work in connection therewith (including general clean-up and proper surface and/or subsurface restoration) to be completed as quickly as possible and in a manner so as to minimize interference with the grantor's use of its Parcel.

(ii) The location and width of any additional utility installed subsequent to the Utility Facilities located on the Parcels as of the Reference Date shall be subject to the prior written consent of the Owner whose Parcel is to be burdened thereby, such consent not to be unreasonably withheld, conditioned or delayed. The easement area shall be no larger than

that necessary to reasonably satisfy the utility company (as to a public utility) or five feet (5') on each side of the centerline (as to a private line). Upon request, the grantee shall provide to the grantor a copy of an as-built survey showing the location of such Utility Facility. The grantor shall have the right at any time to relocate a utility line installed in accordance with this Section upon thirty (30) days prior written notice to the grantee, provided that such relocation shall not unreasonably interfere with or diminish the utility services to the grantee; shall not materially reduce or unreasonably impair the usefulness or function of such utility; shall be performed without cost or expense to the grantee; shall be completed using materials and design standards which equal or exceed those originally used; and shall have been approved by the utility company and the appropriate governmental or quasi-governmental agencies having jurisdiction thereover. Documentation of the relocated easement area shall be at the grantor's expense and the grantee shall have a right to require an as-built survey of such relocated utility to be delivered to it at the grantor's expense.

(c) Surface Drainage Easement. Declarant declares the existence of, and each Owner hereby grants and conveys to the other Owner(s), for its use and for the use of its Permittees, a non-exclusive, perpetual easement through and across each Parcel for reasonable surface drainage purposes, to the extent required as a result of, and consistent with, the improvements as existing on the Parcels as of the Reference Date.

(d) Restriction. No Owner shall grant any easement for the purposes set forth in this Section for the benefit of any property not within the Project without the joining of the other Owner(s) as party to such easement; provided, however, that the foregoing shall not prohibit the granting or dedicating of utility easements by an Owner on its Parcel to governmental or quasi-governmental authorities or to public utilities.

(e) **"AS IS". THE OWNERS ACCEPT ALL EASEMENTS GRANTED BY THIS DECLARATION (COLLECTIVELY, THE "EASEMENTS") IN THEIR "AS IS" EXISTING CONDITION AS OF THE REFERENCE DATE. THE OWNERS RECEIVE THE EASEMENTS SUBJECT TO ALL APPLICABLE ZONING, MUNICIPAL, COUNTY AND STATE LAWS, ORDINANCES AND REGULATIONS GOVERNING AND REGULATING THE EASEMENTS. EACH OWNER RESERVES THE RIGHT TO INSTALL, MAINTAIN, USE, REPAIR, AND REPLACE ANY ELEMENTS OVER, AND ACROSS THE EASEMENTS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, PROVIDED SUCH USE AND CONTROL WILL NOT MATERIALLY AND ADVERSELY INTERFERE WITH THE BENEFITTING OWNER'S USE OF THE APPLICABLE EASEMENT(S) OR THE OPERATION OF BUSINESS IN THE ORDINARY COURSE ON SUCH BENEFITTING OWNER'S PARCEL (OR PORTION THEREOF).**

(f) Rules, Regulations and Restrictions. No Owner shall use or occupy the Easements in violation of any rules and regulations in furtherance of the use and enjoyment of the Easements as may be reasonably promulgated by Declarant from time to time, provided Declarant is then the owner of a portion of the Project, and provided that such rules and regulations shall not impose or result in any monetary obligations on any Owner absent its written consent thereto, and shall not inhibit any Owner's ability to use its Parcel as a telecommunications facility, including but not limited to a technology park, data center, industrial park or office development, or otherwise adversely interfere with an Owner's permitted use of the Easements or its Parcel. Any rules and regulations promulgated by Declarant pursuant hereto shall

become effective no earlier than thirty (30) days following the delivery of a copy of such rules and regulations to the Owners. The Easement Area shall be subject to all posted speed limits, posted directional lanes, posted stop signs, other posted traffic controls, and reasonable size and load factors established from time to time by Declarant or Manager with respect to vehicles using the Easement Area. Other than for emergency services (e.g. flat tire, dead battery, etc.), no person shall conduct repairs of any motor vehicle upon any portion of the Easement Area. No boat, truck, trailer, camper, recreational vehicle or tent shall be stored on the Easement Area. No parking shall be permitted which may obstruct free traffic flow within the Easement Area, other than in designated parking spaces.

