



**CITY of NOVI CITY COUNCIL**

**Agenda Item D  
November 9, 2009**

**SUBJECT:** Approval of a Storm Drainage Facility Maintenance Easement Agreement from the Flagstar Bank Corporation for the Flagstar Bank located at 39900 Eight Mile Road on the northeast corner of Eight Mile Road and Orchard Hills Place Drive in Section 36 (parcel 22-36-477-016).

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division *BK*

**CITY MANAGER APPROVAL:** *[Signature]* *BK*

**BACKGROUND INFORMATION:**

The Property Management Department for the Flagstar Bank Corporation, has requested approval of the Storm Drainage Facility Maintenance Easement Agreement for the Flagstar Bank site, located at 39900 Eight Mile Road (at the northeast corner of Eight Mile Road and Orchard Hills Place Drive), Section 36 of the City of Novi. The enclosed Agreement has been favorably reviewed by the City Attorney (Beth Kudla's October 14, 2008 letter, attached) and is recommended for approval.

**RECOMMENDED ACTION:** Approval of a Storm Drainage Facility Maintenance Easement Agreement from the Flagstar Bank Corporation for the Flagstar Bank located at 39900 Eight Mile Road on the northeast corner of Eight Mile Road and Orchard Hills Place Drive in Section 36 (parcel 22-36-477-016).

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Crawford				
Council Member Fischer				

	1	2	Y	N
Council Member Margolis				
Council Member Mutch				
Council Member Staudt				

October 14, 2008

30903 Northwestern Highway  
P.O. Box 3040  
Farmington Hills, MI 48333-3040  
Tel: 248-851-9500  
Fax: 248-851-2158  
www.secretwardle.com

Elizabeth M. Kudla  
Direct: 248-539-2846  
bkudle@secretwardle.com

Rob Hayes, City Engineer  
CITY OF NOVI  
45175 West Ten Mile Road  
Novi, Michigan 48375-3024

**Re: Flagstar Bank (Eight Mile), SP05-36  
Acceptance Documents  
Our File No. 660094 NOV1**

Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the following documents regarding the Flagstar Bank Property:

1. Sidewalk Easement
2. Storm Drainage Facility Maintenance Agreement

We have the following comments relating to the above-named documents.

We have confirmed that no utility easement conveyances are required with respect to this site.

We approve the Storm Drainage Facility Maintenance Easement Agreement in the enclosed format. It is our understanding Engineering has reviewed and approved the attached Exhibits.

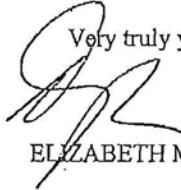
The Sidewalk Easement is acceptable in form and content, and it is our understanding the Exhibits attached have been approved by the City.

The Storm Drainage Facility Maintenance Easement Agreement and Sidewalk Easement should be placed on an upcoming City Council Agenda for approval and subsequently executed by the City and recorded with the Oakland County Register of Deeds.

Rob Hayes, City Engineer  
October 14, 2008  
Page 2

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

Very truly yours,



ELIZABETH M. KUDLA

EMK

Enclosures

C: Maryanne Cornelius, Clerk (w/Original Enclosures)  
Marina Neumaier, Assistant Finance Director (w/Enclosures)  
Charles Boulard, Building Official (w/Enclosures)  
Barb McBeth, Deputy Community Dev Director (w/Enclosures)  
Aaron Staup, Construction Engineering Coord. (w/Enclosures)  
Dave Bluhm/Byron Hanson, Spalding DeDecker (w/Enclosures)  
Sarah Marchioni, Building Department (w/Enclosures)  
Kevin Monahan, The Monahan, Co. (w/Enclosures)  
Thomas R. Schultz, Esquire (w/Enclosures)

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**STORM DRAINAGE FACILITY**  
**MAINTENANCE EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT is made this 16<sup>th</sup> day of August, 2006, by and between Flagstar Bank, FSB, a federally chartered savings bank, whose address is 5151 Corporate Drive, Troy, Michigan 48098 (hereinafter the "Owner"), and the City of Novi, its successors, assigns, or transferees, whose address is 45175 W. Ten Mile Road, Novi, MI 48375 (hereinafter the "City").

RECITATIONS:

A. Owner is the owner and developer of a certain parcel of land situated in Section 36 of the City of Novi, Oakland County, Michigan, described on the attached and incorporated Exhibit A (the "Property"). Owner has received final site plan approval for construction of a branch bank development on the Property.

