



CITY of NOVI CITY COUNCIL

Agenda Item P
June 17, 2013

SUBJECT: Approval of the first amended Completion Agreement with Bank of Ann Arbor for SP05-0034, the Taft Knolls II Condominium residential development located north of Ten Mile Road and east of Taft Road, in accordance with the requirements of Chapter 26.5.

SUBMITTING DEPARTMENT: Community Development Department *ms*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

City Council is being asked to consider a request from Bank of Ann Arbor to approve a first amended Completion Agreement for the Taft Knolls II Condominium, SP05-0034.

Chapter 26.5 of the Novi City Code specifies procedures and required financial guarantees that must be in place if development of a project extends beyond a period of two (2) years. A formal Completion Agreement document outlining the remaining work and timeline for completion is required to be submitted for approval by the City Council. Posting of financial guarantees typically equal to 200% of the value of the outstanding work is also required. The Completion Agreement and financial guarantees protect the residents of Novi from the possible expense if the City had to complete an unfinished project due to developer default or nonperformance.

The Taft Knolls II Condominium development is comprised of 14 single family home sites established as part of a site condominium. The project is located between Ten Mile and Eleven Mile Roads and east of Taft Road.

This project is subject to the provisions of Chapter 26.5 of the Novi City Code, and requires a Completion Agreement because the original developer had not completed the site improvements shown on the approved site plan within two (2) years of issuance of the initial permit for any improvements (May 21, 2006). New Liberty Bank became the successor developer for the property in 2008 through foreclosure. A Completion Agreement was negotiated and approved with New Liberty Bank as the successor developer of the property in March 2009. Bank of Ann Arbor became the successor developer in 2010 when the assets and liabilities of New Liberty Bank were transferred to them by the FDIC. The initial Completion Agreement expired in June 2012 without completion of the work. Construction of homes within the development nears build out as sales rise and this request is for an amended Completion Agreement.

As a condition of the Completion Agreement, Bank of Ann Arbor, the successor developer, has agreed to provide assurances including provision of a performance guarantee in the amount of no less than 200% of the cost of the work to be completed. The City currently holds financial guarantees of \$97,296.62 in the form of a cash bond.

The Completion Agreement requires a minimum Performance Guarantee of \$283,537.34 (requiring the developer to post an additional \$186,240.72) and contemplates completion of:

- Planting of 37 remaining street trees prior to issuance of the final Certificate of Occupancy, and in all events by July 1, 2014.
- Installation of all site landscaping prior to issuance of the final Certificate of Occupancy, and in all events by July 1, 2014.
- Installation of pathway along the east side of Taft Road prior to issuance of the final Certificate of Occupancy, and in all events by July 1, 2014.
- Repairs and completion of all outstanding utility, pavement, curb and other incomplete site work including the emergency access drive and breakaway gate prior to issuance of the final Certificate of Occupancy within the development, and in all events before July 1, 2014
- Installation of all Traffic Control signage prior to issuance of the final Certificate of Occupancy, and in all events by July 1, 2014.
- Maintenance of Soil Erosion and Sedimentation Control permit and measures including stabilization for the duration of the project.
- One year storm water facilities guarantee and repair for the storm water improvements.

Staff supports the approval of the request.

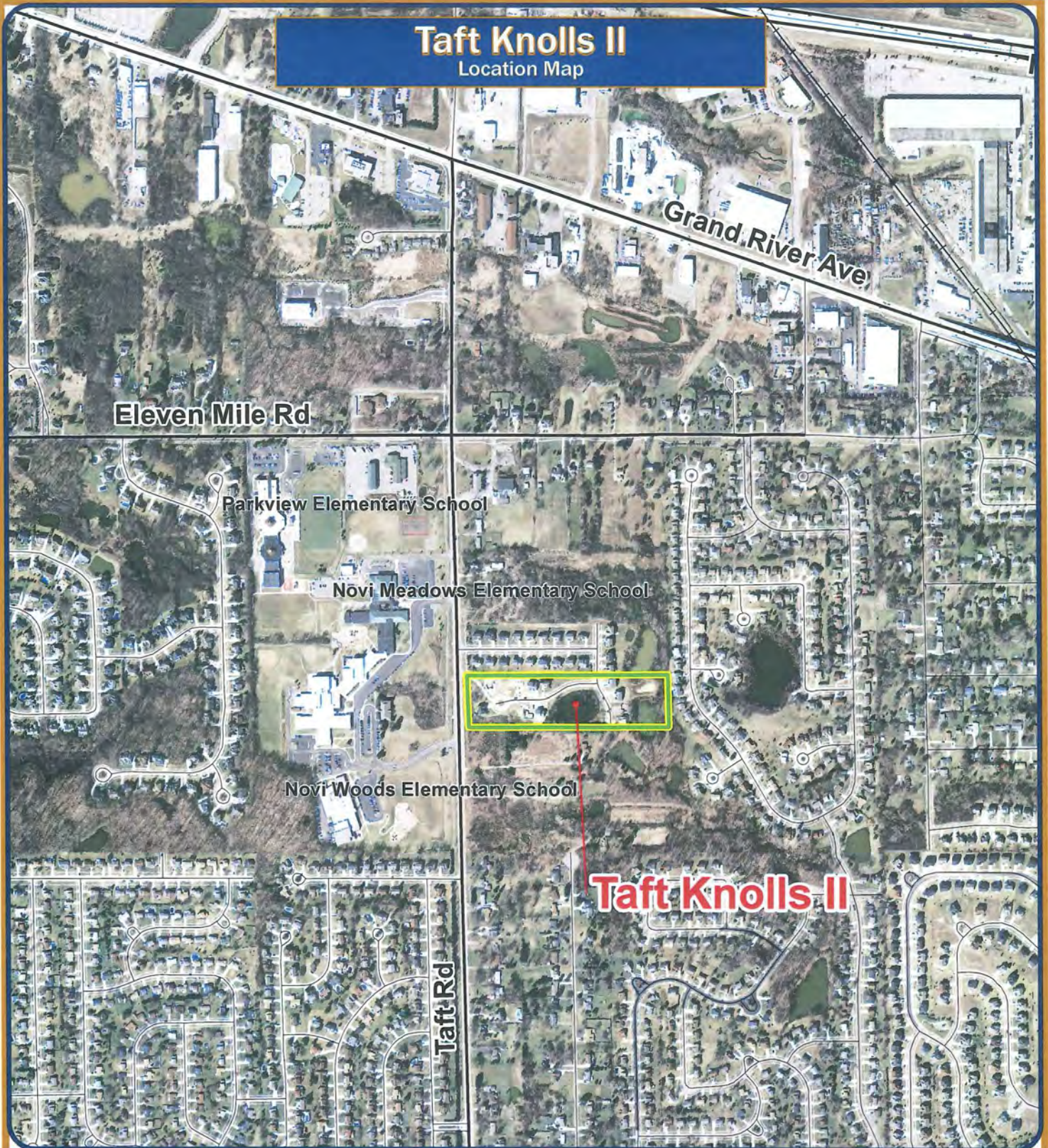
RECOMMENDED ACTION Approval of the first amended Completion Agreement with Bank of Ann Arbor for SP05-0034, the Taft Knolls II Condominium residential development located north of Ten Mile Road and east of Taft Road, in accordance with the requirements of Chapter 26.5.