(g) Use at Own Risk. Except in the event of the Owner of a Parcel's (or any applicable portion which becomes a Future Parcel's) gross negligence or willful misconduct, neither Declarant, Manager or the Owner of any Parcel (or any applicable portion which becomes a Future Parcel) shall be responsible for any damage or injury to, or loss of, the property of any Person(s) using the Easement Area, and all Owners and Permittees shall utilize the Easement Area at their own risk.

(h) Use and Development. Each Owner retains the right to use (in any manner), alter and/or develop the Easements located on its respective Parcel (or portion thereof) in any manner and for any purposes (including but not limited to: the right of ingress and egress, and the right to make any repairs, alterations and/or additions to the Easement Area) provided that such use/alteration/development does not deprive any Owner of reasonable access to, or the use of, the Easement Area provided in this Declaration or impair or adversely affect the quiet use or enjoyment of any Parcel by its respective Owner or otherwise increase or expand the obligations of such Owner or diminish any rights granted to any Owner herein without the express prior written consent of such Owner.

19. MISCELLANEOUS.

(a) Notices. All notices hereunder shall be in writing and addressed to the recipient at such addresses as each shall supply to the others in the manner hereafter provided. All notices given pursuant to this Declaration shall be deemed received upon personal delivery or, if mailed, upon expiration of three (3) business days after mailing or, if sent by express delivery service, upon expiration of one (1) business day after pickup by such express delivery service, unless actually received sooner. Each party may change its address by written notice to the other Owner given in the manner hereinabove stated.

(b) No Joint Venture. The provisions of this Declaration are not intended to create, nor shall they in any way be interpreted to create a joint venture, a partnership, or any other similar relationship between the Owners.

(c) Captions/Headings. The captions heading the various sections of this Declaration are for convenience and identification only and shall not be deemed to limit or define the contents of their respective sections.

(d) Modification/Amendment. This Declaration may not be amended or otherwise modified without the written prior consent of all of the then current Owners of the Parcels, provided, that, Declarant may unilaterally amend this Declaration solely for the purpose of fixing any scrivener's error herein, subject to (i) Declarant's delivery of notice of such amendment hereto, together with a copy of such proposed amendment, to the other Owner(s) at least ten (10) Business Days prior to the anticipated effective date thereof, and (ii) such amendment being recorded in the Official Records. Any amendment shall be recorded in the Official Records. Notwithstanding anything to the contrary contained herein, this Declaration shall

not be amended in order to remove, lessen or negate any restrictions contained herein which are based upon, or applicable pursuant to Gaines Charter Township ordinance requirements or approvals by Gaines Charter Township with respect to the Access Easement.

(e) No Waiver. The failure of Declarant, Manager or an Owner to insist upon strict performance of any of the provisions of this Declaration shall not be deemed a waiver of any rights or remedies that such Person may have and shall not be deemed a waiver of any subsequent breach or default of any of the obligations contained herein.

(f) Time of Essence. Time is of the essence with respect to matters in this Declaration wherein time limitations are mentioned.

(g) Remedies Cumulative. All remedies provided in this Declaration shall be deemed cumulative and, notwithstanding the exercise of any remedy hereunder, such Owner shall have recourse to all other remedies as may be available at law or in equity.

(h) Binding Effect/Covenants Running With Land. The covenants contained in this Declaration shall constitute covenants running with the land and shall be binding upon, and shall inure to the benefit of the Project and the Parcels, and any Person having acquired any Parcel or any interest therein and their successive owners and assigns. For the avoidance of doubt, nothing in this Agreement, express or implied, is intended to confer any rights to or obligations upon any person or entity other than the Declarant, Manager, and any Person that directly owns any Parcel or any portion thereof and their successive owners and assigns (except with respect to intended third party beneficiaries, as noted in Section 19(u) below).