B. The Flagstar Bank Development, shall contain certain storm drainage, detention and/or retention facilities, including but not limited to, a detention/sedimentation basin, for the collection, conveyance, storage, treatment and/or discharge of storm water from the Property in accordance with all approved plans, and all applicable ordinances, laws and regulations.

NOW, THEREFORE, the Owner hereby covenants and agrees that the Owner shall, at its own expense, perpetually preserve, maintain, and repair all storm drainage, detention and retention facilities, including all wetlands which are part of the system, to insure that the same continue to function as intended. The Owner shall establish a regular and systematic program of maintenance (the "Schedule of Maintenance") for such facilities and areas to insure that the physical condition and intended function of such areas and facilities shall be preserved and maintained. The Schedule of Maintenance and the annual estimated costs for maintenance and repairs for the first three (3) years are described in the attached Exhibit B.

¶

In the event that the Owner shall at any time fail to carry out the responsibilities specified within this agreement, and/or in the event of a failure to preserve and/or maintain the storm water drainage, detention and retention facilities in reasonable order and condition, the City may serve written notice upon the Owner setting forth the deficiencies in maintenance and/or preservation along with a demand that the deficiencies be cured within a stated reasonable time period, and the date, time and place for a hearing before the City for the purpose of allowing Owner an opportunity to be heard as to why the City should not proceed with the correction of the deficiency or obligation which has not been undertaken or properly fulfilled. At any such hearing, the time for curing and the hearing itself may be extended and/or continued to a date certain. If, following such hearing, the person conducting the hearing shall determine that the obligation has not been fulfilled or failure corrected within the time specified in the notice, as determined by the City in its reasonable discretion, the City shall thereupon have the power and authority, but not the obligation, to enter upon the Property, or cause its agents or contractors to enter the Property as described in Exhibit A and depicted in Exhibit C and perform such obligation or take such corrective measures as reasonably found by the City to be appropriate or necessary. The cost and expense of making and financing such actions by the City, including notices by the City and reasonable legal fees incurred by the City, plus an administrative fee in an amount equivalent to twenty-five (25%) percent of the total of all such costs and expenses incurred, shall be paid by Owner within thirty (30) days of a billing to the Owner. All unpaid amounts may be placed on the delinquent tax roll of the City as to the Property, and shall accrue interest and penalties, and shall be collected as, and shall be deemed delinquent real property taxes, according to the laws made and provided for the collection of delinquent real property taxes. In the discretion of the City, such costs and expenses may be collected by suit initiated against the Owner, and, in such event, the Owner shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

The parties hereto make this Agreement on behalf of themselves, their heirs, successors, assigns and transferees, and hereby warrant that they have the authority and capacity to execute this Agreement and bind the property as described in the terms and conditions of this agreement.

Invalidation of any of these covenants or conditions by Judgment or Court Order shall in no way affect the validity of any other provision which shall remain in full force and effect.

This agreement shall run with the land and be binding upon all owners, their agents, heirs, successors, assigns and transferees.

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## Exhibit A

### PROPERTY LEGAL DESCRIPTION

#### LEGAL DESCRIPTION - PROPERTY

UNIT 7 OF REPLAT NO. 9, OAKLAND COUNTY CONDOMINIUM SUBDIVISION  
PLAN NO. 434, EXHIBIT B TO THE MASTER DEED OF ORCHARD HILL PLACE,  
CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 12327,  
PAGE 359-365, O.C.R. CONTAINING 37,867 SQUARE FEET OR 0.87 ACRES.  
SIDWELL #22-36-477-016

**NF** **NOWAK & FRAUS**

*Consulting Engineers • Land Surveyors • Land Planners*

1310 N. Stephenson Highway  
Royal Oak, Michigan 48067-1508

Tel. (248) 399-0886  
Fax. (248) 399-0805

PREPARED FOR:  
FLAGSTAR BANK, FSB  
CITY OF NOVI

SCALE	DATE	DRAWN	JOB No.	SHEET
No Scale	05-19-06	R. Johnson	D857	1 of 1

## Exhibit B

### STORMWATER MAINTENANCE AGREEMENT

#### STORM WATER MANAGEMENT SYSTEM MAINTENANCE TASKS AND SCHEDULE

COMPONENTS:	SCHEDULE:			
	QUARTERLY	WHEN SEDIMENT DEPTH HAS ACCUMULATED TO WITHIN SIX INCHES OF THE DRY-WEATHER WATER LEVEL	ANNUALLY OR AS NECESSARY	CLEANED OUT IMMEDIATELY
STORMCEPTOR UNIT*	X	X	X	X
DRAINAGE STRUCTURES	X	X	X	X
CATCH BASIN SUMPS	X	X	X	X
STORM SEWER SYSTEMS	X	X	X	X
PARKING AREAS AND DRIVES	X	X	X	X