	1	2	Y	N
Mayor Gatt				
Council Member Casey				
Council Member Fischer				
Council Member Margolis				

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

Taft Knolls II

Location Map



Map Author: Mark Spencer
Date: 6/6/13
Project: Taft Knolls II
Version #: 1.0

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

Planning Division
Community Development
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org



1 inch = 833 feet

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

TAFT KNOLLS II

**FIRST AMENDED AGREEMENT FOR COMPLETION
AND MAINTENANCE OF IMPROVEMENTS**

AGREEMENT, dated June 6, 2013, by and between the City of Novi, a Michigan municipal corporation, whose address is 45175 Ten Mile Road, Novi, Michigan 48375 ("City"), and Bank of Ann Arbor, whose address is 125 S. 5th Ave., Ann Arbor, MI 48104 ("Owner") who represents itself hereby as the owner of the Property.

R E C I T A T I O N S:

The subject land was approved for a single-family residential site condominium development pursuant to the provisions of the City of Novi Zoning Ordinance, known as Taft Knolls II (the "Development"). The Development contains fourteen (14) single family home sites.

Owner is the successor owner of the land in the City of Novi, Oakland County, Michigan, described on the attached Exhibit A (the "Property"). Owner's predecessor, New Liberty Bank, ("Owner's Predecessor") was also a successor owner and was mortgagee of the Property and foreclosed on the mortgage receiving title to Units 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, and 14 together with an undivided interest in the common elements of the Taft Knolls II Condominium, Oakland County Condominium Subdivision Plan No. 1879, by Sheriff's Deeds recorded with Oakland County Records on August 5, 2008. The redemption period concluded on January 29, 2009. On May 14, 2010, the FDIC transferred the assets and liabilities of New Liberty Bank to Bank of Ann Arbor. Bank of Ann Arbor subsequently sold or transferred Units 2, 3, 5, 8, 9, 11, 12, 13, and 14 on an incremental basis. Bank of Ann Arbor currently owns Units 4, 7, and 10.

As part of the approval process, the City granted site plan approval and Owner (and all predecessor owners) agreed to develop the Property, and accordingly, to complete certain improvements, and to proceed with certain undertakings in compliance with applicable City Ordinances. Chapter 26.5 of the City of Novi Code of Ordinances, Section 26.5-5 (b) requires completion of actual construction and installation of all required improvements within two (2) years after the issuance of the initial permit for any improvements, or within six (6) months after a temporary occupancy permit has been issued for any structure on the property, whichever is shorter or occurs first. The initial permit for the Development was issued on May 21, 2006. Owner's Predecessor, entered into an Agreement for Completion and Maintenance of Improvements dated March 23, 2009 that provided Owner's Predecessor with an additional time to complete improvements. Owner became party to the Agreement for Completion and Maintenance of Improvements as a result of the acquisition of Owner's Predecessor's assets. The

Agreement for Completion and Maintenance of Improvements expired on June 1, 2012, with multiple completion dates expiring in advance on October 1, 2011.

Because development of the Units has been on-going, and is proceeding toward completion the Owner has requested an additional extension of time to complete the remaining site improvements.

Because more than seven (7) years has elapsed since the initial permit, and the original Agreement for Completion and Maintenance of Improvements has expired, any additional extension of such time periods may only be granted by City Council. The City has completed inspections to confirm the current scope of incomplete site improvements and the current estimated cost of completing site improvements. An extension may only be granted subject to the provision of an amended Agreement for Completion and Maintenance of Improvements providing an updated scope of work, schedule of improvements and corresponding performance guarantee based on current estimated costs of completion, pursuant to Section 26.5-12 of the City of Novi Code of Ordinances.

Consistent with all applicable laws and ordinances, more particularly Chapter 26.5 of the City of Novi Code of Ordinances, to obtain an extension with respect to completion of improvements, the Owner has offered to provide, and the City is willing to accept, certain assurances to the City that such improvements relating to the Development will be properly completed and maintained pursuant to a schedule. Such assurances include providing a performance guarantee in an amount no less than two hundred (200) percent of the cost of the work to be completed, and a schedule, for completion and maintenance of the improvements for the Development.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Purpose of Agreement

The City and the Owner enter into this Agreement for the purpose of extending the completion time for certain required improvements, ensuring that certain improvements for the Development will be completed and maintained pursuant to all approvals granted by the City and all applicable laws and ordinances, and that such completion and maintenance occur on a timely basis, in accordance with a schedule approved by City Council.

