



CITY of NOVI CITY COUNCIL

Agenda Item 3
April 22, 2013

SUBJECT: Consideration of a Completion Agreement with Sri Venkateswara Temple and Cultural Center for Site Plan JSP08-0008 located north of 11 Mile Road and west of Taft Road, in accordance with the requirements of Chapter 26.5 without reduction of the required Financial Guarantees.

SUBMITTING DEPARTMENT: Community Development Department *ums*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

City Council is being asked to consider a request from the Sri Venkateswara Temple and Cultural Center to approve a Completion Agreement for the Temple project. At this time, Phase 1 of the project remains unfinished, but is nearing completion.

Chapter 26.5 of the Novi City Code specifies procedures and required financial guarantees that must be in place if development of a project extends beyond a period of 2 years. A formal Completion Agreement document outlining the remaining work and timeline for completion is required to be submitted for approval by the City Council. Posting of financial guarantees typically equal to 200% of the value of the outstanding work is also required.

In this case the owners have requested City Council reduce the required financial guarantees to those funds already posted (see attached letter). Staff cannot support this request as a reduction would not be in the best interest of the City. The Completion Agreement and financial guarantees protect the residents of Novi from the possible expense if the City had to to complete an unfinished project due to developer default or nonperformance.

The Sri Venkateswara Temple and Cultural Center development is comprised of 3 Phases. Phase 1 is the site development and temple building. This project is subject to the provisions of Chapter 26.5 of the Novi City Code, and requires a Completion Agreement because the original developer had not completed the site improvements shown on the approved site plan within (2) years of issuance of the initial permit for any improvements (October 8, 2009). The expiration of the (2) year initial construction period expired October 8, 2011. The developer requested and was granted an extension until April 8, 2012 in accordance with the provisions of Chapter 26.5 as result of delays caused by weather conditions.

As a condition of the Completion Agreement, Sri Venkateswara Temple and Cultural Center, the developer, is required 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. The City currently holds financial guarantees of \$257,851.00 in the form of a Letter of Credit.

The Completion Agreement requires a minimum Performance Guarantee of \$398,041.34 (requiring the developer to post an additional \$140,190.34) and contemplates completion of items including but not limited to the following:

- Maintenance and supplementary installation of Soil Erosion Control measures throughout the duration of the development project.
- Repairs and completion of all outstanding utility, pavement, curb and other incomplete site including final lift of asphalt and striping before September 1, 2013.
- Completion of all Site Landscaping prior to September 1, 2013.
- Completion of Wetland Mitigation Area #2 and dedication of Conservation Easement.
- Installation of outstanding Traffic Control signage before September 1, 2013.
- Completion of dumpster screen including gates prior to issuance of a Temporary Certificate of Occupancy.
- Completion of building facade improvements prior to September 1, 2013.

Staff supports the approval of the request for approval of the Completion Agreement as proposed, but cannot support reduction of the required Financial Guarantees.

RECOMMENDED ACTION : Approval of a Completion Agreement with Sri Venkateswara Temple and Cultural Center for Site Plan JSP08-0008 located north of 11 Mile Road and west of Taft Road, in accordance with the requirements of Chapter 26.5 without reduction of the required Financial Guarantees.

	1	2	Y	N
Mayor Gatt				
Council Member Casey				
Council Member Fischer				
Council Member Margolis				

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



JOHNSON ROSATI SCHULTZ JOPPICH PC

34405 W. Twelve Mile Road, Suite 200 ~ Farmington Hills, Michigan 48331-5627
Phone: 248.489.4100 | Fax: 248.489.1726

Elizabeth Kudla Saarela
esaarela@jrsjlaw.com

www.johnsonrosati.com

April 15, 2013

Charles Boulard, Director
CITY OF NOVI
Community Development
45175 W. Ten Mile Road
Novi, MI 48375

**RE: Sri Venkateswara Temple and Cultural Center SP10-18
*Agreement for Completion and Maintenance of Improvements***

Dear Mr. Boulard:

Enclosed please find the proposed Completion Agreement for Phase I of Sri Venkateswara Temple and Cultural Center that is required by Chapter 26.5 of the City of Novi Code because site improvements for the development have not been completed within 2 years from the issuance of the initial permit. The terms of the Agreement are similar to previous completion agreements that have been approved by City Council pursuant to Chapter 26.5.

