



CITY of NOVI CITY COUNCIL

Agenda Item K
May 12, 2008

SUBJECT: Approval of the Storm Drainage Facility Maintenance Agreement for the Westpark Place condominium site located west of West Park Drive, north of West Road in Section 4.

SUBMITTING DEPARTMENT: Engineering *RH*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

Westpark Place, LLC has requested approval of the Storm Drainage Facility Maintenance Agreement for the Westpark Place condominium site located in Section 4. The enclosed Agreement has been favorably reviewed by the City Attorney (Beth Kudla's September 14, 2004 letter, attached).

This maintenance agreement covers the site's storm sewer piping, catch basins, outfalls, and inlets. The site discharges to the nearby North Novi District wetlands system.

RECOMMENDED ACTION: Approval of the Storm Drainage Facility Maintenance Agreement for the Westpark Place condominium site located west of West Park Drive, north of West Road in Section 4.

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

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

Westpark Place Condominium Site



CITY OF NOVI
 GEOGRAPHIC INFORMATION SYSTEMS OFFICE
 DEPARTMENT OF INFORMATION TECHNOLOGY
 NOVI CITY HALL CIVIC CENTER
 45175 W. TEN MILE ROAD
 NOVI, MI 48375-3024
 (248) 347-3279
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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.

**STORM DRAINAGE FACILITY
MAINTENANCE AGREEMENT**

THIS AGREEMENT is made this 4th day of June, 2004, by and between Westpark Place, L.L.C., a Michigan limited liability company, whose address is 31300 Orchard Lake Road, Farmington Hills, MI 48334 (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 4 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 residential condominium development on the Property.

B. Westpark Place, a condominium development in Novi, Michigan, shall contain certain storm drainage facilities, including but not limited to, storm sewer piping, for the collection, conveyance, 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, until Westpark Place Condominium Association, a Michigan nonprofit corporation (the "Association") (as hereinafter defined) assumes responsibility for the preservation, maintenance and repair of the storm drainage facilities, it shall, and the Association thereafter shall, at its own expense, perpetually preserve, maintain, and repair all storm drainage facilities, to insure that the same continue to function as intended. The Owner and/or Association shall establish a regular and systematic program 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.

See **Exhibit B** for storm water facility maintenance information.

In the event that the Owner and/or Association 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 facilities in reasonable order and condition, the City may serve written notice upon the Owner and/or Association 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 and/or Association 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 property 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 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 and/or Association within thirty (30) days of a billing to the Owner or Association. All unpaid amounts may be placed on the delinquent tax roll of the City, pro rata, as to each Condominium Unit, 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 or Association, and, in such event, the Owner and/or Association shall pay all court costs and reasonable attorney fees incurred by the City in connection with such suit.

The Owner and/or Association shall maintain a log of inspection and maintenance activities of the above described storm drainage facilities. Such log shall be made available to City personnel for review upon the request of such personnel.

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 to 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.

IN WITNESS WHEREOF, Owner and/or Association have executed this Agreement as at the day and year first above set forth.

(Owner)
Westpark Place, LLC
a Michigan limited liability company

By: Windmill Investment, L.L.C.,
a Michigan limited liability company
Its: Manager

By: The Windmill Group, Inc.,
a Michigan corporation
Its: Manager

By: 
Stuart L. Michaelson, President

(Signatures Continue on Next Page

Acknowledged before me in the County of Oakland, Michigan, this 4th day of June, 2004, by Stuart L. Michaelson, President of The Windmill Group, Inc., a Michigan corporation, the Manager of Windmill Investment, L.L.C., a Michigan limited liability company, the Manager of **Westpark Place, LLC**, a Michigan limited liability company, who executed the foregoing instrument on behalf of said company, and acknowledged the execution thereof to be his free act and deed.

Denise Nordstrom

Denise Nordstrom
Notary Public
Oakland County, Michigan
My Commission Expires: January 17,2006

(Grantee)
CITY OF NOVI
A Municipal Corporation

By _____ Its: _____

Acknowledged before me in Oakland County, Michigan, on this _____ day of _____, 200__, by _____, on behalf of the City of Novi, a Municipal Corporation.

Notary Public
Oakland County, Michigan
My Commission Expires: _____

Drafted by and after recording,
Return to:

Maryanne Cornelius
City Clark

Elizabeth M. Kudla
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040

EXHIBIT A

Job No. 02-050
West Park Place Condominiums

LEGAL DESCRIPTION

A part of the Southeast 1/4 of Section 4, Town 1 North, Range 8 East, City of Novi, Oakland County, Michigan; being more particularly described as commencing at the South 1/4 Corner of said Section 4; thence South 89°39'57" East, 176.44 feet, along the South line of said Section 4 and the centerline of West Park Drive, (said point being North 89°39'57" West, 2469.91 feet from the Southeast Corner of said Section 4); thence North 36°17'32" East, 686.47 feet, along the centerline of said West Park Drive, to the Point of Beginning; thence North 53°38'42" West, 603.37 feet; thence North 89°30'30" West, 87.73 feet, to the North and South 1/4 line of said Section 4, (said point being North 00°34'22" East, 910.73 feet from the South 1/4 Corner of said Section 4); thence North 00°34'22" East, 418.69 feet, along the North and South 1/4 line of said Section 4, to the Southwest corner of "Bristol Corners West No. 3", as recorded in Liber 277 of Plats, on Pages 22, 23, 24 and 25, Oakland County Records, (said point being South 00°34'22" West, 1329.07 feet from the Center of said Section 4); thence South 89°32'20" East, 660.09 feet, along the South line of said "Bristol Corners West No. 3"; thence South 04°44'09" West, 38.41 feet; thence South 53°42'28" East, 124.57 feet; thence South 36°17'34" West, 202.82 feet; thence South 04°44'09" West, 126.55 feet; thence South 54°35'07" West, 24.89 feet; thence South 51°28'51" East, 180.85 feet, to the centerline of said West Park Drive; thence South 36°17'32" West, 301.63 feet, along the centerline of said West Park Drive, to the Point of Beginning. All of the above containing 9.233 Acres. All of the above being subject to easements restrictions and right-of-ways of record. All of the above being subject to the rights of the public in West Park Drive.

EXHIBIT B

Storm Water Maintenance Plan

Project: Westpark Place
 Job #: 03-14C
 Location: City of Novi, Oakland County

Maintenance Tasks and Schedule During Construction Components

Tasks	Storm Sewer System	Catch Basin Sumps	Catch Basin Inlet Castings	Channels & Swales	Outflow Control Structures	Rip-Rap	Dispensation/Sedimentation Basins	Emergency Overflow	Schedule
Inspect for sediment accumulation		X					X		Weekly
Removal of sediment accumulation	X	X		X	X		X		As needed and prior to turnover
Inspect for floatables and debris		X	X	X	X				Quarterly
Cleaning of floatables and debris		X	X	X	X	X	X	X	Quarterly and at turnover
Inspection for erosion				X					Weekly
Re-establish permanent vegetation on eroded slopes				X			X	X	As needed and prior to turnover
Replacement of stone					X	X		X	As needed
Wet weather inspection of structural elements, (including inspection for sediment accumulation in detention basins) with as-built plans in hand. These should be carried out by a professional engineer.	X			X	X		X		As needed and at turnover
Make adjustments or replacements as determined by wet weather inspection.	X			X	X	X			As needed

EXHIBIT B

Storm Water Maintenance Plan

Project: Westpark Place
Job #: 03-14C
Location: City of Novi, Oakland County

Maintenance Plan Budget

Annual inspection for sediment accumulation	\$500
Removal of sediment every 2 years as needed	1,500
Inspect for floatables and debris annually and as needed	500
Removal of floatables and debris annually and as needed	1,000
Inspect system for erosion annually and as needed	500
Re-establish permanent vegetation on eroded slopes as needed	2,000
Total Annual Budget	\$6,000

September 14, 2004

3003 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
Tel: 248-851-9500
Fax: 248-851-2158
www.secrestwardle.com

Elizabeth M. Kudla
Direct: (248) 539-2816
bkudla@secrestwardle.com

Brian Coburn, Civil Engineer
City of Novi
45175 West Ten Mile Road
Novi, Michigan 48375-3024

**Re: Westpark Place Condominium – Storm Drainage Facility
Maintenance Agreement
Our File No: 72236.NOV**

Dear Mr. Coburn:

We have received and reviewed the following revised document relating to the West Park Condominium:

- Storm Drainage Facility Maintenance Agreement

In respect to the above named Agreement, we have the following comments and suggestions:

1. Based on your August 26, 2004 Review Letter, you have confirmed that Item Nos. 1 and 3 of our August 19, 2004 Review Letter have been satisfactorily addressed.
2. Item No. 2 of our August 19, 2004 Review Letter has been satisfactorily addressed as a Definition of the “Association” has been added, recognizing the “Westpark Place Condominium Association” as the Association responsible for maintenance of the on-site storm drainage facilities.

It is our understanding that you are satisfied with the content of the Storm Drainage Facility Maintenance Agreement. All issues raised by our office have also been addressed. The Developer should provide an executed original of the Agreement to your office (attaching all exhibits), for placement on an upcoming City Council Agenda for acceptance.

Brian Coburn, Civil Engineer
September 14, 2004
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Should you have any additional questions or concerns in regard to this matter, please feel free to contact me.

Very truly yours,

ELIZABETH M. KUDLA

EMK

C: Maryanne Cornelius, Clerk
Benjamin Croy, Civil Engineer
Tim Schmitt, Planner
George J. Mager, Jr., Esq.
Gerald A. Fisher, Esq.
Thomas R. Schultz, Esq.