



CITY of NOVI CITY COUNCIL

Agenda Item D
March 17, 2008

SUBJECT: Approval of a resolution authorizing waiver of certain performance guarantees associated with Novi Public Schools elementary school expansion projects.

SUBMITTING DEPARTMENT: Engineering *R24*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The Novi Community School District (NCSD) has requested waiver of sitework performance guarantees relating to planned expansions at Village Oaks, Parkview and Orchard Hills elementary schools (Peter Dion/Gail Credit's February 26, 2008 letter, attached). These performance guarantees are required under Chapter 26.5 of the Ordinance; however, NCSD is requesting relief as allowed under paragraph 26.5-12 on the basis that the work will be completed by a public entity as opposed to a private developer. Section 26.5-12 states:

Sec. 26.5-12. Exceptions; written completion agreement required.

The city council may authorize exceptions to the requirements and conditions as set forth in this chapter. The city council may also authorize the issuance of permits, approvals, or temporary certificates of occupancy before all requirements for issuance under this chapter have been met, where the applicant has demonstrated that unusual or unique circumstances exist, that work is proceeding toward completion, and that any delay in completion is not unreasonable or dilatory. In reaching this determination, the council shall consider such factors as the size and nature of the development project and the existence of matters beyond the control of the applicant (weather conditions, delay in securing permits/approvals from other regulatory agencies). If any such exceptions are granted, a written completion agreement may be required, in a form to be established by the city.

City Council may authorize exemptions to the performance guarantee requirements as set forth above and the main argument the schools are using is that public dollars are being used to construct the improvements to the three elementary schools.

The Engineering Department originally determined that performance guarantees were required for:

- Stormwater facility construction and maintenance;
- Water/sewer maintenance; and,
- Water main construction in the public right-of-way.

The City of Novi will be inspecting the construction of NCSD's utility improvements, but because the school district is a public entity with a track record of proper completion of sitework on past projects, Engineering recommends that all performance guarantees - except for those associated with right-of-way work - be waived. The right-of-way performance guarantee should remain in place to ensure that proper restoration of lawns, driveways and streets is done. Accordingly, NCSD has agreed to post a right-of-way guarantee (Gail Credit's March 7th e-mail confirmation is attached).

A resolution authorizing this waiver is attached for Council's consideration.

RECOMMENDED ACTION: Approval of a resolution authorizing waiver of certain performance guarantees associated with Novi Public Schools elementary school expansion projects.

	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				

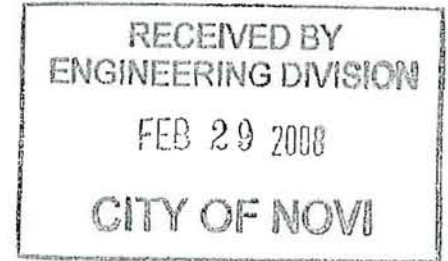
Novi Community School District

A tradition of excellence . . .



. . . a vision for the 21st century

February 26, 2008



Mr. Rob Hayes, City Engineer
City of Novi
45175 West Ten Mile Road
Novi, MI 48375

RE: Parkview Elementary School Addition (SP #07-69)
Orchard Hills Elementary School Addition (SP #07-71)
Village Oaks Elementary School Addition (SP #07-72)

Dear Mr. Hayes:

We recently received engineering review letters from your office concerning construction of additions at the three elementary schools listed above. Included in your letters were a number of City requirements for financial guarantees from the District.

Recognizing that we represent the same taxpayers, the City and the District have endeavored to work co-operatively for the benefit of our mutual constituents. The financial guarantees required by the City would increase the cost of the construction projects and, therefore, diminish the benefit to our students and community. For that reason, we request that the City waive all financial guarantee requirements from the District on these three construction projects in accordance with Chapter 26.5-12 of the City Code.

We appreciate your consideration of our request; and we would especially appreciate a prompt reply, given that delays in construction schedules can also negatively impact the cost of a project. If you have any questions, do not hesitate to contact either of us.