The specific improvements that are incomplete in Phase I include the installation of landscaping associated with the Temple main entry and future community building, installation and monitoring of a wetland mitigation area, installation of traffic control signs for the entire site, and installation of the top course of paving. The Agreement provides for completion of these improvements by September 1, 2013.

Financial guarantees are also being held for the purpose of replacement of dead, dying, or diseased woodland replacement trees, and for maintenance and repair of storm water facilities. The financial guarantee for woodland replacements will remain in place for two years. The storm water facilities guarantee will remain in place for one-year. The amounts attributable to soil erosion and sedimentation control will remain in place until the site is stabilized in accordance with Chapter 29 of the City of Novi Code.

Though time frames have been included for completion of detailed façade improvements, no performance guarantee amounts have been posted in connection with these improvements, though compliance with timing schedules is necessary to ensure site safety. On this basis, façade improvements are required to be completed on or before September 1, 2013 and, in all events, prior to the issuance of any final certificate of occupancy.

The City is currently holding a letter of credit in the amount of \$257,851.00. Pursuant to the requirements of Chapter 26.5 of the City of Novi Code, the 2.0 multiplier requires the property owner to post a replacement letter of credit in the amount of \$398,041.34. Section 26.5-12 of the City of Novi Code provides that City Council may authorize exceptions to the requirements and conditions as set forth in this chapter, including, but not limited to, the form, timing, waiver, or reduction of performance guarantee amounts. The enclosed correspondence from the Temple's Executive Committee Vice-President requests a reduction of the overall amount to be held to the \$257,851.00 that is currently in place, based on the expectation of completion of various site improvements in the short term.

Though no particular Section of Chapter 26.5 discusses particular standards to be considered to vary from the ordinance; in that regard, the Council should be guided by the general standards of Section 1-12 of the City Code, as follows:

A variance may be granted by the city council from regulatory provisions of this Code when all of the following conditions are satisfied:

- (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.

City Council may determine if the above standards are met, then the total amount of financial guarantee posted should be modified.

Based on all of the above, the proposed Completion Agreement is acceptable in the format proposed and meets with the requirements of Chapter 26.5.

If you have any questions, please do not hesitate to call.

Very truly yours,

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.



Elizabeth Kudla Saarela

Charles Boulard, Community Development Director

April 15, 2013

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EKS

Enclosures

C: Maryanne Cornelius, Clerk (w/Enclosures)
Barb McBeth, Deputy Community Development Director (w/Enclosures)
Sheila Weber, Treasurer's Office (w/Enclosures)
Kristin Pace, Treasurer's Office (w/Enclosures)
Sarah Marchioni, Building Permit Coordinator (w/Enclosures)
Aaron Staup, Construction Engineering Coordinator (w/Enclosures)
Dave Beschke, Landscape Architect (w/Enclosures)
Sue Troutman, City Clerk's Office (w/Enclosures)
Anand Gangadharan, Sri Venkateswara Temple and Cultural Center (w/Enclosures)
Thomas R. Schultz, Esquire (w/Enclosures)

SRI VENKATESWARA TEMPLE

Location Map



Sri Venkateswara Temple



Map Author: Mark Spencer, AICP, Planner
 Date: 4/16/13
 Project: SV Temple location
 Version #: 1.0

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.

Legend

Streets

-  Major
-  Minor

 Tax Parcels



City of Novi

Planning Division
 Community Development
 45175 W Ten Mile Rd
 Novi, MI 48375
cityofnovi.org



1 inch = 305 feet



Sri Venkateswara Temple and Cultural Center

26233 Taft Road, Novi, MI 48374

(Tax ID: 26-1347364)

<http://www.svtemplemi.org>

Executive Committee:

President:

Saikumar Lingam
(248) 943-1975

Vice-President:

Anand Gangadharan
(248) 890-2177

Secretary:

Sarada Gillapalli
(248) 505-8831

Joint-Secretary:

Srinivas Koneru
(248) 921-2417

Treasurer:

Bala Setty
(734) 674-2893

Committee Liaison:

Prasad Ravipati
(734) 674-9626

April 11, 2013

Mr. Charles Boulard
Community Development Director/Building Official
City of Novi
45175 West 10 Mile Road
Novi, MI 48375