(i) Recordation. This Declaration shall be recorded in the Official Records and this Declaration (and any amendment hereto or amendment and restatement hereof) shall only be effective upon recordation.

(j) Governing Law; Waiver of Jury Trial. This Declaration and the obligations of the parties bound hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Michigan. Declarant, Manager and each Owner hereby irrevocably and unconditionally waives trial by jury in any action, proceeding or counterclaim brought by such party against the other party on any matters whatsoever arising out of or in any way connected with this Declaration, including, without limitation, in connection with the enforcement of any remedy under any statute, emergency or otherwise.

(k) Counterparts. This Declaration may be executed in any number of counterparts, each of which, when fully executed, shall be deemed to be an original, and all of which together shall be deemed to constitute one and the same instrument.

(l) Estoppel Certificate. Upon the written request of any Owner, Manager shall provide a written certificate stating that, to its actual knowledge, the Owner and its Parcel are not in violation of any of the provisions of this Declaration, or if there are any such violations, stating in sufficient detail the nature of such violations. The certification shall be delivered to the requesting Owner no later than thirty (30) days after written request has been delivered to Manager. Any prospective purchaser and/or any current or prospective Mortgagee of a Parcel shall be entitled to rely on the information contained in the certificate.

(m) Duration. This Declaration and each term, easement, covenant, restriction and undertaking contained herein will remain in effect perpetually unless all of the Owners elect in writing to terminate this Declaration. Upon termination of this Declaration, all rights and privileges derived herefrom and all duties

and obligations created and imposed hereunder shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not limit or affect any remedy at law or in equity which may be available with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination.

(n) Severability. If any clause, sentence, or other portion of this Declaration shall become illegal, null, or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portions thereof shall remain in full force and effect.

(o) Attorneys' Fees/Court Costs. Should suit, arbitration or other legal action be instituted to enforce any of the foregoing terms, covenants, conditions, restrictions, and encumbrances, then the non-prevailing party, in addition to any judgment, order, or decree agrees to pay the prevailing party its reasonable attorneys' fees and court costs as may be awarded in any such suit, arbitration or other proceeding. To be the prevailing party, a party need not prevail on each and every issue in dispute, but only on the principal issue in dispute.

(p) Force Majeure. If Manager or any Owner or any other party shall be delayed or hindered in or prevented from the performance of any act required to be performed by such party by reason of Acts of God, strikes, lockouts, unavailability of materials, failure of power, prohibitive governmental laws or regulations, riots, insurrections, adverse weather conditions preventing the performance of work as certified to by an architect, war or other reason beyond such party's control, then the time for performance of such act shall be extended for a period equivalent to the period of such delay. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such party.

(q) Enforcement. Declarant, Manager and each Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, and reservations now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants, or reservations and the right to recover damages for any violation. Without limiting the generality of the preceding sentence, Declarant, Manager and each Owner shall have the right to enforce as equitable servitudes all restrictions, conditions, covenants, and reservations now or hereafter imposed by the provisions of this Declaration or any amendments thereto.

(r) Construction. Unless the context otherwise requires, the masculine gender includes the feminine and neuter, the singular number includes the plural and the plural includes the singular.

(s) Constructive Notice and Acceptance. Every Person or entity who now or hereafter owns or acquires any right, title, or interest in or to any portion of a Parcel is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such Person or entity acquired an interest in the Project.

(t) Right of Assignment. Declarant reserves the right to assign all of its rights, obligations and interest as Declarant to a Successor Declarant by recording an assignment or deed of record executed by both Declarant and the transferee or assignee in the Official Records (which assignment must include an unrestricted assumption of all of the rights, obligations and interests of the Declarant under this Declaration). Upon the recording of an assignment of the rights, obligations and operations of any then Declarant to a Successor Declarant, the then Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document. Manager reserves the right to assign all of its

rights, obligations and interest as Manager to a Successor Manager by recording an assignment or deed of record executed by both Manager and the transferee or assignee in the Official Records (which assignment must include an unrestricted assumption of all of the rights, obligations and interests of the Manager under this Declaration). Upon the recording of an assignment of the rights, obligations and operations of any then Manager to a Successor Manager, the then Manager's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

(u) No Third-Party Beneficiaries. This Declaration is intended for the benefit of the parties hereto and their respective successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person other than Mortgagees with respect to the express rights granted to them hereunder.