2. Performance Guarantee Posted

Prior to or with the execution of this Agreement, the Owner has provided, or does provide, to the City, performance guarantees in the total amount of \$ 283,537.34 to guarantee completion and maintenance of improvements for the Development, as estimated and itemized in Paragraph 3, below. Such performance guarantee funds have been posted in the form of irrevocable **Letter of Credit Nos. 350228** issued by Bank of Ann Arbor ("Bank"), to guarantee completion and maintenance of improvements for the Development, as itemized in Paragraph 3, below, for an initial period of two (2) years, and shall provide by its terms that it shall, and shall be renewed by the Owner for successive periods of two (2) years subject to termination by 60 days advanced, written notice by Bank to the City's Finance Director as follows. As a condition

to the termination of the effectiveness of the letter of credit, Bank shall be required to provide to the office of the City's Finance Director, with 60 days advanced written notice, a statement that the letter of credit shall terminate at the end of the 60 day period. Such notice shall be required regardless of the stated termination date of any other documentation. Prior to the date of termination, the letter of credit shall at all times be effective and payable according to its terms.

3. Items of Improvement and Maintenance

The items of improvements and maintenance included within this Agreement, and the estimated cost of completion and ongoing maintenance, are set forth below:

a.	Street Trees:	\$ 14,800.00
b.	Landscape:	\$ 14,150.00
c.	Right-of-Way:	\$ 9,000.00
d.	Incomplete Site Work	\$ 91,400.00
e.	Traffic Control Signs:	\$ 3,466.67
f.	Soil Erosion and Sedimentation ¹ Control	\$ 16,414.00
g.	Storm Water Facilities Guarantee ²	\$ 1,490.00
	Subtotal:	<u>\$ 132,816.67</u>
	200% Multiplier:	<u> x2</u>
		265,633.34
		+ 17,904.00
	Total Financial Guarantee:	\$ <u>283,537.34</u>

4. Completion and Maintenance of Improvements; Schedule and Requirements

Each of the Improvement Items listed in Paragraph 3, above, shall be completed and maintained by the Owner, at its expense, pursuant to all final approvals granted by the City and all applicable laws and ordinances, according to the following schedule:

(a) Improvement Item 3a, contemplates and includes the installation of thirty-seven (37) street trees for the Development. The remaining street trees shall be installed before the issuance of the final certificate of occupancy within the Development, and in all events, before July 1, 2014, whichever is earlier. For two (2) years from the date of completion of the installation of all such trees installed as part of the Development, Successor Developer shall, under this Agreement, maintain the trees that were so installed, which maintenance shall include the replacement of any dead, substantially dead, diseased, or removed trees during such two (2) year period. Successor Developer may receive partial release of the financial guarantee subject to the City retaining an appropriate amount to guarantee the replacement of dead, substantially dead, diseased or removed trees during the two (2) year period following the installation of the trees.

¹ Not doubled per ordinance

² Not doubled per ordinance

(b) Improvement Item 3b contemplates and includes the installation of all site landscaping, not including street trees. Site Landscaping shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before July 1, 2014. For one (1) year from the date of completion of the installation of all site landscaping installed as part of the Development, Successor Developer shall, under this Agreement, maintain the site landscaping that was so installed, which maintenance shall include the replacement of any dead, substantially dead, diseased, or removed landscaping during such one (1) year period. Successor Developer may receive partial release of the financial guarantee subject to the City retaining an appropriate amount to guarantee the replacement of dead, substantially dead, diseased or removed site landscaping during the one (1) year period following the installation of the trees.

(c) Improvement Item 3c above contemplates and includes installation of a pathway along Taft Road, in accordance with the approved site plan, and security for restoration for any work proposed within the right-of-way of the arterial system of the City. Improvement Item 3c, above, shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before July 1, 2014.

(d) Improvement Item 3d contemplates completion, repair and maintenance of improvements, as set forth in the City Consulting Engineer's punchlist, including but not limited to:

1. Installation of sidewalk between Units 6 and 7,
2. Installation of sidewalk ramps on Units 1 and 9,
3. Removal and replacement of damaged emergency access drive,
4. Installation of the emergency break-away access gate,
5. Removal and replacement of damaged concrete curb,
6. Repair of damaged catch basins,
7. Installation of guardrail,
8. Removal and replacement of damaged base course of paving,
9. Construction of sedimentation maintenance access drive,
10. Installation of the top course of paving,
11. Undercut and aggregate base repairs as necessary,
12. Routing/sealing of edge of metal

Improvement Item 3d, above shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events, before July 1, 2014. Until such time as the asphalt wearing course is installed, Owner shall be responsible under this Agreement for maintenance and repairs of all internal paved areas. For purposes of this Agreement "maintenance and repairs" of such areas shall mean and include, without limitation, removing of debris and obstacles, repairing pot holes and cracks, adding new materials, providing for proper drainage, constructing all needed structures (e.g., without limitation, lateral support, drainage, etc.), resurfacing and such other action as shall be necessary or expedient to provide structural integrity and substantially continuous, unobstructed and safe vehicular passage to and through the Development, and providing unobstructed drainage as necessary or required.

(e) Improvement Item 3e contemplates and includes the installation of all traffic control signs within the Development. Traffic control signs shall be installed prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before July 1, 2014.

(f) Improvement Item 3f contemplates and includes without limitation, (i) the immediate installation of all required soil erosion and sedimentation controls; and (ii) completion of repairs and maintenance of the soil erosion and sedimentation controls within and for the Development on an ongoing basis until issuance of the final certificate of occupancy for the Development. Successor Developer shall renew and keep the Soil Erosion Permit current. Nothing herein shall limit the City's remedies for violation of the City's Soil Erosion and Sedimentation Control Ordinance.

(g) Site Improvement Item 3g includes a one-year storm water facilities guarantee to guarantee maintenance and repair of storm water improvements for the site in accordance with inspection reports issued by City inspectors.