TASKS:	QUARTERLY	WHEN SEDIMENT DEPTH HAS ACCUMULATED TO WITHIN SIX INCHES OF THE DRY-WEATHER WATER LEVEL	ANNUALLY OR AS NECESSARY	CLEANED OUT IMMEDIATELY
1. INSPECT AND MAINTAIN THE STORMCEPTOR UNIT PER MANUFACTURER'S RECOMMENDATIONS.	X	X	X	X
2. REGULAR INSPECTION IS THE KEY TO EFFECTIVE MAINTENANCE. THE RATE AT WHICH THE SYSTEM COLLECTS SEDIMENTS AND POLLUTANTS WILL DEPEND ON THE SITE ACTIVITIES AND SEASONS. REGULAR SWEEPING WILL SLOW ACCUMULATIONS.	X	X	X	X
3. INSPECT THE ENTIRE STORM EVENT AND PERFORM MAINTENANCE AND REPAIR AS NECESSARY.	X	X	X	X
THE OWNER SHALL MAINTAIN A LOG OF ALL INSPECTION AND MAINTENANCE ACTIVITIES AND MAKE THE LOG AVAILABL TO CITY PERSONNEL AS NEEDED.	X	X	X	X

**REQUIRED MAINTENANCE**

REMOVE GAS, OILS, AND SEDIMENTS WHICH MAY BUILD UP IN THE STORMCEPTOR STRUCTURE TWICE A YEAR, THE FIRST WEEK OF MAY AND NOVEMBER EACH YEAR.

## NF NOWAK & FRAUS

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No Scale    05-19-06    R. Johnson    D857      1 of 1



# Exhibit C

## STORMWATER MAINTENANCE AGREEMENT



$\Delta = 05^{\circ}51'09''$   
 $R = 439.30'$   
 $T = 22.46'$   
 $L = 44.87'$   
 CHD. BRG=  
 $N 01^{\circ}06'23''E$   
 $C = 44.85'$

**Orchard Hill Road (70' wide)**

SANITARY SEWER AND STORM SEWER EASEMENT (L.8598, P.672-686)

P.O.B.

UNIT #7  
 SIDWELL  
 #22-36-477-016

P.O.E.

SANITARY SEWER AND STORM SEWER EASEMENT EXHIBIT "G" (L.8598, P.672 THRU P.686)

12' DETROIT EDISON EASEMENT (L.6254, P.401-407)

PR. 12' WIDE STORM SEWER EASEMENT/ MAINTENANCE AGREEMENT

S. 1/4 CORNER SECTION 36 T.1N., R.8E

S.E. CORNER SECTION 36 T.1N., R.8E

**Eight Mile Road (60' 1/2 width)**

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PREPARED FOR:  
 FLAGSTAR BANK, FSB  
 CITY OF NOV

SCALE	DATE	DRAWN	JOB No.	SHEET
1" = 60'	05-19-06	R. Johnson	D857	1 of 2

## Exhibit C

### STORMWATER MAINTENANCE AGREEMENT

#### LEGAL DESCRIPTION - STORM MAINTENANCE AGREEMENT

A STORM MAINTENANCE AGREEMENT OVER THE ABOVE DESCRIBED PARCEL OF LAND MORE PARTICULARLY DESCRIBED AS BEGINNING A POINT DISTANT S.87°20'09"W., 1230.07 FEET AND N.01°50'37"W., 60.01 FEET AND S.87°20'09"W., 121.42 FEET AND N.01°49'13"W., 22.10 FEET FROM THE SE. CORNER OF SECTION 36, T1N., R. 8E., CITY OF NOVI, OAKLAND COUNTY, MICHIGAN; THENCE N.63°21'46"E., 26.47 FEET; THENCE N.01°45'03"W., 23.88 FEET; THENCE N.88°14'57"E., 75.83 FEET; THENCE N.03°12'12"E., 79.20 FEET; THENCE N.01°50'35"W., 67.90 FEET TO THE POINT OF ENDING.

**NF NOWAK & FRAUS**

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No Scale	05-19-06	R. Johnson	D857	2 of 2



**MAP INTERPRETATION NOTICE**

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

# City of Novi



## Flagstar Bank Location

