



CITY of NOVI CITY COUNCIL

Agenda Item L
September 26, 2011

SUBJECT: Approval to amend contract with Berkshire Development for Court Ordered Demolition of structure located at 28060 Dixon Road to include abatement necessitated by the discovery of a leaking underground heating oil tank during the demolition process for a total cost not to exceed \$23,000.00

SUBMITTING DEPARTMENT: Community Development Department, Building Division *cyd*

CITY MANAGER APPROVAL: *[Signature]*

EXPENDITURE REQUIRED	\$ 23,000 est.
AMOUNT BUDGETED	\$ 0.00 (included in 1 st Quarter Budget Amendment)
APPROPRIATION REQUIRED	\$ 23,000
LINE ITEM NUMBER	101-371.00-941.371

BACKGROUND INFORMATION:

The unoccupied single family residence located on the property at 28060 Dixon Road had become dilapidated to the point that portions of the roof had collapsed. Following unsuccessful efforts by Novi Ordinance Enforcement staff to contact either the owner or a representative and secure permission to inspect the property, the City requested and was issued an administrative Search Warrant to enter and inspect the property on August 11, 2010. This inspection revealed that the property was dangerous and uninhabitable and led to filing of a complaint in the Oakland County Circuit Court.

This filing eventually resulted in a default judgment on March 16, 2011 allowing the City to demolish and remove the building and associated structures if the owner did not complete repair or abatement work within 30 days. The owner did not take any steps to repair or remove the house. Beginning April 16, 2011 Novi Ordinance Enforcement staff secured quotes for facilitated a hazardous material survey of the property, verified disconnection and termination of utility connections and solicited for quotes for abatement of hazardous materials as well as demolition and disposal of the building and associated structures and restoration of the site. Quotes were received August 16, 2011 and after review and due diligence, a Purchase Order was issued on August 22, 2011 to Berkshire Development for \$7,850.00.

During the contractors operations to remove the existing septic tank on September 8, 2011 a buried heating oil tank was discovered on the site. Examination of the tank and surrounding soil unfortunately revealed that the tank walls had been perforated by corrosion in a number of areas allowing the tank to leak for what appeared to have been a number of years and the clay soils had limited the saturation of the surrounding soil to the point that a significant quantity of oil remained in the tank. The Novi Fire Department responded to the scene and within several hours the oil released into the excavation and

remaining in the tank was removed by an appropriately licensed hauler and a portion of the contaminated soils stockpiled on tarps to limit further infiltration.

Laboratory testing and consultation with the Michigan Department of Environmental Quality have indicated the conditions and general scope of the necessary abatement. Currently removal, transportation and disposal of the contaminated soil, testing to confirm satisfactory cleanup, restoration, removal of liquid product upon discovery and the original quote for the work are estimated at \$25,000.00. Review of the unit costs for the additional work submitted by the contractor for the contaminated soil abatement has been received, reviewed and are included as follows.

Demolition Costs: 28060 Dixon Road

Original Proposal	7850.00
Pumping and Disposal (9.8.11)	825.00
Testing (7 samples @ 185.00)	1295.00
Removal of contaminated soils (200 yds. @8.00)	1600.00
Transportation and disposal of contaminated soils (200 yds. @30.00)	6000.00
Verification testing (3 samples @ 185.00)	555.00
Class II backfill with hauling and compaction (200 yds. @12.00)	2400.00
Subtotal	20525.00
8% Contingency	1642.00
	\$22,167.00

The City Attorney's office has been kept updated regarding the need, scope and cost of the additional work. The needed cost for the needed remediation work is within the scope of the Court Order and should be recoverable through a claim against the mortgage holder and/or a lien against the property as was originally contemplated.

RECOMMENDED ACTION: Approval to amend contract with Berkshire Development for Court Ordered Demolition of structure located at 28060 Dixon Road to include abatement necessitated by the discovery of a leaking underground heating oil tank during the demolition process for a total cost not to exceed \$23,000.00

	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				



Leaking Heating Oil in Excavation



Corrosion perforations in tank




**CITY OF NOVI
BID FORM**

We the undersigned as bidder, propose to furnish to the City of Novi, according to the conditions, specifications, and instructions attached hereto and made a part thereof:

HOUSE DEMOLITION – 28060 DIXON ROAD

A. Demolition per specifications

\$ 7850.00 
Lump Sum \$ ~~8350.00~~

We acknowledge receipt of the following Addenda: #1 Dated August 9, 2011
(please indicate numbers)

Exceptions to specifications (all exceptions must be indicated here):

Comments: _____

Please provide at least three (3) verifiable municipal references for similar work done within the last 3 years.