(v) No Merger. No merger of title to the Parcels shall terminate this Declaration or otherwise render it invalid or unenforceable.

(w) Damages. Any of Declarant, Manager, each Owner (and their respective successors and assigns), and any third-party beneficiary of this Agreement, waives the right to collect damages by reason of loss of profits, business interruption, or consequential damages in connection with any claims arising from or related to this Declaration.

20. GAINES CHARTER TOWNSHIP PROVISIONS. Notwithstanding anything to the contrary provided for in this Agreement, as to Gaines Charter Township, the following provisions shall prevail:

(a) The Owners of the Parcels benefitted by the Access Easement shall be jointly and severally liable and responsible for maintaining the entire length of the Access Easement and to maintain the same in full compliance with all Gaines Charter Township ordinance requirements and standards. This Agreement shall also be enforceable by the Gaines Charter Township Board at its option. If the Access Easement is not maintained to the requirements of all Gaines Charter Township ordinance requirements, the Owners of the Parcels benefitted by the Access Easement shall be deemed, by the recording of this Agreement, to have petitioned for the creation of a special assessment district by the Gaines Charter Township Board to maintain or upgrade the private road /joint driveway within the Access Easement. Alternately, the Gaines Charter Township Board, at its option, can improve and maintain the Access Easement so that it meets the requirements of all Gaines Charter Township ordinances, and the Gaines Charter Township Board can charge the Owners of each Parcel benefitted by the Access Easement for the reasonable costs of maintenance or improvement thereof, with all such costs secured by either placing a lien on the benefitted Parcels or by placing the costs on the tax roll for the Parcels.

(b) Gaines Charter Township and the Owner of each Parcel shall each have the right to enforce the restrictions and provisions of this Agreement by filing a lawsuit in the Kent County Circuit Court or other court having jurisdiction at the time. If Gaines Charter Township or the Owner of a Parcel who seeks to enforce any provision of this Agreement prevails in court in whole or in part, that person as the prevailing party shall be awarded its, his or her actual attorneys' fees and costs. In no event, however, shall attorneys' fees or costs be assessed against Gaines Charter Township.

IN WITNESS WHEREOF, Declarant has hereunto set its authorized signature(s) as of the Reference Date.

DECLARANT:

MI GRR, LLC,
a Delaware limited liability company

By: _____
Name: Josh Ewing
Title: Chief Construction Officer

*[SIGNATURE PAGE TO DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS AND EASEMENTS (MI GRR, LLC)]*

ACTIVE 690571799v7

STATE OF NEVADA

COUNTY OF CLARK

This instrument was acknowledged before me on October ____, 2023, by Josh Ewing, in his capacity as Chief Construction Officer of MI GRR, LLC, a Delaware limited liability company.

Notary Public

My commission expires:

**Tax Parcel ID: 41-22-01-101-002 and
41-22-01-126-001**

THIS INSTRUMENT DRAFTED BY,
RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

MI GRR, LLC
7135 S. Decatur Boulevard
Las Vegas, Nevada 89118
Attn: Michael Johnson
Associate General Counsel

EXHIBIT A
LEGAL DESCRIPTION OF THE PROJECT

Land in the Township of Gaines, Kent County, MI, described as follows:

Parcel 1:

Part of the West 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the Northwest corner of Section 1; thence South 89 degrees 07 minutes 40 seconds East 2153.38 feet along the North line of the Northwest 1/4, Section 1 to a point which is 466.0 feet West from the East line of said Northwest 1/4; thence South 00 degrees 35 minutes 17 seconds West 966.91 feet parallel with said East line; thence South 87 degrees 56 minutes 19 seconds East 466.15 feet along the North line of the South 80 acres of said Northwest 1/4; thence South 00 degrees 35 minutes 17 seconds West 1230.28 feet along the East line of said Northwest 1/4 to the Northerly Right of Way line of Highway M-6; thence Southwesterly 579.55 feet along said Northerly Right of Way line on a 23,097.11 foot radius curve to the right, the chord of which bears South 74 degrees 54 minutes 34 seconds West 579.53 feet; thence South 74 degrees 11 minutes 26 seconds West 630.22 feet along said Northerly Right of Way line; thence Southwesterly 161.83 feet along said Northerly Right of Way line on a 4349.42 foot radius curve to the right, the chord of which bears South 75 degrees 15 minutes 23 seconds West 161.82 feet; thence North 00 degrees 47 minutes 22 seconds East 316.65 feet along the West line of the East 1/2 of the Southwest 1/4, Section 1; thence North 87 degrees 56 minutes 19 seconds West 1226.06 feet along the South line of the Northwest 1/4 Section 1; thence North 00 degrees 59 minutes 14 seconds East 1061.37 feet along the East Right of Way line of East Paris Avenue; thence North 89 degrees 00 minutes 46 seconds West 91.86 feet; thence North 00 degrees 59 minutes 14 seconds East 1187.03 feet along the West line of said Northwest 1/4, Section 1 to the place of beginning.

Parcel 2:

That part of the Northwest 1/4, Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the North 1/4 corner of Section 1; thence South 00 degrees 16 minutes 58 seconds East 976.25 feet along the East line of said Northwest 1/4; thence North 88 degrees 48 minutes 52 seconds West 466.15 feet along the North line of the South 80 acres of the Northwest 1/4 of Section 1; thence North 00 degrees 16 minutes 58 seconds West 966.63 feet; thence North 90 degrees 00 minutes East 452.43 feet along the North line of Section 1 to the South 1/4 corner of Section 33, Town 6 North, Range 11 West; thence South 89 degrees 53 minutes 00 seconds East 13.57 feet along the North line of Section 1 to the place of beginning.

Also;

That part of the Northeast 1/4, Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the North 1/4 corner of Section 1; thence South 89 degrees 53 minutes 00 seconds East 325.00 feet along the North line of Section 1; thence South 00 degrees 16 minutes 58 seconds East 547.00 feet parallel with the West line of said Northeast 1/4; thence North 89 degrees 53 minutes 00 seconds West 325.00 feet; thence North 00 degrees 16 minutes 58 seconds West 547.00 feet along the West line of said Northeast 1/4 to the place of beginning.

Being also:

PARCEL A:

Part of the Northwest 1/4 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the Northwest corner of Section 1; thence S.89°-07'-24"E. along the North line of said Section 1, 723.32 feet; thence S.00°-25'-51"W., 1528.47 feet; thence S.89°-34'-09"E., 646.41 feet; thence N.00°-59'-23"E. parallel with the West line of said Section 1, 346.36 feet, thence N.89°-00'-37"W., 91.85 feet to the West line of said Section 1; thence N.00°-59'-23"E. along the West line of said Section 1, 1186.89 feet to the Northwest corner of said Section 1, and the point of beginning, containing 24.96 acres more or less of land.

PARCEL B:

Part of the West 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.00°-59'-23"W. along the West line of said Section 1, 1186.89 feet; thence S.89°-00'-37"E, 91.85 feet; thence S.00°-59'-23"W parallel with the said West line of Section 1, 346.36 feet to the point of beginning; thence S.89°-34'-09"E, 646.41 feet; thence N.00°-25'-51"E., 1528.47 feet to the North line of said Section 1; thence S.89°-07'-24"E. along the North line of said Section 1, 1368.73 feet; thence S.00°-35'-26"W., 1840.27 feet; thence S.89°-24'-34"E., 1840.27 feet to the North-South 1/4 line of said Section 1; thence S.00°-35'-26"W. along the said North-South 1/4 line of said Section 1, 368.93 feet to the Northerly Right-of-Way of State Route M-6; thence along said Right-of-Way along a 579.47 foot curve having a radius of 23079.11 foot, and chord bearing S.74°-54'-43"W, 579.46 feet; thence S.74°-11'-35"W continuing along said North Right-of Way, 630.14 feet; thence continuing along said Right-of-Way along a 161.81 foot curve having a radius of 4349.42 foot, and chord bearing S.75°-15'-32"W, 161.80 feet to the West 1/8 line of said Section 1; thence along said West 1/8 line of said Section 1, N.00°-47'-31"E, 316.61 feet to the East-West 1/4 line of said Section 1; thence along the said East-West 1/4 line of Section 1, N.87°-56'-10"W, 1225.91 feet; thence N.00°-59'-23"E parallel with the said West line of Section 1, 714.88 feet to the point of beginning, containing 90.99 acres more or less of land.