Re: SVTCC Request for Reduction in Financial Guarantees in Regard to the Completion Agreement

Dear Mr. Boulard:

The Sri Venkateswara Temple and Cultural Center (SVTCC) appreciates the help and support of the City in completing our project. We have received your Completion Agreement Draft and want to request a reduction in the financial guaranty for the following items:

- a. Woodland Fence - work is completed and fence has been removed.
- c. Landscape - all items in this category are scheduled for completion on or before May 15, 2013.
- d. SVTCC is in the process of contracting to reseed wetlands. We expect to have this completed by May 15, 2013, weather permitting.
- e. SVTCC will be temporarily striping the parking lot for our opening ceremony. Please note that we have contracted for the final course of paving and striping. This work will be completed in July 2013.
- f. Traffic control signs will be installed by May 15, 2013.
- g. The site has been stabilized over the past two years and hence this does not apply.

We currently have a financial guaranty in the amount of \$257,000. We wish to reduce our guaranty to this amount and expect to obtain relief on this guaranty in the coming weeks as we complete various open items.

We thank you for expediting our request.

Sincerely,

Anand Gangadharan
Vice-President
Executive Committee

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF NOVI

SRI VENKATESWARA TEMPLE
PHASE I

**AGREEMENT FOR COMPLETION
AND MAINTENANCE OF IMPROVEMENTS**

AGREEMENT, dated _____, 2013, by and between the City of Novi, a Michigan municipal corporation, whose address is 45175 Ten Mile Road, Novi, Michigan 48375 (“City”), and Sri Venkateswara Temple and Cultural Center, a Michigan nonprofit corporation, whose address is 614 Oakhills Dr., Bloomfield Hills, Michigan 48301 (“Owner”) who represents itself hereby as the owner of the Property.

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

Owner is the owner and 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 for development as a temple and cultural center development pursuant to the provisions of the City of Novi Zoning Ordinance, known as the Sri Venkateswara Temple and Cultural Center (the “Development”). The Development consists of three phases. Phase 1 is a two-story 23,703 square foot Temple. Phase 2 is a 22,743 square foot Cultural Center, proposed to include a multi-purpose hall with a stage and dressing rooms, kitchen, offices, lounge, conference room, and classrooms. Until Phase 2 is constructed, the multi-purpose room in the Temple would be used to host gatherings. Following the construction of Phase 2, the multi-purpose room would be used as a general activity area. Phase 3, the Maha Rajagopuram is an approximately 37’ 6” decorative gateway tower structure near the east entrance to the temple. This Agreement pertains to Phase I Temple structure.

The façade of the Phase I Temple structure is also approved for construction in three separate phases, Phases A, B and C, due to the availability of workers, coordination of skills and the weather conditions needed to execute some of the more intricate decorative elements on the building. Phase A is the base building without any detailing and also includes some material changes. Phase B includes the completion of detail work on the three towers on the west side of the building. Phase C includes removal of the temporary conditions installed as part of Phase A (metal railing and metal soffit panel) and the installation of GFRC material in its place as well the completion of all detail work on the entire building.

As part of the approval process, the City granted site plan and special land use approval and Owner has agreed to develop the Property, and accordingly, to complete certain improvements, and to proceed with certain 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 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 October 8, 2009, with an expiration date for completion of October 8, 2011. An extension was granted by the City's Community Development Director until April 8, 2012 as a result of delay resulting from weather conditions.

Because two (2) years have elapsed since the initial permit, and the extension has elapsed, Section 26.5-5 (b) requires that any additional extension of such time periods may only be granted by City Council when such extensions are requested for reasons other than delay resulting from weather conditions and/or delay in securing required approvals/permits from outside regulatory agencies.