Company See attached References
Address _____
Phone _____ Contact name _____

Company _____

Address _____

Phone _____ Contact name _____

Company _____

Address _____

Phone _____ Contact name _____

Company (Legal Registration) Berkshire Development


Address 525 Golf Crest

City Dearborn State MI Zip 48124

Telephone (313) 715-4727 Fax (313) 274-9974

Representative's Name (please print) Sam D Saleh

Representative's Title President/Owner

Representative's Signature 

E-mail Berkshireconst@yahoo.com

Date August 16, 2011

5. City of Farmington Hills
31555 W. Eleven Mile
Farmington Hills. MI

Larry Andree, Building Director
(248) 871-2450

6. City of Hazel Park 2008 thru Present
Five (10) Buildings

Contact: **Stephanie Bigham Building Department**
(248) 546-4075

7. Waterford Township 2008 thru Present
Three (3) structures

Contact: **Sue Camilleri Building Department**
(248) 674-6239.

8. City of Warren 2007 thru Present
Several Structures

Contact: Gina Cavaleri DDA
(586) 574-4504.

9. R & B Companies 2007
Five (8) Buildings
Milan, Michigan

Contact: **Mr. R. Heldt, Manager.**
(734) 637-6223

10. City of Dearborn
Three (5) Structures

11. City of Sterling Heights

12. City of Detroit
Nine (9) Structures

Sam D.
(313) 715-4727

S E C R E T W A R D L E

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CITY OF NOVI, a Michigan
municipal corporation,

Plaintiff,

v

Case No. 10-114279-CE

WILLIAM D. OSBORN, a single man,
and MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
a Delaware corporation,

Hon. Martha D. Anderson

Defendants.

THOMAS R. SCHULTZ (P42111)
VAHAN C. VANERIAN (P48196)
Attorneys for City of Novi
30903 Northwestern Highway
P.O. Box 3040
Farmington Hills, MI 48333-3040
(248) 851-9500

**DEFAULT JUDGMENT REQUIRING DEMOLITION AND
REMOVAL OF STRUCTURES AND ITEMS**

At a session of said Court, held in the
Courthouse Tower, City of Pontiac, County of
Oakland, and State of Michigan on

MAR 16 2011

PRESENT: HON. MARTHA D. ANDERSON

Circuit Court Judge

SECRET WARDLE

This matter having come before the Court upon Plaintiff's Motion for Entry of Default Judgment, the Court having granted Plaintiff's Motion for Entry of Default Judgment after conducting a hearing in this matter, and the Court otherwise being duly advised in the premises:

IT IS HEREBY ORDERED that within 30 days of service of this Default Judgment upon Defendants, William D. Osborn and Mortgage Electronic Registration Systems, Inc., (hereinafter collectively "Osborn and MERS") by ordinary first-class mail, Defendants, Osborn and MERS, shall completely demolish and remove, and perform and undertake all reasonable and necessary acts, work, and measures to properly demolish and remove, in their entirety, all structures, including, but not limited to, the principle and accessory structures, located at 28060 Dixon, Novi, Michigan, Tax ID No. 22-10-400-011, and legally described as:

Part of the southwest ¼ of the southeast ¼ of Section 10, Town 1 North, Range 8 East, Novi Township, Oakland County, Michigan, described as follows: Beginning at a point on the north and south ¼ line of said section, distant North 0 Degrees 52 Minutes West 165 Feet; Thence East on a line parallel with the South section line 264 Feet; thence South 0 Degrees 52 Minutes East 165 Feet; thence West 264 Feet to the point of beginning, excepting the rights of the public in Dixon Road.

(hereinafter "Subject Property");

IT IS HEREBY FURTHER ORDERED that Defendants, Osborn and MERS, shall properly and timely apply for and obtain any and all required permits, including, but not limited to, a demolition permit, and pay all required permit fees and bonds, if any, as required by applicable provisions of the City of Novi Code of Ordinances;

IT IS HEREBY FURTHER ORDERED that any and all demolition work performed pursuant to the requirements of this order, shall be performed and undertaken in compliance with all applicable requirements and provisions of the City of Novi Code of Ordinances, and the laws of the State of Michigan;

IT IS HEREBY FURTHER ORDERED that any and all demolition debris, materials, and/or spoils shall be completely and properly removed from the Subject Property including, but not limited to, any and all contaminated and/or hazardous materials, soils, and substances, and shall be disposed of off site at an approved disposal facility;

IT IS HEREBY FURTHER ORDERED that all above and below grade portions, including, but not limited to, foundations and footings, of all principle and accessory structures shall be completely demolished and removed from the Subject Property;

IT IS HEREBY FURTHER ORDERED that prior to on-site commencement of any demolition work performed upon the Subject Property, Defendants, Osborn and MERS, shall take appropriate actions to disconnect, protect, and secure any and all utility service, equipment and facilities upon the Subject Property;

IT IS HEREBY FURTHER ORDERED that the demolition and removal work and measures required by this Order shall further include demolition and removal of any and all on-site wells and/or septic systems located upon the Subject Property; demolition and removal of all driveways, walkways, porches, patios, decks, accessory structures, equipment, and all hard and/or paved surfaces; backfilling and compacting any and all excavations; and re-grading and stabilizing the Subject Property according to local codes and requirements;

IT IS HEREBY FURTHER ORDERED that the demolition and removal work and measures required by this order shall further include discontinuation and removal of all outdoor storage items, if any, maintained upon the Subject Property including, but not limited to, vehicles, equipment, debris, materials, fallen/cut trees and vegetation, appliances, furniture, yard items, trailers, recreational equipment, etc.

