

# CITY of NOVI CITY COUNCIL

Agenda Item  
February 22, 2010

C

**SUBJECT: Approval of a Completion Agreement for SP04-56 Stoneridge Office Park with a waiver to allow reduction of the required financial guarantee by \$675 to a total of \$274,224.**

**SUBMITTING DEPARTMENT:** Community Development *UM*

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

## **BACKGROUND INFORMATION:**

City Council is being asked to consider a request from Shannon Development, LLC to approve a Completion Agreement for the Stoneridge Office Park, SP04-56. The development is a 8.1 acre, office condominium planned for a total of 7 detached buildings located west of Novi Road and north of 12 Mile Road. Three of the seven buildings have been constructed, one building is occupied and the remaining buildings are complete through the shell stage.

This project is subject to the provisions of Chapter 26.5, and requires a Completion Agreement as the developer has not completed the site improvements shown on the approved site plan within (2) years of issuance of the initial permit for any improvements (June 23, 2006).

As a condition of the Completion Agreement to allow an extension of the time period allowed for completion of the site improvements, Shannon Development, the 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 as well as a schedule for completion and maintenance of the improvements for this development.

The Completion Agreement requires a minimum Financial Guarantee of \$274,899.00 and contemplates completion of:

- Completion of drainage improvements for building A thru E as well as paving, curb, storm water structures and installation of top course of paving on or before October 1, 2011
- Completion of all Site Landscaping on or before October 1, 2011
- Restoration of the municipal right of way on or before October 1, 2011.
- Ongoing required installation and maintenance of soil erosion and sedimentation controls
- Completion of wetland naturalized buffer installation and stabilization on or before October 1, 2011
- Replacement and installation of certain traffic control signs on or before October 1, 2011

The developer has requested City Council waive a \$675.00 portion of the financial guarantee to allow posting of a reduced amount of \$274,224.00. This is the amount currently held by the City and would allow the developer to meet the terms of the agreement without posting additional funds. (The waiver amount is reduced from the Developers January 11, 2010 request letter due to close out of additional work). Staff supports this request as the developer completed significant paving repairs and installation last fall, but was not able to have the work inspected before the inclement weather set in.

**RECOMMENDED ACTION: Approval of a Completion Agreement for SP04-56 Stoneridge Office Park with a waiver to allow reduction of the required financial guarantee by \$675 to a total of \$274,224.**

	1	2	Y	N
<b>Mayor Landry</b>				
<b>Mayor Pro Tem Gatt</b>				
<b>Council Member Crawford</b>				
<b>Council Member Fischer</b>				

	1	2	Y	N
<b>Council Member Margolis</b>				
<b>Council Member Mutch</b>				
<b>Council Member Staudt</b>				

1361465

STATE OF MICHIGAN  
COUNTY OF OAKLAND  
CITY OF NOVI

STONERIDGE OFFICE PARK

**AGREEMENT FOR COMPLETION  
AND MAINTENANCE OF IMPROVEMENTS**

AGREEMENT, dated \_\_\_\_\_, 2010 by and between the City of Novi, a Michigan municipal corporation, whose address is 45175 W. Ten Mile Road, Novi, Michigan 48375 (“City”), and Shannon Development, LLC, a Michigan limited liability company whose address is 97 N. Cass Avenue, Pontiac, MI, 48342, (“Developer”) who represents itself hereby as the owner of the Property (except for those Units and the undivided rights in General Common Elements appurtenant to those Units that have been conveyed to Co-owners) and as Developer of the Development with reserved rights pursuant to the Master Deed of the Development, as amended (collectively, the “Master Deed”) to complete and maintain the improvements as set forth in this Agreement.

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

Developer is the developer of the land in the City of Novi, Oakland County, Michigan, described on the attached Exhibit A (the “Property”). The subject land has been approved as a seven building office condominium development pursuant to the provisions of the City of Novi Zoning Ordinance, known as the Stoneridge Office Park (the “Development”).

As part of the approval process, Developer has agreed to develop the Property, to complete certain improvements, and to proceed with other 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 site 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 June 23, 2006. Because two (2) years have elapsed since the initial permit, the Developer must either complete the improvements immediately, or request an extension of time. Section 26.5-5 (b) requires that extension of such time periods may only be granted by City Council when such extensions are requested for a period greater than six (6) months for reasons including but not limited to delays resulting from weather conditions and/or delays in securing required approvals/permits from outside regulatory agencies, and unforeseen economic events or conditions

Three buildings of the seven building development have been constructed. Of the three buildings constructed, one building is occupied, and two buildings are shells. Site improvements, including the final course of paving, site landscaping, right-of-way restoration, traffic control signs, wetlands, and soil erosion control measures have not been completed or maintained for the overall development site.