Because the Owner is requesting an extension with respect to the completion of improvements for Phase I of the Development (including Phases A, B and C of the façade) for reasons other than delay resulting from weather conditions and/or approvals/permits from outside regulatory agencies, Owner 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 Owner 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 Owner enter into this Agreement for the purpose of extending the completion time for certain required improvements, ensuring that certain improvements for Phase I of 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 Owner has provided, or does provide, to the City, performance guarantees in the total amount of \$ 398,041.34 to guarantee completion and maintenance of improvements for Phase I of 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 Nos. _____ issued by _____ ("Bank"), to guarantee completion and maintenance of improvements for Phase I of the Development, as itemized in Paragraph 3, below, for an initial period of two (2) years, and shall provide by its terms that it shall, and shall be renewed by the Owner for successive periods of two (2) years subject to termination by 60 days advanced, written notice by Bank to the City's 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 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. Site Improvements 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. Woodland Maintenance Bond:	\$ 11,625.00 ¹
b. Landscape:	\$ 17,766.67
c. Wetlands	\$ 22,864.00
d. Incomplete Site Work	\$ 84,700.00
e. Traffic Control Signs:	\$ 12,800.00
f. Soil Erosion and Sedimentation Control:	\$107,655.00 ²
g. Storm Water Facilities Guarantee	\$ 2,500.00 ³
	<hr/>
Subtotal:	\$ 138,130.67
200% Multiplier:	x 2
	<hr/>
	\$ 276,261.34
+	\$ 121,780.00
	<hr/>

Total Financial Guarantee: \$ 398,041.34

4. Completion and Maintenance of Site Improvements; Schedule and Requirements

Each of the Improvement Items listed in Paragraph 3, above, shall be completed and maintained by the Owner, at its expense, pursuant to all final approvals granted by the City and all applicable laws and ordinances, according to the following schedule:

¹ Not doubled per ordinance

² Not doubled per ordinance

³ Not doubled per ordinance

- a) Site Improvement Item 3a contemplates and includes the maintenance of an appropriate amount pursuant to the applicable City Ordinance, to guarantee replacement of any dead, substantially dead, diseased or removed woodland replacement trees during the two (2) year period following installation of the seventy-seven (77) trees.
- b) Site Improvement Item 3b contemplates and includes the installation of all site landscaping, including all plant materials associated with the foundation of the future Community Building and the face of the main Temple at the main entry. 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 September 1, 2013. For two (2) years from the date of completion of the installation of all such landscape plantings installed as part of the Development, Owner 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 plantings during such two (2) year period.
- c) Site Improvement Item 3c contemplates and includes the installation and monitoring of Wetland Mitigation Area 2 within the Development until such time as the seed material installed and is established. Developer shall prepare, execute and submit the Conservation Easement required as a condition of the Wetland and Watercourse Permit for the Development.
- d) Site Improvement Item 3d contemplates replacement of an existing stop sign, construction of the dumpster enclosure, and installation of the asphalt top course of paving within the Development. Installation of the stop sign and dumpster enclosure shall be completed prior to issuance of a temporary certificate of occupancy for the Development, and in all events before September 1, 2013. Installation of the asphalt top course of paving shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events, before September 1, 2013. Until such time as the asphalt top course is installed, Owner 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.
- e) Site Improvement Item 3e contemplates and includes the installation of all traffic control signs within the Development. Traffic control signs shall be installed prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before September 1, 2013.

- f) Site Improvement Item 3f contemplates and includes without limitation, (i) the immediate installation of all required soil erosion and sedimentation controls; and (ii) completion of repairs and maintenance of the soil erosion and sedimentation controls within and for Phase I of the Development on an ongoing basis until issuance of the final certificate of occupancy for Phase 1. Developer shall renew and keep the Soil Erosion Permit current for Phase I of the Development. Nothing herein shall limit the City's remedies for violation of the City's Soil Erosion and Sedimentation Control Ordinance.
- g) Site Improvement Item 3g includes a one-year storm water facilities guarantee to guarantee maintenance and repair of storm water improvements for the site.

5. Completion of Façade Improvements

Façade Improvements for the Phase I Temple structure include: Phase A is the base building without any detailing and also includes some material changes. Phase B includes the completion of detail work on the three towers on the west side of the building. Phase C includes removal of the temporary conditions installed as part of Phase A (metal railing and metal soffit panel) and the installation of GFRC material in its place as well the completion of all detail work on the entire building.

Phase A, including, the base building shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before September 1, 2013.

Phase B, including, the completion of detail work on the three towers on the west side of the building shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before September 1, 2013.

Phase C, including, removal of the temporary conditions installed as part of Phase A (metal railing and metal soffit panel) and the installation of GFRC material in its place as well the completion of all detail work on the entire building shall be completed prior to the issuance of the final certificate of occupancy within the Development, and in all events on or before September 1, 2013.