Sincerely,

Peter J. Dion
Superintendent

Sincerely,

Gail Credit
Asst. Superintendent-Business & Operations

cc: Clay Pearson, City Manager
Thomas R. Schultz, City Attorney
Marina Neumaier, Asst. Finance Director

A Nationally Recognized Exemplary School District

25345 Taft Road • Novi, Michigan 48374
(248) 449-1200 • Fax (248) 449-1219

Hayes, Rob

From: Credit, Gail [gcredit@novi.k12.mi.us]
Sent: Friday, March 07, 2008 1:14 PM
To: Hayes, Rob
Cc: Croy, Ben; Neumaier, Marina
Subject: RE: Waiver Request

Thank you, Rob. We accept.
Gail

From: Hayes, Rob [mailto:rhayes@cityofnovi.org]
Sent: Thursday, March 06, 2008 3:34 PM
To: Credit, Gail
Cc: Croy, Ben; Neumaier, Marina
Subject: Waiver Request

Gail:

As you know, NPS' request for a waiver of financial guarantees will be considered at the March 17th City Council meeting. One financial guarantee that we haven't discussed is for the water main extension along Tamara for Orchard Hills school, which will require a City right-of-way permit and therefore a right-of-way financial guarantee in the amount of \$5,000. This amount needs to be posted by your water main contractor to ensure proper restoration of the residential driveways, lawns and public streets disturbed during construction. (This would be the same process that NPS followed for construction of the sidewalk along Eleven Mile Road in front of Parkview Elementary and the bus garage a couple of years ago.)

We are prepared to give Council a positive recommendation for your request as it pertains to stormwater and utility financial guarantees, but we need to make sure that all guarantees relating to right-of-way work are posted.

Please let me know if you concur with this approach.

Regards,

Rob Hayes, P.E.
City Engineer, City of Novi
45175 W. Ten Mile Road
Novi, Michigan 48375
Phone: 248-347-0454
Fax: 248-735-5683



RESOLUTION RELATING TO PERFORMANCE GUARANTEES FOR CERTAIN SCHOOL PROJECTS

WHEREAS, the City Council for the City of Novi by Ordinance has the authority to waive certain performance guarantees ordinarily required in connection with sitework; and

WHEREAS, such a waiver may be granted where such a waiver will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the Code of Ordinances; and

WHEREAS, Novi Community School District has planned the expansion of the Parkview, Orchard Hills and Village Oaks Elementary Schools which could require certain stormwater facility performance and maintenance and utility maintenance financial guarantees as follows:

Site	Stormwater Facility Performance (Construction)	Stormwater Facility Maintenance (1-Year Period)	Water/Sewer Maintenance (2-Year Period)	Total
Orchard Hills	\$26,250	\$1,750	n/a	\$28,000
Parkview	\$43,500	\$2,900	\$3,825	\$50,225
Village Oaks	\$3,750	\$250	n/a	\$4,000
TOTALS:	\$73,500	\$4,900	\$3,825	\$82,225

; and

WHEREAS, the school district is exempt by state law from review by the City of the site plans and building plans pursuant to state law (such reviews are done by state agencies); and

WHEREAS, the school district is required to submit to reviews for certain other improvements, such as site work, and has submitted engineering plans associated with such work for these elementary schools plans, which have been approved by City staff and administration as compliant with all applicable standards; and

WHEREAS, the City staff and administration have characterized improvements as minor; and

WHEREAS, the improvements are being undertaken by the Novi Community School District according to approved plans utilizing public moneys held under public trust; and

CITY COUNCIL

Mayor
David B. Landry

Mayor Pro Tem
Kim Capello

Bob Gatt

Terry K. Margolis

Andrew Mutch

Kathy Crawford

Dave Staudt

City Manager
Clay J. Pearson

City Clerk
Maryanne Cornelius

WHEREAS, the Novi Community School District has a fiduciary obligation to ensure that the sitework will be completed fully in compliance with the plans approved by the City staff and administration; and

WHEREAS, the Novi Community School District will still be required to post the guarantees required for work within the City's right-of-way (primarily for restoration); and

WHEREAS, given the minor nature of the sitework and the public nature of the fiduciary obligation the Novi Community School District has to complete these expansions according to approved plans, the City Council determines that waiving the above-referenced stormwater facility performance and maintenance and utility maintenance financial guarantees will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the City Code, provided that the school district posts the guarantees that are required for work within the City's right-of-way and further provided that the school district signs an appropriate agreement, in a form acceptable to the City Engineer and City Attorney that it will complete the sitework that would otherwise be covered by the completion guarantees;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby waives the above-referenced stormwater facility performance and maintenance and utility maintenance financial guarantees under the authority granted to it by Sec. 26.5-12 of the City Code, provided that the school district posts the guarantees that are required for work within the City's right-of-way and further provided that the school district signs an appropriate agreement[ditto], in a form acceptable to the City Engineer and City Attorney that it will complete the sitework that would otherwise be covered by the completion guarantees.
2. The City Council reserves the right to revoke this waiver of performance and maintenance guarantees upon the passage of an appropriate Council motion and alternative resolution.

CERTIFICATION

I, Maryanne Cornelius, duly appointed Clerk of the City of Novi, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi at a Regular meeting held this 17th day of March, 2008.

Maryanne Cornelius
City Clerk