



Ann Arbor Public Schools
Physical Properties

MEMORANDUM

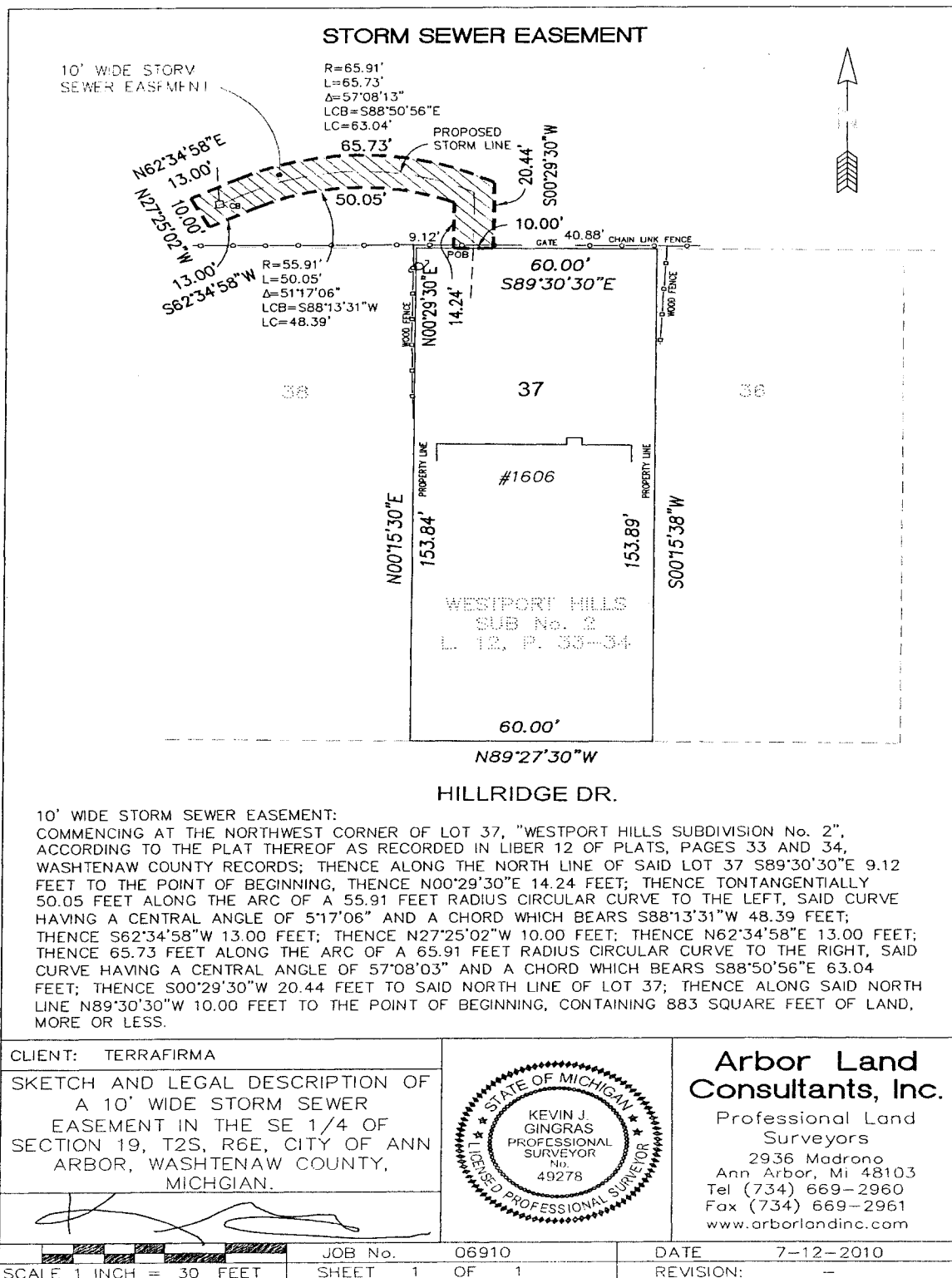
TO: Robert Allen, Interim Superintendent
FROM: Randy Trent^{RT}, Executive Director of Physical Properties
DATE: March 18, 2011
RE: Easement with Mark and Elizabeth Perry

Mark and Elizabeth Perry have requested an easement for the installation and connection of a drain line to an existing storm drain that is located on Forsythe property. The easement has been reviewed by counsel and is attached to this memorandum.