Because Developer is unable to complete all site improvements within two years of the issuance of the initial permit due to economic conditions and un-sold condominium units within the office buildings, Developer is requesting an extension with respect to the completion of improvements for a period greater than six months, therefore, Developer must request an extension from City Council and must provide a written completion agreement, together with a revised performance guarantee, 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 Developer 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 Developer enter into this Agreement for the purpose of 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 Developer has provided, or does provide, to the City, performance guarantee in the total amount of \$ **274,899.00** 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 No. \_\_\_\_\_ issued by \_\_\_\_\_ Bank. ("Bank"), to guarantee completion and maintenance of improvements for the Development, as itemized in Paragraph 3, below, for an initial period of one (1) year, and shall provide by its terms that it shall, without further action by any person or entity be continuously renewed and be continuously effective for successive periods of one (1) year subject to termination only by 60 days advanced, written notice by Bank to the City's Assistant 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 Assistant 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. Incomplete Sitework (Paving and Drainage Improvements)	\$ 51,225.00
b. Site Landscape:	\$ 72,077.00
c. Right-of Way Restoration	\$ 3,333.50
d. Soil Erosion and Sedimentation Controls	\$ 7,370.00
e. Wetlands	\$ 777.00
f. Traffic Control Signs	\$ 2,667.00

Subtotal:	\$ 137,449.50
200% Multiplier:	x 2
<b>Total Financial Guarantee:</b>	<b>\$ 274,899.00</b>

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 Developer, 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 1) installation of drainage improvements for buildings A through E; 2) pavement repairs; 3) curb repairs; and, 4) placement of the asphalt wearing course of paving within the Development. Improvement Item 3a shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events, before October 1, 2011. Until such time as the asphalt wearing course is installed, Developer 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.
- b) Improvement Item 3b contemplates and includes the installation of all site landscaping for the Development. 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 October 1, 2011. For two (2) years from the date of completion of the installation of all such landscape plantings installed as part of the Development, Developer shall, under this Agreement, maintain the landscape plantings that were so installed, which maintenance shall include the replacement of any dead, substantially dead, diseased or removed landscape during such two (2) year period. All dead or diseased landscape material shall be replaced prior to release of any Site Landscape Maintenance Bond.

- c) Improvement Item 3c contemplates and includes, without limitation, security for restoration for any work proposed within the right-of-way of the arterial system of the City, including, 1) removal and replacement of broken concrete approach flags; 2) routing and epoxy sealing of cracks; 3) removal of soil from west side of driveway approach; 4) stabilization of the west side bank at the end of the sidewalk with seed and mulch blankets; and, 5) installation and establishment of green mowable sod/grass on the east side of the driveway approach. The improvement items within this Section may be change over time based on wear and tear. Improvements Item 3c shall be completed in all events on or before prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before October 1, 2011.
- d) Improvement Item 3d contemplates and includes without limitation: 1) the installation of all required soil erosion and sedimentation controls (which have been installed and inspected); 2) completion of repairs and maintenance of the soil erosion and sedimentation controls within and for the Development on an ongoing basis until the site has been stabilized in accordance with the City's Sedimentation Control Ordinance; and, 3) renewal of Soil Erosion Permit, including submittal of corresponding fees for site inspection. Any lapse of Soil Erosion and Sedimentation Control Permit during the term of this Agreement shall be considered a default and breach of the Agreement, and shall permit the City to make a partial draw on the letter of credit posted in the amount of the permit renewal fee and corresponding fees for site inspection in the amount required by applicable ordinance.
- e) Improvement Item 3e contemplates and includes the installation of a naturalized buffer for soil stabilization adjacent to on-site wetlands. Improvement Item 3e shall be completed in all events on or before October 1, 2011.
- f) Improvement Item 3f contemplates and includes installation of traffic control signage and pavement markings. Improvement Item 3f, above, shall be completed in all events on or before October 1, 2011.

5. City Authority to Complete and/or Maintain.

In the event Developer 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 Developer 14 days notice of the failure to timely complete and/or maintain and Developer has not completed and/or maintained all of such improvements within said 14 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 in 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 Developer, or otherwise be credited, as the case may be. Developer, and all of Developer'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 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 Developer, 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 Developer shall pay all court costs, expenses and reasonable actual attorney fees incurred by the City in connection with such suit.