PARCEL C:

Part of the North 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the North 1/4 corner of Section 1; thence S.89°-00'-36"E. along the North line of said Section 1, 324.96 feet; thence S.00°-35'-26"W, 546.93 feet; thence N.89°-00'-36"W parallel with the said North line of Section 1, 324.96 feet to the North-South 1/4 line of said Section 1; thence S.00°-35'-26"W. along the North-South quarter line of said Section 1, 1290.71 feet; thence N.89°-24'-34"W, 527.00 feet; thence N.00°-35'-26"E, 1840.27 feet to the North line of said Section 1; thence S.89°-07'-24"E along the North line of said Section 1, 452.37 feet to the South 1/4 Corner of Section 36, Town 6 North, Range 11 West, thence S.89°-07'-24"E continuing along said North line of said Section 1, 13.57 feet to the North 1/4 of Section 1, and the place of beginning, containing 26.33 acres more or less of land.

EXHIBIT B
LEGAL DESCRIPTION OF PARCEL A

Part of the Northwest 1/4 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the Northwest corner of Section 1; thence S.89°-07'-24"E. along the North line of said Section 1, 723.32 feet; thence S.00°-25'-51"W., 1528.47 feet; thence S.89°-34'-09"E., 646.41 feet; thence N.00°-59'-23"E. parallel with the West line of said Section 1, 346.36 feet, thence N.89°-00'-37"W., 91.85 feet to the West line of said Section 1; thence N.00°-59'-23"E. along the West line of said Section 1, 1186.89 feet to the Northwest corner of said Section 1, and the point of beginning, containing 24.96 acres more or less of land.

EXHIBIT C
LEGAL DESCRIPTION OF PARCEL B

Part of the West 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.00°-59'-23"W. along the West line of said Section 1, 1186.89 feet; thence S.89°-00'-37"E, 91.85 feet; thence S.00°-59'-23"W parallel with the said West line of Section 1, 346.36 feet to the point of beginning; thence S.89°-34'-09"E, 646.41 feet; thence N.00°-25'-51"E., 1528.47 feet to the North line of said Section 1; thence S.89°-07'-24"E. along the North line of said Section 1, 1368.73 feet; thence S.00°-35'-26"W., 1840.27 feet; thence S.89°-24'-34"E., 1840.27 feet to the North-South 1/4 line of said Section 1; thence S.00°-35'-26"W. along the said North-South 1/4 line of said Section 1, 368.93 feet to the Northerly Right-of-Way of State Route M-6; thence along said Right-of-Way along a 579.47 foot curve having a radius of 23079.11 foot, and chord bearing S.74°-54'-43"W, 579.46 feet; thence S.74°-11'-35"W continuing along said North Right-of Way, 630.14 feet; thence continuing along said Right-of-Way along a 161.81 foot curve having a radius of 4349.42 foot, and chord bearing S.75°-15'-32"W, 161.80 feet to the West 1/8 line of said Section 1; thence along said West 1/8 line of said Section 1, N.00°-47'-31"E, 316.61 feet to the East-West 1/4 line of said Section 1; thence along the said East-West 1/4 line of Section 1, N.87°-56'-10"W, 1225.91 feet; thence N.00°-59'-23"E parallel with the said West line of Section 1, 714.88 feet to the point of beginning, containing 90.99 acres more or less of land.