6. City Authority to Complete and/or Maintain.

In the event Owner 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 Owner 30 days notice of the failure to timely complete and/or maintain and Owner has not completed and/or maintained all of such improvements within said 30 days, or has not begun such completion or maintenance within said 30 days period if such completion or maintenance cannot be finalized within 30 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 by 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 Owner, or otherwise be credited, as the case may be. Owner, and all of Owner'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 the 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 Owner, 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 Owner shall pay all court costs, expenses and reasonable actual attorney fees incurred by the City in connection with such suit.

(c) The City may withhold issuance of permits for subsequent phases of the Development.

(d) City Council may, in its discretion, grant Owner additional time beyond the time periods reference in Paragraph 4.

7. Additional Liability

Owner shall also be liable for any costs and expenses incurred by the City in excess of the amounts posted by the Owner 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 Owner in such regard, if unpaid after 30 days of a billing sent to Owner at its last known address, may be secured by the City recording a lien on the Property, 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 Owner, and in the event the City is awarded relief in such suit, the Owner shall pay all court costs, expenses and reasonable actual attorney fees incurred by the City in connection with such suit.

8. 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.

9. 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 Owner and to their respective heirs, successors, assigns and transferees.

10. Owner's Warranty on Ownership

Owner hereby warrants that it is the owner of the Property described on attached Exhibit A has the full authority to execute this Agreement.

11. 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.

12. 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.

13. Lawful Document

Owner 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. Owner has offered and agreed to complete the on-site and off-site improvements, at its cost and expense, as specified in this Agreement. Owner 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 Owner, all of which improvements and obligations Owner 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 Owner, as authorized under applicable City ordinances and the Home Rule City Act, MCL 117.1, et seq. Furthermore, Owner fully accepts and agrees to the final terms, conditions, requirements, and obligations of this Agreement, and Owner 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.

14. Applicable Law

This Agreement shall be interpreted and construed in accordance with Michigan law, and shall be subject to enforcement only in Michigan courts.

15. Current and Future Owners and Developers.

As used in this Agreement, the term "Owner" shall mean and include the undersigned party designated herein as owner of the Property, as well as all future and successor persons and entities that become owners and 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, excluding residential home owners.

16. Headings.

The headings contained herein are for the convenience of the parties and are not to be used in construing or interpreting this Agreement.

17. Effective Date.

This Agreement is deemed effective as of the date first written above.

“OWNER”

SRI VENKATESWARA TEMPLE AND
CULTURAL CENTER, a Michigan nonprofit
corporation

By: Its:

STATE OF MICHIGAN)
)ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledges before me this _____ day of _____,
2013, by _____, as the _____ of
_____.

Notary Public
Oakland County, Michigan
My Commission Expires: _____

“CITY”:
CITY OF NOVI
a Michigan municipal corporation

BY: _____
Robert J. Gatt, Mayor

BY: _____
Maryanne Cornelius, Clerk

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing Agreement was acknowledged, signed and sworn to before me on this _____ day
_____, 2013, by Robert J. Gatt, Mayor and Maryanne Cornelius, Clerk of the City of
Novi.

Notary Public
_____ County, Michigan
My Commission Expires: _____

Marchioni, Sarah

From: Marchioni, Sarah
Sent: Thursday, February 28, 2013 1:05 PM
To: Beth Saarela (esaarela@jrsjlaw.com)
Cc: Boulard, Charles; Staup, Aaron; Weber, Sheila; Ted Meadows (tmeadows@sda-eng.com); Coburn, Brian; Beschke, David; Gerecke, Andy; Pete Hill; Ryan Higuchi (rhiguchi@ectinc.com); Wayne, Adam; Killebrew, CJ
Subject: Completion agreement - Sri Venkateswara Temple, SP 08-0008
Attachments: Inspection reports 02-28-13.pdf; Completion agreement calculations.xlsx

Hi Beth,

The fees for the completion agreement for the City have been paid. Linda Blain had confirmed on 3/30/12 that the legal balance was \$6,143.60 and you had confirmed that we would not use all that money for acceptance document reviews so we could use that towards the completion agreement.