(c) The City may, in its discretion, in accordance with the provisions of Chapter 26.5, grant Developer additional time beyond the time periods reference in Paragraph 4, in accordance with the provisions of Chapter 26.5 of the City of Novi Code of Ordinances, which provisions may be amended from time to time.

6. Additional Liability

Developer shall also be liable for any costs and expenses incurred by the City in excess of the amounts posted by the Developer 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 Developer in such regard, if unpaid after 30 days of a billing sent to Developer at its last known address, may be secured by the City recording a lien on the Property as to those units still owned by the Developer, 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 Developer, and in the event the City is awarded relief in such suit, the Developer 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.

The City acknowledges that Developer claims that certain of the Items of Improvement and Maintenance as detailed in paragraph 3 of this Agreement have been completed but have not yet been inspected by the City due to existing weather conditions. As soon as possible, subject to weather conditions, but prior to May 1, 2010, the City will inspect those items which Developer claims to have completed and the Performance Guarantee will be reduced accordingly.

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 Developer and to their respective heirs, successors, assigns and transferees.

9. Owner's Warranty on Ownership



Developer hereby warrants that it is the owner of the Property described on attached Exhibit A (except for those Units and the undivided rights in General Common Elements appurtenant to those Units that have been conveyed to Co-owners, and that it, and Developer has the full authority to execute this Agreement as to Unit still owned by Developer.

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, Developer 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. Developer has offered and agreed to complete the on-site and off-site improvements, at their cost and expense, as specified in this Agreement. Developer 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 Developer, all of which improvements and obligations Developer 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 Developer, as authorized under applicable City ordinances and the Home Rule City Act, MCL 117.1, et seq. Furthermore, Developer fully accepts and agrees to the final terms, conditions, requirements, and obligations of this Agreement, and Developer 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 "Developer" shall mean and include the undersigned party designated herein as developer of the Property, as well as all future and successor persons and entities that become successor 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.

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.

17. Recording.

This Agreement is not intended to be recorded with Oakland County Records.

**"DEVELOPER"**

**SHANNON DEVELOPMENT, LLC,**  
a Michigan limited liability company

\_\_\_\_\_  
By:  
Its:

STATE OF MICHIGAN     )  
  )ss  
COUNTY OF OAKLAND    )

The foregoing instrument was acknowledges before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2010, by \_\_\_\_\_, as the \_\_\_\_\_ of  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Oakland County, Michigan  
My Commission Expires: \_\_\_\_\_

**“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  
\_\_\_\_\_, 2010, by \_\_\_\_\_, Mayor and \_\_\_\_\_, Clerk of the City of  
Novi.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_ County, Michigan  
My Commission Expires: \_\_\_\_\_

## EXHIBIT A

Stoneridge Office Park Condominium of Novi, according to the Master Deed recorded in Liber 37091, Pages 092 through 136, inclusive, Oakland County Records, and designated as Oakland County Condominium Subdivision Plan No. 1852, except Unit \_\_\_, together with rights in common elements and limited common elements, as set forth In the above Master Deed (and amendments thereto) and as described in Act 59 of the Public Acts of 1978, as amended.

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January 11, 2010

Charles Boulard  
Community Development Director  
City of Novi  
45175 West Ten Mile Rd  
Novi, Michigan 48375

Re: Agreement for Completion and Maintenance of Improvements  
Stoneridge Office Park  
W. 12 Mile Rd  
Novi, Michigan

Dear Mr. Boulard,

We recently met with City Officials in an effort to finalize the referenced Completion Agreement. We need to extend our site improvement completion date. As would be expected the current state of the economy and lack of any sales prospects is preventing us from totally completing all site improvements. In our case we are yet to erect the remaining four buildings in the park and their associated landscaping, rear sidewalks and storm drainage tie-ins. We estimate that we have completed +/-95% of all required improvements.

Presently the City is holding \$274,224.00 in financial guarantees. To date the City has recognized a partial reduction in that amount due to our continued installation of site improvements. The current revised required financial guarantees amount to \$139,849.50. Under the terms of the referenced Agreement a multiplier of 2.0 would need to be applied. Using that formula we would need to post an additional guarantee amount of \$5,475.00.

We respectfully request that you waive the requirement for the additional guarantee amount for the following reasons: 1. Since the City's last site inspections we have completed the majority of the work. By example; we have installed all site landscaping except the areas in front of un-built foundations, completed all asphaltting, installed a naturalized buffer for soil stabilization adjacent to the on-site wetlands, and installed several traffic control signs and pavement marking. We have spent +/- \$300,000.00 since the August 2008 inspections. In the spring (approximately three months away) when inspections and some concrete repair can be completed, the majority of the present guarantee line items will be removed or substantially reduced, eliminating any issue of additional guarantee amounts. 2. In today's lending climate, requesting our construction lender to increase the existing letter of credit by any amount would be met with resistance and most likely take longer than the few months we need to have the City complete its inspections.