5. City Authority to Complete and/or Maintain.

In the event Owner has failed to complete and/or maintain the improvements itemized in Paragraph 3, above, within the time periods and in the manner specified in this Agreement, and, provided the City has given the Owner 30 days-notice of the failure to timely complete and/or maintain and Owner has not completed and/or maintained all of such improvements within said 30 days, or has not begun such completion or maintenance within said 30-day period if such completion or maintenance cannot be finalized within 30 days, the City shall have the authority, but shall not have the legal obligation, to take one or more of the following actions:

(a) The City may draw the funds from the letter of credit or other securities posted and enter upon the Development through its officials, employees, agents, and/or contractors and complete and/or maintain the improvements, or restore the Property or areas disturbed by the Development. In such event, all costs and expenses incurred shall be paid from the proceeds of the funds drawn on the letter of credit or otherwise obtained from the performance guarantee posted. Any amounts of unused proceeds of the performance guarantee shall be returned to Owner, or otherwise be credited, as the case may be. Owner, and all of Owner's officers, employees, consultants and agents, shall be obligated to act and work in cooperation with the City to bring about completion and/or maintenance of the improvements as contemplated in this Agreement, or restoration, and shall provide the City with all drawings, contracts, documentation, public and private correspondence, agreements and other materials relating to any such improvements, restoration and/or maintenance. Notwithstanding other provisions to the contrary, in the event the City receives a notice of termination from Bank with regard to the letter of credit, or from any other securing party as to the performance guarantee posted pursuant to this Agreement, and the improvements and/or maintenance itemized in Paragraph 3, above, have not been completed or fulfilled as required by this Agreement, the City shall be entitled to immediately draw the funds from the letter of credit or other performance guarantee posted, without notice to Owner, and proceed as specified in this paragraph.

(b) The City may, but is not required to, initiate a lawsuit for purposes of

enforcing and achieving full compliance with the terms and provisions of this Agreement. In the event that the City is awarded relief in such suit, the Owner shall pay all court costs, expenses and reasonable actual attorney fees incurred by the City in connection with such suit.

(c) City Council may, in its discretion, grant Owner additional time beyond the time periods reference in Paragraph 4.

6. Additional Liability

Owner shall also be liable for any costs and expenses incurred by the City in excess of the amounts posted by the Owner under this Agreement as well as any costs and expenses, including reasonable attorney fees, incurred by the City in any action and/or litigation to enforce or collect such funds and/or to otherwise restore the property and/or secure completion and/or maintenance of the improvements itemized in Paragraph 3, above, pursuant to the terms of this Agreement, in the event the City obtains any relief as a result of such lawsuit. The liability of Owner in such regard, if unpaid after 30 days of a billing sent to Owner at its last known address, may be secured by the City recording a lien on the Property, effective as of the date the City is authorized to proceed with the completion and/or maintenance of improvements, or restoration, as provided in this Agreement, and all such 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 also be collected by suit initiated against the Owner, and in the event the City is awarded relief in such suit, the Owner shall pay all court costs, expenses and reasonable actual attorney fees incurred by the City in connection with such suit.

7. Rebate or Reduction of Performance Guarantee

The City shall not release a performance guarantee until (1) all fees that are due to the City have been paid; (2) a maintenance guarantee has been posted, if applicable; (3) inspection of the development site has been performed when required; (4) expired permits have been renewed; and (5) the City has determined that the conditions and requirements of the permit/approval otherwise specified in the performance guarantee have been met and final approval of same has been granted.

The City may, after performing a site inspection at the written request of an applicant, rebate or reduce portions of a performance guarantee upon determination by the City, in its sole discretion, that the improvements and/or actions for which that performance guarantee was posted have been satisfactorily completed in accordance with the approved plans, any temporary certificate of occupancy, and all other applicable laws, regulations, and ordinances. At no point shall the amount of the performance guarantees held by the city be less than two hundred (200) percent of the cost to complete the remaining required improvements on the property. The applicant is responsible for the actual cost of inspections requested pursuant to this section.

8. Binding Effect

This Agreement shall run with the land constituting the property described on Exhibit A and shall be binding upon and inure to the benefit of the City and Owner and to their respective heirs, successors, assigns and transferees.

9. Owner's Warranty on Ownership

Owner hereby warrants that it is the owner of the Property described on attached Exhibit A has the full authority to execute this Agreement.

10. Delay in Enforcement

A delay in enforcement of any provision of this Agreement shall not be construed as a waiver or estoppel of the City's right to eventually enforce, or take action to enforce, the terms of this Agreement.

11. Severability

Each covenant, requirement, obligation and provision contained herein shall be considered to be an independent and separate covenant and agreement, and, in the event one or more of the covenants, requirements, obligations or provisions shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, all remaining covenants, requirements, obligations and provisions shall nevertheless remain in full force and effect.

12. Lawful Document

Owner and City agree that this Agreement and its terms, conditions, and requirements are lawful and consistent with the intent and provisions of local ordinances, state and federal law, and the Constitutions of Michigan and the United States of America. Owner has offered and agreed to complete the on-site and off-site improvements, at its cost and expense, as specified in this Agreement. Owner has offered and agreed to complete such improvements, and to proceed with other undertakings and obligations as set forth in this Agreement in order to protect the public health, safety and welfare and provide material advantages and development options for the Owner, all of which improvements and obligations Owner and the City agreed were roughly proportional to the burden imposed and necessary in order to ensure that public services and facilities necessary for or affected by the Development will be capable of accommodating the development on the Property and the increased service and facility loads caused by the Development, to protect the natural environment and conserve natural resources, to ensure compatibility with adjacent uses of land, to promote use of the Property in a socially, environmentally and economically desirable manner, and to achieve other reasonable and legitimate objectives of the City and Owner, as authorized under applicable City ordinances and the Home Rule City Act, MCL 117.1, et seq. Furthermore, Owner fully accepts and agrees to the final terms, conditions, requirements, and obligations of this Agreement, and Owner shall not be permitted in the future to claim that the effect of this Agreement results in an unreasonable limitation upon use of all or any portion of the Property, or claim that enforcement of this Agreement causes an inverse condemnation or taking of all or any portion of such property. It is

further agreed and acknowledged that the terms, condition, obligations, and requirements of this Agreement are clearly and substantially related to the burdens to be created by the development of the Property, and are, without exception, clearly and substantially related to the City's legitimate interests in protecting the public health, safety, and general welfare.