IT IS HEREBY FURTHER ORDERED that Defendants, Osborn and MERS, shall call for and obtain all inspections by City inspectors as may be required by applicable permits and ordinances and

S E C R E T W A R D L E

City inspectors, employees, and officers may otherwise make reasonable and periodic entry upon the Subject Property for purposes of monitoring, inspecting, or otherwise observing any work, activities, or conditions upon the Subject Property;

IT IS HEREBY FURTHER ORDERED that in the event that Defendants, Osborn and MERS, fail to properly, completely, and timely perform and complete any and/or all acts, work, measures, or other requirements in compliance with the terms and provisions set forth in this Order, including, but not limited to, demolition and removal of the structures and/or items located upon the Subject Property as provided herein, Plaintiff, City of Novi, including its duly authorized agents/employees/officials and/or contractors, may enter upon the Subject Property and perform and undertake all reasonable and necessary acts, work, and measures to completely demolish and remove all structures, items, and facilities located upon the Subject Property and restore the site as provided and set forth in this Order, and otherwise bring the Subject Property into compliance with the requirements set forth in this Order;

IT IS HEREBY FURTHER ORDERED that in the event Defendants, Osborn and MERS, fail to comply with the requirements of this Order, Plaintiff's actual costs and expenses incurred in enforcing code and ordinance violations maintained upon the Subject Property, as alleged and set forth in Plaintiff's instant complaint, and further including Plaintiff's actual costs and expenses incurred in furtherance of bringing the Subject Property into compliance with the requirements of this Order plus Plaintiff's actual administrative and attorney fees and litigation costs and expenses ("Compliance Costs"), shall be a debt and liability of the Defendants, Osborn and MERS, owing, due and payable to Plaintiff within 30 days of service of a billing invoice upon Defendants, Osborn and MERS, which shall be entered as a money judgment against Defendants, Osborn and MERS, in the event of non-payment and further secured by a recordable lien in favor of the Plaintiff against the Subject Property, said lien shall be senior to any other lien against the Subject Property, other than any

S E C R E T W A R D L E

prior recorded mortgage, if any, and shall be assessed and collected on the tax rolls as a special assessment lien in the manner provided by law or further order of this Court;

IT IS HEREBY FURTHER ORDERED that this Default Judgment, including any lien authorized pursuant to this Default Judgment, may be recorded with the Oakland County Register of Deeds within the chain of title for the Subject Property and shall be binding upon Defendant's heirs, transferees, successors, beneficiaries, or assigns who take, acquire, or perfect any interest in the Subject Property and all other persons and/or entities acquiring any legal and/or equitable interest in the Subject Property who have either actual, constructive, or record notice of either this action, default judgment, or any lien authorized pursuant to this Default Judgment;

IT IS HEREBY FURTHER ORDERED that upon satisfactory completion and compliance with the requirements, terms and conditions set forth in this Default Judgment, Plaintiff City shall prepare, file, serve, and record a Satisfaction of this Default Judgment and a Notice of Release of Lis Pendens, however, any lien or money judgment entered and/or taken pursuant to this judgment shall not be released until the lien and/or money judgment has been paid in full;

IT IS HEREBY FURTHER ORDERED that any and all ordinance and/or code violations at any time existing upon the Subject Property are expressly reserved and this judgment shall not bar any future actions and/or prosecutions for any code and/or ordinance violations and/or nuisance conditions regardless of when the conditions giving rise to any future actions/prosecutions/violations arose;

IT IS HEREBY FURTHER ORDERED that any and all persons and/or entities acquiring any legal or equitable interest in the Subject Property with actual, constructive, or record notice of this action and/or judgment shall at all times maintain the Subject Property in a condition that complies with all terms and requirements set forth in this judgment and in compliance with all applicable codes, ordinances, and laws and shall not at any time maintain or create any nuisance/blight conditions or code violations upon the Subject Property;

SECRET WARDLE

IT IS HEREBY FURTHER ORDERED that this judgment constitutes a final order that disposes of the last pending claim or controversy between the parties and closes the case and the Court otherwise retains jurisdiction of this matter for the limited purposes of enforcing this judgment and granting further relief as otherwise provided by the terms, requirements, and provisions of this judgment.


CIRCUIT COURT JUDGE

1585565