The project received their grading permit on October 8, 2009 with an expiration of October 8, 2011. Charles granted an extension with a new expiration date of April 8, 2012.

The contacts that I have for the project are:

Praveen Manyam (Manyam Group LLC) – 989-327-2727 or pmanyam@manyamgroup.com
Ravi Gullapalli (Gullapalli Consulting Services) – 248-505-8832 or gullapalli_ravi@yahoo.com

We are currently holding (or should be) financial guarantees on:

- 1) Woodland – Maintenance & guarantee bond (2 year warranty will expire 11/13/14), have already paid the \$73,800 to the Tree Fund
- 2) Woodland fence
- 3) Landscape
- 4) Wetland (A Conservation Easement is required)
- 5) Soil erosion (permit expired on October 1, 2012, must keep current, we have plenty of inspection money but C.J. will need to renew)
- 6) Site work
- 7) Traffic control signs
- 8) Storm water facilities (1 year warranty will expire 02/22/14)

I have attached a spreadsheet of the calculations. They will owe an additional \$150,190.33.

Attached are the updated inspection reports.

I know that they owe you a lot of acceptance documents too. Although those will be required as part of the TCO process you may want to include something in the agreement about it.

Please put completion dates of September 1, 2014 for everything with the exception that all site work items except top course of asphalt must be completed prior to TCO.

Let me know if you need any additional information.

Thanks,
Sarah



Sarah Marchioni | Building Permit Coordinator
City of Novi | 45175 W. Ten Mile Road | Novi, MI 48375 USA
t: 248.347.0430 f: 248.735.5600

SLM



Environmental Consulting & Technology, Inc.

2200 Commonwealth Blvd.
Suite 300
Ann Arbor, MI 48105
(734) 769-3004
FAX (734) 769-3164

MEMORANDUM

TO: Sarah Marchioni, Building Permit Coordinator
FROM: Peter Hill, P.E. P.H.
Senior Associate Engineer
DATE: February 8, 2013
RE: Sri Venkateswara Temple (SP#08-08)
Wetland & Woodland Status Update

Environmental Consulting & Technology, Inc. (ECT) visited the Sri Venkateswara Temple site on Tuesday, November 13, 2012 to complete a Wetland and Woodland Status Update inspection at the request of the Applicant.

ECT had previously visited the site on Tuesday, July 17, 2012 for an inspection in advance of a proposed Completion Agreement. During the July 2012 site inspection, ECT reviewed the Final Stamping Set dated October 9, 2009 as well as the City of Novi Wetland Permit (WT09-0001) and Woodland Permit (WD09-0001).

Wetland Observations

ECT continues to believe that the minimum requirements of the wetland permit have not been met. There are many areas of proposed wetland mitigation that do not appear to be performing within the City's wetland mitigation standards. Or in the case of Wetland Mitigation Area (2), this mitigation does not appear to have been constructed.

Proposed Wetland Mitigation Area 2 (0.10-acre of proposed emergent wetland mitigation as originally proposed), located north of the entrance drive and west of Mitigation Area 1, **does not** appear to have been adequately graded and/or prepared as wetland mitigation (see Figure 1, below). The vegetation within Wetland Mitigation Area 2 appeared to consist almost entirely of upland plant species and there did not appear to be any evidence of current or past wetland hydrology (see Figure 2, below).



Figure 1. Google Earth image of site (Image Date May 9, 2010).



Figure 2. View northeast at the proposed location for Wetland Mitigation Area 2 (ECT, November 13, 2012). Area appears to consist mostly of upland plant species.

Over time, it is expected that the mitigation wetlands that have been properly constructed will continue to proceed through natural plant community succession toward a higher quality habitat.

Wetland Recommendation

At this time, ECT does not recommend the release of any additional Wetland Financial Guarantee money until all wetland permit requirements have been satisfied and Wetland Mitigation Area 2 exhibits the necessary wetland vegetation and hydrology. This will require grading the area to an elevation that will provide for wetland conditions (i.e., necessary hydrology).