13. Applicable Law

This Agreement shall be interpreted and construed in accordance with Michigan law, and shall be subject to enforcement only in Michigan courts.

14. Current and Future Owners and Developers.

As used in this Agreement, the term "Owner" shall mean and include the undersigned party designated herein as owner of the Property, as well as all future and successor persons and entities that become owners and developers of all or any portion of the Development property in the future until such time as all phases of the Development have been completed and approved, excluding residential home owners.

15. Headings.

The headings contained herein are for the convenience of the parties and are not to be used in construing or interpreting this Agreement.

16. Effective Date.

This Agreement is deemed effective as of the date first written above.

“OWNER”

BANK OF ANN ARBOR,

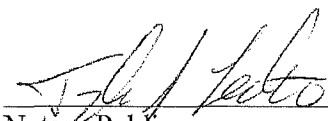


By: Dawn M. Prescott
Its: Senior Vice President

STATE OF MICHIGAN)
)ss
COUNTY OF WASHTENAW)

The foregoing instrument was acknowledges before me this 6th day of June, 2013, by Dawn M. Prescott, as the Senior Vice President of Bank of Ann Arbor.

TYLER J LEITOW
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF WASHTENAW
My Commission Expires Sept. 29, 2019
Acting in the County of Washtenaw


Notary Public
Washtenaw County, Michigan
My Commission Expires: 9/29/2019

“CITY”:
CITY OF NOVI
a Michigan municipal corporation

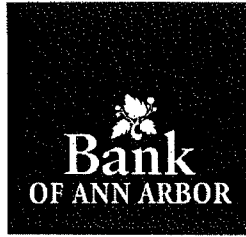
BY: _____

BY: _____

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing Agreement was acknowledged, signed and sworn to before me on this _____ day
_____, 2013, by _____, Mayor and _____, Clerk of the City of
Novi.

Notary Public
_____ County, Michigan
My Commission Expires: _____



BENEFICIARY:
CITY OF NOVI – TREASURER'S OFFICE
45175 WEST TEN MILE ROAD
NOVI, MI 48375-3024

ISSUANCE DATE: JUNE 6, 2013

WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. 350228 IN YOUR FAVOR, FOR ACCOUNT OF BANK OF ANN ARBOR, 125 S. FIFTH AVENUE, ANN ARBOR, MICHIGAN 48104 FOR A SUM NOT EXCEEDING USD \$283,537.34 (TWO HUNDRED EIGHTY THREE THOUSAND FIVE HUNDRED THIRTY SEVEN AND 34/100) AVAILABLE BY YOUR DRAFT AT SIGHT ON BANK OF ANN ARBOR WHEN ACCOMPANIED BY:

YOUR SIGNED STATEMENT AS FOLLOWS: "WE CERTIFY THAT BANK OF ANN ARBOR HAS FAILED TO PERFORM OR COMPLY WITH CONDITIONS OF CHAPTER 26.5 OF THE CITY OF NOVI CODE OF ORDINANCES AND ANY AMENDMENTS THERETO APPROVED BY THE CITY OF NOVI REGARDING COMPLETION OF IMPROVEMENTS, AS DEFINED IN CHAPTER 26.5, FOR THE TAFT KNOLLS II SUBDIVISION. THEREFORE, WE ARE ENTITLED TO DRAW IN THE AMOUNT OF USD\$ _____ UNDER BANK OF ANN ARBOR STANDBY LETTER OF CREDIT NO. 350228".

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE DEEMED AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ONE YEAR PERIODS FROM THE EXPIRATION DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO ANY EXPIRATION DATE WE SHALL NOTIFY YOU BY COURIER AT THE ADDRESS INDICATED ABOVE, UNLESS A CHANGE OF ADDRESS IS OTHERWISE NOTIFIED BY YOU TO US, IN WRITING, THAT WE ELECT NOT TO CONSIDER THIS LETTER OF CREDIT RENEWED FOR ANY SUCH ADDITIONAL PERIOD.

ALL DRAFTS DRAWN UNDER THIS CREDIT MUST BE MARKED "DRAWN UNDER BANK OF ANN ARBOR LETTER OF CREDIT NO. 350228".

THIS LETTER OF CREDIT IS SUBJECT TO AND GOVERNED BY THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS OF THE INTERNATIONAL CHAMBER OF COMMERCE, 2007 REVISION, PUBLICATION 600.

THIS ORIGINAL LETTER OF CREDIT AND ALL AMENDMENTS THERETO MUST BE SUBMITTED TO US TOGETHER WITH ANY DRAWINGS HEREUNDER FOR OUR ENDORSEMENT OF ANY PAYMENTS EFFECTED BY US AND/OR FOR CANCELLATION.

WE ENGAGE WITH YOU THAT EACH DRAFT DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONORED ON DELIVERY OF THE DOCUMENTS AS SPECIFIED IF PRESENTED AT THIS OFFICE ON OR BEFORE [EXPIRY DATE] OR ANY AUTOMATICALLY EXTENDED DATE.

YOURS VERY TRULY,

A handwritten signature in cursive script, appearing to read "Dawn Prescott", written over a horizontal line.