Mark and Elizabeth Perry will assume all responsibility for any and all costs and liability associated with the operation, maintenance, inspection, repair or replacement of the Drain Line from the adjacent Grantee Property over the Easement Area.

MOTION

Moved by _____, seconded by _____, that a temporary grant of easement be issued for installation of the Drain Line, and a permanent easement be issued for the operation, maintenance, inspection, repair or replacement of the Drain Line as stated in the attached agreement. The Board of Education authorizes the Superintendent to sign the attached documents.



GRANT OF EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS: That this Grant of Easement (the "Agreement") is made as of this ____ day of November, 2010, by and between **THE PUBLIC SCHOOLS OF THE CITY OF ANN ARBOR**, a public body corporate organized and existing under the Michigan Revised School Code, whose address is 2555 S. State Street, Ann Arbor, MI 48103 ("Grantor") and **MARK PERRY AND ELIZABETH PERRY**, husband and wife, whose address is 1606 Hillridge Boulevard, Ann Arbor, Michigan 48104 (collectively, "Grantee").

The circumstances underlying the execution of this Agreement are as follows:

A. Grantor is the owner of the real property located at 1655 Newport Road in the City of Ann Arbor, Washtenaw County, Michigan, commonly known Forsythe Middle School (the "School Property").

B. Grantor will grant (i) a temporary construction easement for Grantee's installation and connection of a drain line to an existing storm drain on the School Property (the "Drain Line"), and (ii) a permanent, non-exclusive easement for Grantee's operation, maintenance, repair, or replacement of the Drain Line, both over a portion of the School Property which shall hereinafter be referred to collectively as the "Easement Area", which is more specifically described in the attached Exhibit "A" and depicted in the attached Exhibit "B".

For good and valuable consideration less than \$100.00, the receipt and adequacy of which is hereby acknowledged, the parties hereby agree as follows:

1. Grant of Easements.

- a. Grantor hereby grants to Grantee a non-exclusive, temporary, variable width construction easement (the "Construction Easement") on, in, and over the Easement Area for the sole purpose of installing and constructing the Drain Line, pursuant to the terms set forth in this Agreement and as more particularly described in Exhibit "A".
- b. Grantor hereby further grants to Grantee a permanent, non-exclusive

easement (the "Permanent Easement") on, in, or over the Easement Area for the sole purpose of operating, maintaining, repairing, or replacing the Drain Line from the adjacent Grantee Property over the Easement Area, all on the terms and conditions set forth in this Agreement and more particularly described in attached Exhibit "A" and depicted in attached Exhibit "B".

The Construction Easement and the Permanent Easement are at times collectively referred to as the "Easements".

2. Use of Easement Area by Grantee for Construction Easement. Grantee shall have the right to install and connect the Drain Line to the existing storm drain in and on said Easement Area. Notwithstanding the foregoing, Grantor and Grantee hereby acknowledge and agree that following such installation and connection of the Drain Line to the existing storm drain located on the School Property, Grantee shall have no further right of access to the Easement Area for any purpose other than those granted in this Agreement. In said installation and connection, Grantee may use such materials and equipment only as minimally necessary to complete said installation and connection of the Drain Line on, in or over the Easement Area. Grantee shall be solely responsible for payment of all costs and expenses related to the installation and connection of the Drain Line.

3. Installation and Connection Activities. Installation and connection of the Drain Line and access to the Easement Area for construction and installation activities by Grantee shall be subject to the following conditions:

(a) Grantee or its contractor shall contact Grantor's Director of Physical Properties, or his/her designee, at least fifteen (15) business days prior to commencement of installation to secure advance permission for the aforementioned activities. All said activities shall be completed as soon after commencement as is practicable.

(b) Grantee shall coordinate said activities with Grantor to ensure that such activities do not unreasonably interfere with continuous access to the School Property.

(c) Grantee shall fully restore the Easement Area and shall be solely responsible for all costs and expense in connection with such restoration, and shall promptly restore or pay for the restoration of any and all landscaping or other similar improvement which is removed or disturbed in, on or adjacent to the Easement Area, as a result of the installation and connection activities of Grantee.

4. Indemnity. Grantee, to the fullest extent permitted by law, shall indemnify and hold harmless Grantor, its successors and assigns, from any and all loss or liability (including all costs and attorneys fees), and from all claims of damage arising out of or in connection with this Easement, including, without limitation, any claims arising out of

drain backup, flood, escape of water from the storm drain or Drain Line, whether affecting Grantee Property or any other adjacent parcels, whether such claim is made by Grantee, its agents, contractors, consultants, engineers and employees, and/or any third parties. Grantor assumes no liability for any claim, of any nature whatsoever, in connection with the installation and/or connection of the Drain Line.