EXHIBIT D
LEGAL DESCRIPTION OF PARCEL C

Part of the North 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Beginning at the North 1/4 corner of Section 1; thence S.89°-00'-36"E. along the North line of said Section 1, 324.96 feet; thence S.00°-35'-26"W, 546.93 feet; thence N.89°-00'-36"W parallel with the said North line of Section 1, 324.96 feet to the North-South 1/4 line of said Section 1; thence S.00°-35'-26"W. along the North-South quarter line of said Section 1, 1290.71 feet; thence N.89°-24'-34"W, 527.00 feet; thence N.00°-35'-26"E, 1840.27 feet to the North line of said Section 1; thence S.89°-07'-24"E along the North line of said Section 1, 452.37 feet to the South 1/4 Corner of Section 36, Town 6 North, Range 11 West, thence S.89°-07'-24"E continuing along said North line of said Section 1, 13.57 feet to the North 1/4 of Section 1, and the place of beginning, containing 26.33 acres more or less of land.

EXHIBIT E

LEGAL DESCRIPTION OF ACCESS EASEMENT

ACCESS EASEMENT 1:

Part of the Northwest 1/4 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.00°-59'-23"W. along the West line of said Section 1, 1735.80 feet; thence N.88°-30'-53"E., 91.84 feet to the West line of Parcel # 412201101002, and the point of beginning; thence continuing N.88°-30'-53"E., 634.00 feet; thence along a 293.53 foot curve having a radius of 258.78 feet, and chord bearing N.59°-00'-23"E., 278.05 feet; thence along a 32.32 foot curve having a radius of 20.00 feet, and chord bearing N.12°-27'-31"W., 28.92 feet; thence N.57°-21'-58"W., 94.52 feet; thence along a 46.35 foot curve having a radius of 89.99 feet, and chord bearing N.74°-12'-24"W., 45.84 feet; thence N.89°-34'-09"W., 91.94 feet; thence N.00°-25'-51"E., 95.00 feet; thence S.89°-34'-09"E., 24.17 feet; thence S.00°-25'-51"E., 18.00 feet; thence S.89°-34'-09"E., 67.79 feet; thence along a 89.08 foot curve having a radius of 160.00 feet, and chord bearing S.73°-37'-09"E., 87.94 feet; thence S.57°-40'-09"E., 91.04 feet; thence along a 33.50 foot curve having a radius of 21.00 feet, and chord bearing N.76°-37'-34"E., 30.06 feet; thence N.30°-55'-18"E., 13.87 feet; thence along a 70.51 foot curve having a radius of 43.74 feet, and chord bearing N.09°-58'-53"W., 63.12 feet; thence N.49°-13'-39"W., 42.79 feet; thence along a 626.12 foot curve having a radius of 674.67 feet, and chord bearing N.21°-34'-20"W., 603.89 feet; thence N.05°-37'-37"E., 1.25 feet; thence along a 6.11 foot curve having a radius of 5.00 feet, and chord bearing N.54°-38'-23"W., 5.74 feet; thence N.89°-34'-09"W., 15.18 feet; thence N.00°-26'-08"E., 95.00 feet; thence S.89°-34'-09"E., 12.45 feet; thence S.00°-25'-51"W., 18.00 feet; thence S.89°-34'-09"E., 1.92 feet; thence along a 27.38 foot curve having a radius of 20.97 feet, and chord bearing N.53°-03'-06"E., 25.48 feet; thence N.13°-36'-44"E., 12.02 feet; thence along a 492.58 foot curve having a radius of 678.90 feet, and chord bearing N.35°-15'-08"E., 481.84 feet; thence S.33°-57'-45"E., 41.00 feet; thence along a 462.53 foot curve having a radius of 637.90 feet, and chord bearing S.35°-15'-56"W., 452.46 feet; thence S.09°-37'-28"W., 103.88 feet; thence along a 755.42 foot curve having a radius of 633.67 feet, and chord bearing S.29°-09'-27"E., 711.48 feet; thence S.30°-56'-33"W., 215.32 feet; thence along a 390.36 foot curve having a radius of 349.78 feet, and chord bearing S.59°-06'-44"W., 370.41 feet; thence S.88°-30'-53"W., 635.74 feet to said west line of Parcel # 412201101002; thence along said Parcel line N.00°-59'-23"E., 91.08 feet to the point of beginning, containing 4.25 acres more or less of land.