DAWN PRESCOTT
SENIOR VICE PRESIDENT
BANK OF ANN ARBOR



JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

June 10, 2013

Charles Boulard, Director
CITY OF NOVI
Community Development
45175 W. Ten Mile Road
Novi, MI 48375

RE: Taft Knolls II
First Amended Agreement for Completion and Maintenance of
Improvements

Dear Mr. Boulard:

Enclosed please find the proposed First Amended Agreement for Completion and Maintenance of Improvements for the Taft Knolls II Site Condominium as required by Chapter 26.5 of the City of Novi Code. An initial Agreement for Completion and Maintenance of Improvements was approved by City Council in 2009, which extended completion dates through June 1, 2012. Taft Knolls II was foreclosed by the original lender for the construction mortgage in 2008. The current owner, Bank of Ann Arbor acquired the property in 2010 when it received the assets of the original lender through FDIC transfer. Bank of Ann Arbor is completing the improvements required by site plan approval as the successor developer. The terms of the First Amended Agreement are similar to previous completion agreements that have been approved by City Council pursuant to Chapter 26.5, and, generally extend completion dates through July 1, 2014.

The incomplete improvements include the completion of site work, including road maintenance and paving repairs, and the installation of the final wearing course, the installation and maintenance of street trees and site landscaping, the installation of remaining traffic control signs, the installation of a pathway along Taft Road, the installation and maintenance of portions of interior sidewalk, the installation and maintenance of soil erosion control measures throughout construction, and maintenance and repair of storm water facilities for the site. City Staff has proposed that the improvements, including site work and installation of street trees be completed no later than July 1, 2014.

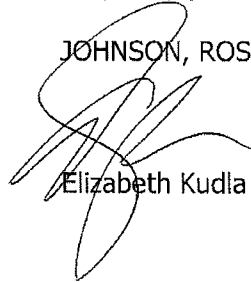
Bank of Ann Arbor has replaced the cash that had been posted for completion of improvements with a letter of credit in the total amount of \$283,537.34. Based on all of the above, the proposed First Amended Agreement for Completion and Maintenance of Improvements is acceptable in the format proposed and meets with the requirements of Chapter 26.5.

Charles Boulard, Community Development Director
June 10, 2013
Page 2

If you have any questions, please do not hesitate to call.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla Saarela

EKS
Enclosures

- C: Maryanne Cornelius, Clerk (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)
Sheila Weber, Treasurer's Office (w/Enclosures)
Kristin Pace, Treasurer's Office (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)
Dave Beschke, Landscape Architect (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Dawn Prescott, Bank of Ann Arbor (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)



CITY
Treasurer's Office

Printed: 05/21/2013

Jurisdiction Information:
City of Novi
Community Development Department
(248) 347-0415

Financial Guarantees

Complete (16 Item(s) Pending)

Taft Knolls 2

P_SP 50-22-22-100-011
 JSP05-0034 Started: 05/21/2006

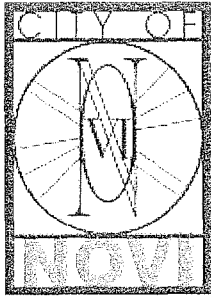
5022-22-100-011
TAFT KNOLLS II E: TAFT BTW 10 & 11 MILE

Approval	Date Started	Date Completed	Status	Amount
<input type="checkbox"/> Approved Traffic Sign FG Holding cash	05/10/2013		Required	\$6,933.34
<input type="checkbox"/> Approved Storm Water Facility FG Holding cash.	05/10/2013		Required	\$1,490.00
<input type="checkbox"/> Approved Soil Erosion FG & Perm Holding cash.	05/10/2013		Required	\$16,414.00
<input type="checkbox"/> Approved Incomplete Site Work F Currently only holding \$28,000.00 (Diff. \$154,800.00)	05/10/2013		Required	\$182,800.00
<input type="checkbox"/> Approved Landscaping FG & Per Currently only holding \$22,192.62 (Diff. \$6,107.38) cash.	05/10/2013		Required	\$28,300.00
<input type="checkbox"/> Approved ROW FG & Permit Req Currently only holding \$2,000.00 (Diff. \$16,000.00)	05/10/2013		Required	\$18,000.00
<input type="checkbox"/> Approved Street Tree FG & Permi Currently only holding \$20,266.66 (Diff. \$9,333.34)	05/10/2013		Required	\$29,600.00

Approved: 0 Not Yet Approved: 7 Total Amount: \$283,537.34

Population: Current Record

CURRENTLY HOLDING 97,296.62
INCREASE \$186,240.72



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Community Development Department

45175 West Ten Mile
Novi, MI 48375

STREET TREE STATUS INSPECTION

TO: Sarah Marchioni, Building Permit Coordinator
FROM: David R. Beschke, RLA
DATE: April 29, 2013
SUBJECT: Taft Knolls II

A Street Tree Inspection was performed on April 29, 2013. The majority of the approved street trees have been installed acceptably. **As a condition of the granting of the Temporary Certificate of Occupancy the Applicant must provide a Street Tree Performance Guarantee in the amount of \$29,600 (landscape materials x 200%) in order to cover those street tree plantings not yet installed.**

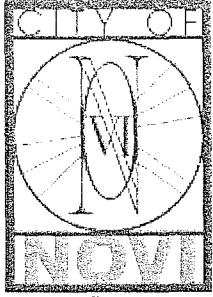
Our findings are as follows:

1. A total of 37 street trees remain to be installed.

If there are any further questions, please direct the applicant to contact staff at the address or phone number below.

David R. Beschke, RLA
City of Novi Street tree Architect
45175 W. Ten Mile Road
Novi, Michigan 48375-3024
Phone (248) 735-5621 Fax (248) 735-5600

Cc:/ S. Weber



cityofnovi.org

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Community Development Department

45175 West Ten Mile
Novi, MI 48375

LANDSCAPE STATUS INSPECTION

TO: Sarah Marchioni, Building Permit Coordinator
FROM: David R. Beschke, RLA
DATE: April 29, 2013
SUBJECT: Taft Knolls II

A Landscape Inspection was performed on April 29, 2013. Please continue to hold a total of \$28,300 (plant materials x 200%) for the Landscape Performance Guarantee.