We appreciate the City's cooperation in this matter and look forward to completion of the project.

Sincerely,

  
Patrick H. Cavanaugh  
Shannon Development LLC



February 15, 2010

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

Elizabeth M. Kudln  
Direct: 248-539-2846  
bkudln@secretwardle.com

Charles Boulard, Community Development Director  
City of Novi  
45175 West Ten Mile Road  
Novi, MI 48375-3024

**Re: Stoneridge Office Park - Agreement for Completion and  
Maintenance of Improvements Pursuant to Chapter 26.5 of  
City Code  
Our File No. 660067. NOV1**

Dear Mr. Boulard:

We have prepared a proposed Agreement for Completion and Maintenance of Improvements (the "Completion Agreement") for the Stoneridge Office Park Condominium pursuant to the provision of Chapter 26.5 of the City of Novi Code of Ordinances.

As you know, Stoneridge Office Park is an 8.1-acre, office condominium planned for a total of seven detached buildings located west of Novi Road and north of 12 Mile Road. Three of the seven buildings have been constructed; one building is occupied and the remaining buildings are complete through the shell stage.

Because more than two years have elapsed since the issuance of the initial permit for the development, the developer has requested an extension of time for completion. In addition to entering into the Completion Agreement, Chapter 26.5 requires that the developer must increase the amount of performance guarantees to two times the estimated cost of completion in order to cover increases in costs of labor and materials which may occur over the time span prior to completion.

Section 3 of the Agreement contains specifics detailing which site improvements are outstanding and the costs relating to completion of those improvements. The figures are provided by the City consultant or department responsible for inspecting each particular improvement. The 200% multiplier provided for by Section 26.5-5 of the Code of Ordinances is included in the calculation of the total amount of security required as detailed in this Section of the Agreement.

Within Stoneridge remaining site improvements include, site work, including paving and drainage improvements, site landscape, right-of-way restoration, soil erosion and sedimentation controls, wetlands, and traffic control signs. It should

Charles Boulard, Community Development Director  
February 15, 2010  
Page 2

be noted that the developer completed paving repairs and installation last fall, but was not able to have the work inspected before the inclement weather set in

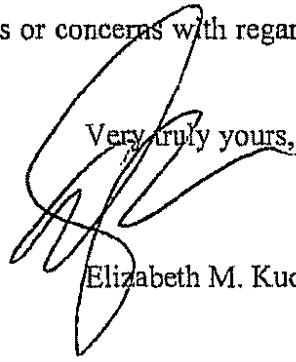
Section 4 sets forth the time schedule in which the Developer must complete the improvements. For most of the remaining site improvements the schedule provides for completion by October 1, 2011, regardless of the whether the project has been progressing. The City's staff and consultants agreed on the dates as being reasonable with respect to each particular site improvement based on the current rate that units within the condominium are being developed.

Though the 200% multiplier is required, the total increase in performance guarantees required is only \$675.00 due to release of performance guarantees for completed site improvements. The Developer is requesting a waiver of the \$675 increase in order to keep existing performance guarantees in place.

We have provided you with a working draft of the completion agreement that may require modification based on City Council's consideration of the content. If you have any questions regarding this document, please let me know.

Should you have any questions or concerns with regard to this matter, please feel free to contact us.

Very truly yours,



Elizabeth M. Kudla

EMK

Enclosure

- C: Maryanne Cornelius, City Clerk (w/Enclosure)
- Clay Pearson, Assistant City Manager (w/Enclosure)
- Rob Hayes, DPS Director (w/Enclosure)
- Marina Neumaier, Assistant Finance Director (w/Enclosure)
- Aaron Staup, Construction Engineering Coordinator
- Sheila Weber, Treasurer's Office (w/Enclosure)
- Dave Beschke, Landscape Architect (w/Enclosure)
- John Freeland, ECT, Inc. (w/Enclosure)
- Ted Meadows, Spalding DeDecker (w/Enclosure)
- Sarah Marchioni, Building Permit Coordinator (w/Enclosure)
- Pat Cavanaugh, Shannon Development (w/Enclosure)
- Norb Madison, Esquire (w/Enclosure)
- Thomas R. Schultz, Esquire (w/Enclosure)