ACCESS EASEMENT 2:

Part of the North 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.89°-07'-31"E. along the North line of said Section 1, 1736.32 feet to the point of beginning; thence S.89°-07'-31"E., continuing along the North line of said Section 1 174.68 feet; thence S.00°-52'-29"W., 34.55 feet; thence N.89°-07'-31"W., 5.15 feet; thence along a 53.87 foot curve having a radius of 36.37 feet, and chord bearing S.50°-17'-03"W., 49.01 feet; thence S.03°-39'-04"W., 5.50 feet; thence along a 158.90 foot curve having a radius of 362.67 feet, and chord bearing S.14°-04'-52"W.,

157.63 feet; thence S.31°-39'-34"W., 21.14 feet; thence along a 66.92 foot curve having a radius of 46.71 feet, and chord bearing S.05°-43'-00"E, 61.35 feet; thence S.33°-54'-34"W., 45.76 feet; thence along a 793.30 foot curve having a radius of 624.54 feet, and chord bearing N.87°-42'-15"W, 741.03 feet; thence N.33°-57'-45"W., 41.00 feet; thence N.56°-30'-10"E., 6.62 feet; thence along a 36.38 foot curve having a radius of 21.00 feet, and chord bearing N.06°-52'-03"E, 32.00 feet; thence N.42°-46'-04"W., 10.18 feet; thence along a 129.06 foot curve having a radius of 158.00 feet, and chord bearing N.66°-10'-06"W, 125.50 feet; thence N.89°-34'-09"W., 199.43 feet; thence N.00°-25'-51"E., 95.00 feet; thence S.89°-34'-09"E., 33.58 feet; thence S.00°-25'-51"W., 18.00 feet; thence S.89°-34'-09"E., 165.85 feet; thence along a 191.96 foot curve having a radius of 235.00 feet, and chord bearing S.66°-10'-06"E, 186.66 feet; thence S.42°-46'-04"E., 40.94 feet; thence along a 24.21 foot curve having a radius of 21.00 feet, and chord bearing S.75°-47'-16"E, 22.89 feet; thence along a 523.39 foot curve having a radius of 676.48 feet, and chord bearing N.88°-52'-34"E, 510.43 feet; thence S.67°-19'-23"E., 28.13 feet; thence along a 63.61 foot curve having a radius of 42.27 feet, and chord bearing N.75°-12'-06"E, 57.78 feet; thence N.33°-05'-19"E., 15.78 feet; thence along a 115.97 foot curve having a radius of 221.78 feet, and chord bearing N.16°-05'-09"E, 114.65 feet; thence N.00°-24'-41"W., 11.87 feet; thence along a 60.15 foot curve having a radius of 35.31 feet, and chord bearing N.47°-45'-30"W, 53.14 feet; thence N.00°-52'-29"E., 34.83 feet to the North line of said Section 1 and the point of beginning, containing 2.19 acres more or less of land.

ACCESS EASEMENT 3:

Part of the North 1/2 of Section 1, Town 5 North, Range 11 West, Gaines Township, Kent County, Michigan, described as: Commencing at the Northwest corner of Section 1; thence S.89°-07'-31"E. along the North line of said Section 1, 1736.32 feet to the point of beginning; thence S.89°-07'-31"E., continuing along the North line of said Section 1 174.68 feet; thence S.00°-52'-29"W., 34.55 feet; thence N.89°-07'-31"W., 5.15 feet; thence along a 53.87 foot curve having a radius of 36.37 feet, and chord bearing S.50°-17'-03"W, 49.01 feet; thence S.03°-39'-04"W., 5.50 feet; thence along a 78.78 foot curve having a radius of 362.67 feet, and chord bearing S.07°-45'-08"W, 78.63 feet; thence S.70°-52'-23"E., 246.64 feet; thence S.00°-35'-26"W., 48.52 feet; thence N.70°-52'-23"W., 351.47 feet; thence along a 86.08 foot curve having a radius of 221.78 feet, and chord bearing N.12°-13'-28"E, 85.54 feet; thence N.00°-24'-41"W., 11.87 feet; thence along a 60.15 foot curve having a radius of 35.31 feet, and chord bearing N.47°-45'-30"W, 53.14 feet; thence N.00°-52'-29"E., 34.83 feet to the North line of said Section 1 and the point of beginning, containing 0.73 acres more or less of land.