Findings are as follows:

1. A total of 107 shrubs remain to be planted along the wetland border at Sedra Park.
2. The cul-de-sac has not been landscaped. This includes 3 canopy trees, 52 shrubs and 225 perennials.
3. Five (5) evergreens in open space have perished and must be replaced.
4. Utility boxes remain to be screened with landscape.

If there are any further questions, please direct the applicant to contact staff at the address or phone number below.

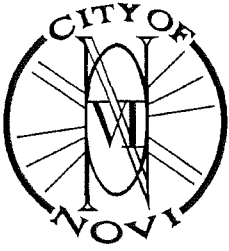
David R. Beschke, RLA
City of Novi Street tree Architect
45175 W. Ten Mile Road
Novi, Michigan 48375-3024
Phone (248) 735-5621 Fax (248) 735-5600

Cc:/ S. Weber

Building
248.347.0415
248.735.5600 fax

Ordinance Enforcement
248.735.5678
248.735.5682 fax

Planning
248.347.0475
248.735.5633 fax



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RIGHT-OF-WAY INSPECTION REPORT

Inspection Date: 04/29/13

Permit No.: ROW05-0144

Project: Taft Knolls Phase II

Requestor: Sarah Marchioni

INSPECTION CHECKLIST:

(mark boxes below with an "X" if item is satisfactorily completed, or "NA" if not applicable)

X	Lawn is established, green and mowable and matches adjacent areas for density. If sodded, sod is established and rooted.	X	All hydrants, manholes, catch basins have been inspected, are free from damage and do not require adjustment.
X	All debris has been removed from the ROW including silt fence, tree fence, construction materials, etc.	X	There are no non-standard objects in the right-of-way (brick mailboxes, brick pavers, stamped concrete, etc)
	All sidewalks, pathways, curbs, driveways, etc have been inspected and are free from damage.	N/A	Culverts are installed per plan and standards and have end sections and ditches are properly stabilized.
N/A	In the case of bores or directional drilling under the road, there is no visible physical damage to the road	N/A	If connections are made to the public utilities, the structures have been inspected for damage
	Other more site-specific design specific items have been completed per the plan or permit conditions.	<p>**** Photos must be attached to depict the ROW conditions at the time of inspection. ****</p>	

INSPECTION RECOMMENDATION:

- APPROVED**
 REJECTED (attach list of deficiencies)

If rejected, attach a list of deficiencies that need to be addressed prior to reinspection. The consultant must contact the applicant to inform them of the specific deficiencies. Forward this form, photos and deficiency list to the City for the file.

If approved, please forward to the City for release of financial guarantee.

City Consultant: Spalding DeDecker Associates

Name of Inspector: Ted Meadows

Forward this report along with photos and list of deficiencies (if applicable) to the Engineering Division, bcoburn@cityofnovi.org, when completed.



Viewing south along east side of Taft Road.





March 20, 2013

Mr. Aaron Staup
 Construction Engineering Coordinator
 Department of Public Services
 Field Services Complex – Engineering Division
 26300 Lee BeGole Drive
 Novi, MI 48375

Re: **Taft Knolls Phase II**
Site and Pavement Punch List, Cost Estimate and Financial Guarantee
 Novi SP No.: 05-0034
 SDA Job No.: NV06-207

Dear Mr. Staup:

Please be advised that our field personnel visited the above referenced site on March 18, 2013 to verify the status of the above mentioned site's pavement and site utilities. As a result of the walkthrough, we recommend that the Incomplete Site Work Financial Guarantee be \$200,800. This amount is based on the remaining civil site improvements listed below. These items must be completed prior to substantial completion of the project. This **does** include the City of Novi 2.0 multiplier.

Incomplete Items

As a response to the aforementioned walk-through, these are items that have yet to be addressed:

1. Complete construction of sidewalk along Taft Road (1,800 SQFT)	\$9,000	-ROW
2. Complete construction of sidewalk between Lots 6 & 7 (300 SQFT)	\$1,500	
3. Complete sidewalk ramps at Lots 1 & 9 (100 SQFT)	\$600	
4. Provide Emergency Break-Away Access Gate	\$15,000	
5. Remove and replace damaged emergency access drive (5,200 SQFT 1.5" of 1100T)	\$7,800	
6. Remove and replace concrete curb (170 LF)	\$8,500	
7. Routing of Edge of Metal (2,300 LFT)	\$4,600	
8. Repair 6 catch basins	\$6,000	
9. Provide guardrail along walk from Lot 10 to corner of Sedra (140 LF)	\$3,500	
10. Provide Sediment Basin Maintenance Access Drive between Lots 13 & 14 (335 SQYD)	\$3,400	
11. Place Top Course of Asphalt for streets (26,450 SQFT 1.5" of 1100T)	\$15,900	
12. Remove and replace damaged asphalt base course (13,225 SQFT 1.5" of 1100T)	\$19,900	
13. Possible undercut and aggregate base repairs (220 SQYD)	\$4,700	

Engineering Consultants

Infrastructure • Land Development • Surveying

Mr. Aaron Staup
City of Novi Engineering Division
Page 2

As a consequence, SDA recommends the City withhold a minimum amount of \$200,800 for the incomplete pavement.

-18,000 = \$182,800

This letter serves only as an estimate for the Site Work Financial Guarantee necessary to complete the punchlist items for the site. Upon further investigation the fees may increase or decrease depending on the work necessary to complete the project.

If you have any questions, please do not hesitate to contact us at our office.

Sincerely,

SPALDING DeDECKER ASSOCIATES, INC.



