

**CITY of NOVI CITY COUNCIL**

**Agenda Item G  
January 10, 2011**

**SUBJECT:** Approval to waive the Maintenance and Guarantee Bond requirement for water and sewer facilities at the Duke Office Building project, located at 21333 Haggerty Road in Section 36 (parcel 22-36-400-019).

**SUBMITTING DEPARTMENT:** Department of Public Services, Engineering Division <sup>R74</sup> BTU

**CITY MANAGER APPROVAL:** 



**BACKGROUND INFORMATION:**

The developer for the Duke Office Building project, Haggerty Project, LLC, has requested that the City waive the two-year Maintenance and Guarantee Bond requirement for the project because of the length of time that has elapsed since the installation of the utilities (see attached December 9, 2010 letter). The City requires a maintenance and guarantee bond for all newly installed water main and sanitary sewer facilities that will ultimately be dedicated as public for a two-year term. The bond ensures the improvements are in good working order by repairing any defect, whether due to improper or defective materials, equipment, labor, workmanship, or otherwise without expense to the City. The two-year term would normally coincide with the issuance of a Temporary Certificate of Occupancy for the first unit or building.

Although the water main and sanitary sewer facilities were installed, tested and approved for operation in 2004, Haggerty Project, LLC is only now requesting acceptance of utilities. However, since 2004, the City has not experienced any problems with the facilities in question and therefore staff recommends waiver of the maintenance and guarantee bond.

**RECOMMENDED ACTION:** Approval to waive the Maintenance and Guarantee Bond requirement for water and sewer facilities at the Duke Office Building project, located at 21333 Haggerty Road in Section 36 (parcel 22-36-400-019).

|                         | 1 | 2 | Y | N |
|-------------------------|---|---|---|---|
| Mayor Landry            |   |   |   |   |
| Mayor Pro Tem Gatt      |   |   |   |   |
| Council Member Fischer  |   |   |   |   |
| Council Member Margolis |   |   |   |   |

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

Aaron Staup  
City of Novi  
Construction Engineering Coordinator

12-09-2010

Re; Water System Easement/ 21333 Haggerty Road

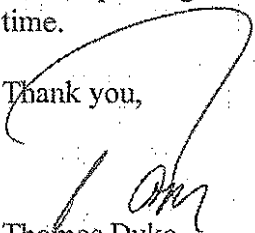
Dear Mr. Staup,

I purchased and renovated the building at 21333 Haggerty Road in 2004. All required bonds were posted with the City, and when the work was complete a certificate of occupancy was granted. The property has been complete and well occupied since this time.

Recently it came to our attention that the City was still holding a cash bond, and that I needed to provide the City an easement for a portion of that water system. We have done so, and provided all other related documentation as requested.

I am requesting that you review the documents submitted and return our cash bond at this time.

Thank you,



Thomas Duke  
Haggerty Project LLC  
Managing Member  
37000 Grand River, 360  
Farmington Hills, MI 48335

December 21, 2010

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Rob Hayes, Public Services Director  
CITY OF NOVI  
Public Services – DPW Garage  
26300 Delwal Drive  
Novi, MI 48375

**Re: Duke Office Building, SP02-57  
Utilities Review for Acceptance  
Our File No. 660185.NOV1**

Dear Mr. Hayes:

We have received and reviewed, and enclosed please find, the following documents for the Duke Office Building in Section 36 of the City:

1. Water System Easement
2. Bill of Sale
3. Title Commitment

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

Haggerty Project, LLC, the current owner of the Duke Office Building, seeks to convey water system facilities, as well as corresponding easements for operation, maintenance and repair of the water facilities to the City of Novi. Our office has reviewed and approves the format and language of the Water System Easement and corresponding Bill of Sale. The City's Engineering Division has reviewed and approved the legal descriptions of the Water System Easement and Bill of Sale. As such, we recommend acceptance of the Water System Easement and the corresponding Bills of Sale.

It is our understanding that the property owner has requested a waiver of the Maintenance and Guarantee Bond requirement for utilities.

Generally, the terms of a maintenance and guarantee bond require the developer to repair or replace defective water mainlines for two years from the time of formal acceptance of the facilities by the City.

Section 1-12 of the Ordinance Code permits the City Council to grant a variance from provisions of the City of Novi Code, including Section 26.5-10

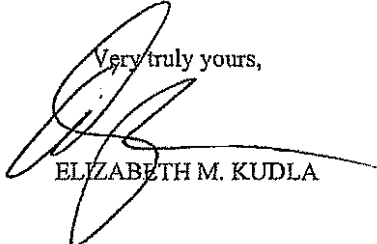
regarding maintenance and defect guarantees for site improvements, as well as the previous maintenance and guarantee bond requirements in effect prior to the adoption of Chapter 26.5, when the property owner shows all of the following:

- (1) A literal application of the substantive requirement would result in exceptional, practical difficulty to the applicant;
- (2) The alternative proposed by the applicant will be adequate for the intended use and shall not substantially deviate from the performance that would be obtained by strict enforcement of the standards; and
- (3) The granting of the variance 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 chapter or article containing the regulation in question.

Subject to approval of the bond waiver, the Water System Easement may be accepted by Affidavit of the City Engineer. Once accepted, the Water System Easement should be recorded with the Oakland County Register of Deeds. The Bill of Sale and title work should remain in the City's

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

Very truly yours,



ELIZABETH M. KUDLA

EMK  
Enclosures

- C: Maryanne Cornelius, Clerk (w/Original Enclosures)  
Marina Neumaier, Assistant Finance Director (w/Enclosures)  
Charles Boulard, Community Development Director (w/Enclosures)  
Barb McBeth, Deputy Community Development Director (w/Enclosures)  
Sheila Weber, Treasurer's Office (w/Enclosures)  
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)  
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)  
Sue Troutman, City Clerk's Office (w/Enclosures)  
Thomas Duke, Haggerty Project, LLC (w/Enclosures)  
Thomas R. Schultz, Esquire (w/Enclosures)