5. Termination of Construction Easement. The Construction Easement and all of Grantee's rights hereunder shall automatically terminate on that date that the Drain Line is fully completed or June 30, 2011, whichever is earlier.

6. Use of Easement Area by Grantee for Permanent Easement. Grantee shall have the right to operate, maintain, repair, and replace such part of its Drain Line as is installed and constructed on the Construction Easement. In said operation, maintenance, repair and replacement, Grantee may use such equipment as is reasonably necessary. Grantee shall pay all costs and expenses related to its operation, maintenance, repair, or replacement activities in connection with the Drain Line.

7. Operation, Maintenance, Repair and Replacement Activities. During such activities, Grantee will be subject to the following conditions:

(a) Grantee or its contractor shall contact Grantor's Director of Physical Properties, or his/her designee, at least thirty (30) days prior to commencement of any maintenance, repair or replacement work to obtain Grantor's advance written consent, in its sole discretion, to any of the aforementioned activities. All said activities shall be completed as soon after commencement as is practicable.

(b) Grantee shall provide to Grantor plans for such activities including, without limitation, a detailed scope of work, plans and specifications, work schedule, contractor information, and such other information as Grantor may require prior to granting consent to such activities on the Easement Area. Grantee further acknowledges and agrees that it will coordinate said activities with Grantor to ensure that such activities do not interfere with continuous access to the School Property.

(c) Grantee shall fully restore the Easement Area and shall be solely responsible for all costs and expenses in connection with such restoration, and shall promptly restore or pay for the restoration of any and all landscaping or other similar improvement which is removed or disturbed in, on or adjacent to the Easement Area, as a result of the installation and connection activities of Grantee.

8. Use of Easement Area by Grantor.

(a) Grantor retains all rights to the Easement Area but shall not remove, disable, relocate or interfere with the operations of the Drain Line without obtaining written approval from Grantee, which approval will not be unreasonably withheld or delayed.

This Grant of Easement is intended to run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns, and may not be amended or modified without prior written approval of Grantee. Any amendment or modification to this Grant of Easement shall be by an instrument in recordable form executed by both Grantee and Grantor and recorded at the office of the Washtenaw County Register of Deeds.

[Signature page follows.]

Dated this ____ day of _____, 2010.

GRANTOR:

THE PUBLIC SCHOOLS OF THE CITY OF ANN ARBOR, a public body corporate organized and existing under the Michigan Revised School Code

By: _____

Name: _____

Its: Superintendent

**STATE OF MICHIGAN
COUNTY OF WASHTENAW**

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____, the Superintendent of The Public Schools of the City Of Ann Arbor, a public body corporate organized and existing under the Michigan Revised School Code, on behalf of the corporation as grantor.

Notary Public

County of Washtenaw, Michigan
Acting in Washtenaw County
My Commission Expires:

Prepared By and When Recorded Return To:

Laura A. Weingartner, Esq.
Dykema Gossett PLLC
400 Renaissance Center
Detroit, Michigan 48243

Tax Parcel ID#: 09-19-103-029

EXHIBIT "A"**Description of Easement Area**

Commencing at the Northwest corner of Lot 37, "Westport Hills Subdivision No. 2", according to the plat thereof as recorded in Liber 12 of Plats, Pages 33 and 34, Washtenaw County Records; Thence along the North line of said Lot 37 S 89°30'30" E 9.12 feet to the Point of Beginning; Thence N 00°29'30" E 14.24 feet; Thence nontangentially 50.05 feet along the arc of a 55.91 feet radius circular curve to the left, said curve having a central angle of 5°17'06" and a chord which bears S 88°13'31" W 48.39 feet; Thence S 62°34'58" W 13.00 feet; Thence N 27°25'02" W 10.00 feet; Thence N 62°34'58" E 13.00 feet; Thence 65.73 feet along the arc of a 65.91 feet radius circular curve to the right, said curve having a central angle of 57°08'03" and a chord which bears S 88°50'56" E 63.04 feet; thence S 00°29'30" W 20.44 feet to said North line of Lot 37; Thence along said North line N 89°30'30" W 10.00 feet to the Point of Beginning, containing 883 square feet of land, more or less.