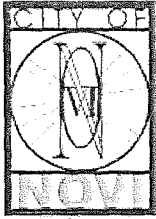
Ted Meadows
Contract Administrator

cc: Charles Boulard, City of Novi – Community Development Director (e-mail)
Sarah Marchioni, City of Novi – Building Department Clerk (e-mail)
Sheila Weber, City of Novi – Bond Coordinator (e-mail)
Christopher Robbins, PE, SDA (e-mail)
SDA CE Job File

Engineering Consultants

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TRAFFIC CONTROL DEVICE INSPECTION REPORT

Inspection Date: 3/22/2013 Site Plan No.: 05-0034

Project: Taft Knolls Phase II

Requestor: Sarah Marchioni

INSPECTION CHECKLIST:

(mark boxes below with an "X" if item is satisfactorily completed, or "NA" if not applicable)

	All signage and pavement markings have been installed in the locations shown on the stamping set.
	All signage meets MMUTCD standards for color, shape, size and wording.
	All signage is installed on standard u channel posts at the proper height (7' in areas near pedestrians, 5' others). Non-standard posts within the right-of-way must be crashworthy and must have a license agreement in place.
n/a	All pavement markings meet MMUTCD standards for color, width, location.
	All signage and pavement markings are reflective.
	Street name signs meet the requirements of Section 31-55. minimum size of six (6) inches by twenty-four (24) inches with four-inch white letters on green background, intersections of streets with thoroughfares designated as arterial or major arterial such street signs shall be a minimum size of nine (9) inches in height with six-inch letters. Otherwise a license agreement is required.
	Regulatory signs have traffic control order on file. (If not, notify DPW that a traffic control order is required).
**** ****	Photos must be attached to depict the field conditions at the time of inspection.

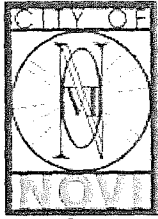
INSPECTION RECOMMENDATION:

APPROVED

X REJECTED (see attach list of deficiencies)

Name of Inspector: Adam Wayne

Phone: 248-735-5648



cityofnovi.org

TRAFFIC CONTROL DEVICE INSPECTION REPORT

Inspection Date: 3/22/2013

Site Plan No.: 05-0034

Project: Taft Knolls Phase II

Requestor: Sarah Marchioni

PUNCHLIST:

- Install all Traffic Control Signage per approved stamping set.

When the above deficiencies have been addressed, please contact the Engineering Department (248-347-0454) for a reinspection.



Marchioni, Sarah

From: Wayne, Adam
Sent: Friday, March 22, 2013 10:26 AM
To: Marchioni, Sarah
Cc: Coburn, Brian
Subject: RE: Request for inspection - Taft Knolls, Phase 2, JSP05-0034
Attachments: TRAFFIC CONTROL INSPECTION-Taft Knolls Phase II--3-22-13.pdf; #5 - completion agreement - all.doc

Sarah,

\$6,933.34 ([13 signs at \$266.67 each = \$3,466.67] with the 2.0 multiplier) for the Traffic Control Guarantee will cover the work that they need to perform.

Adam

From: Marchioni, Sarah
Sent: Thursday, March 21, 2013 11:20 AM
To: Ted Meadows (tmeadows@sda-eng.com); Beschke, David; Wayne, Adam; Killebrew, CJ
Cc: Boulard, Charles; Staup, Aaron; Weber, Sheila
Subject: Request for inspection - Taft Knolls, Phase 2, JSP05-0034

Attached please find the request for inspection to be conducted as soon as the weather allows. The bank does not wish to sign the Letter of Intent or pay additional financial guarantee fees and would like to wait for updated inspection reports for the revised completion agreement.

Please make sure to include the 2.0 multiplier when calculating the financial guarantee amount (show the breakdown of the base FG x 2.0 = ?).

C.J. – the soil erosion permit expired 3/19/13 and there is \$0.60 left in inspection money so please send out your renewal letter and invoice ASAP so the bank can pay the fee and Ted is able to conduct the inspection when the weather allows.

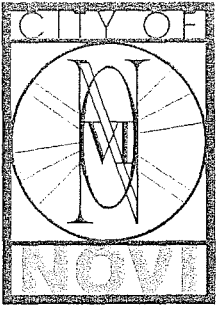
Thanks,
Sarah



Sarah Marchioni | Building Permit Coordinator
City of Novi | 45175 W. Ten Mile Road | Novi, MI 48375 USA
t: 248.347.0430 f: 248.735.5600

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M.E.A. (MUNICIPAL ENFORCING AGENCY) SOIL EROSION AND SEDIMENTATION INSPECTION REPORT

PROJECT NAME: Taft Knolls II NV06-407

SESC PERMIT NUMBER: SE10-0002

DATE: 02-26-13

PROJECT CONTRACTOR: Trowbridge Homes NPDES # _____

STORMWATER OPERATOR: Jeff Goretski,
C-11398 Exp 7-1-11.

PART 91 INSPECTOR: Kim Danowski

REASON FOR INSPECTION: Routine Inspection Post-Rain Event Inspection
 Weekly Inspection Pre-Construction Inspection
 Complaint Inspection Compliance Follow-up

CURRENT WEATHER CONDITIONS: Sunny Cloudy Partly Cloudy Windy
 Rain Snow Sleet Hail Temp. 30-35

OBSERVATIONS/CORRECTIVE ACTIONS:

John was to take care of the silt fence issues noted in the last inspection during a thaw period. I checked last week and this week and there has been no change except that the roads have been cleaned. The truck traffic has been minimal.

The two silt fence locations need to be corrected now.

1. The empty lot with the wetland behind it needs additional length of silt fence and stone check dams at the low points to slow down, settle and filter the water better before it enters the wetland.
2. The silt fence along the lot next to the access road is being overwhelmed and requires stone check dams and more silt fence on the wetland side.

See photos for locations and call with any questions right away.

The SESC permit needs to be renewed as it will expire on 03-19-13 and all of the inspections have been used up at this time.

CITY OF NOVI – CODE COMPLIANCE FOLLOW-UP (Office Use Only): _____

Scheduled Follow-up Visit: No

Attachments Yes No

Inspector's Signature: _____

Date: 02-26-13

Cc: Original – Neighborhood Services; Copy – Engineering; Copy – Consultant File