It is our understanding that the initial Wetland Financial Guarantee associated with this project was \$34,296. Previously, at the request of the City of Novi in anticipation of a proposed Completion Agreement, ECT recalculated the required Wetland Financial Guarantee amount that should be held for the incomplete wetland mitigation construction, based on a 2.0 multiplier. As noted in our Wetland Completion Agreement memo dated August 23, 2012, ECT recommended that the City release ½ of the original Wetland Financial Guarantee based on the Applicant's progress in constructing portions of the Wetland Mitigation and Rain Garden areas. Improvements to the existing vegetation communities within the wetland mitigation areas will likely be needed, and the construction of Mitigation Area 2 did not appear to have been completed. Therefore, based on a 2.0 multiplier, it was our recommendation that the City retain the original Wetland Financial Guarantee (\$34,296) until greater progress is made on the deficient items described in the Completion Agreement memo. **This continues to be ECT's recommendation.**

In addition, it appears as if the City of Novi Wetland and Watercourse Permit calls for the establishment of a conservation easement (CE) covering all remaining wetland areas on site. If it has not already been initiated, the Applicant shall submit the easement language to the City Attorney for review.

Woodland Observations

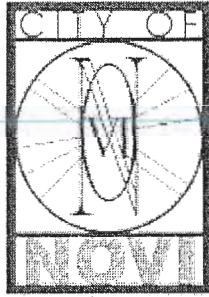
At the time of our November 13, 2012 site inspection, it appeared as though the necessary woodland replacement trees have now been planted.

At this time, ECT believes that the requirements of the woodland permit have been met and recommends the following:

- The Woodland Replacement Performance Financial Guarantee should be returned to the Applicant;
- The Applicant should post the necessary 2-Year Woodland Maintenance Guarantee (based on the required 77 on-site replacement trees);
- As part of the Woodland Permit requirements, the Applicant shall also pay \$73,800 to the City of Novi Tree Fund (for 185 replacement credits), if this has not been done already;
- As construction on the site is not complete, ECT does not recommend removal of the woodland protection fence;
- Woodland replacements as installed must be maintained indefinitely.

As always, please feel free to contact our office if you have any questions.

cc: Sheila Weber, Bond Coordinator (SWeber@cityofnovi.org)
Barbara McBeth, Deputy Director of Community Development (bmcbeth@cityofnovi.org)
Dave Beschke, City of Novi Landscape Architect (dbeschke@cityofnovi.org)
Praveen Manyam (pmanyam@manyamgroup.com)



cityofnovi.org

SLM

Community Development Department

45175 West Ten Mile
Novi, MI 48375

LANDSCAPE STATUS INSPECTION REPORT

TO: Sarah Marchioni, Building Permit Coordinator
FROM: David R. Beschke, RLA
DATE: November 21, 2012
SUBJECT: Sri Venkateswara Temple - SP10-18
Landscape Status Inspection Report

A Landscape Inspection was performed on November 21, 2012. A portion of the approved landscape has been adequately installed. Future inspection will be necessary once all landscape has been installed. **As a condition of the granting of the Temporary Certificate of Occupancy, please retain a total of 35,533.33 (200% x cost of materials) as a Landscape Performance Guarantee until such time as additional plantings are installed and accepted.**

All plant materials associated with the foundation of the future Community Building remain to be installed. Plant materials associated with the east face of the Temple at the main entry remain to be installed.

Please note that this inspection does not include plantings installed prior to previous inspections. Plantings installed and inspected at a previous date must be maintained per the approved site plan.

David R. Beschke, RLA
City of Novi Landscape Architect
45175 W. Ten Mile Road
Novi, Michigan 48375-3024
Phone (248) 735-5621 Fax (248) 735-5600

Cc:/ S. Weber; Applicant

SLM



SPALDING DEDECKER ASSOCIATES, INC.

905 South Boulevard East • Rochester Hills • Michigan 48307 • Tel 248 844 5400 • Fax 248 844 5404

February 21, 2013

Ms. Sarah Marchioni
Building Permit Coordinator
City of Novi Community Development Department
45175 West Ten Mile Road
Novi, MI 48375

Re: Sri Venkateswara Temple
Novi SESC Permit No: SE09-0016
Novi SP No: 08-0008
SDA Job No: NV09-409.OC

Dear Sarah,

The SESC permit for the Sri Venkateswara Temple project cannot be closed at this time. After my most recent site inspection on February 19, 2013, the following issues need to be addressed prior to the release of the financial guarantee:

1. Discontinue using the parking lot to store dirt, stone and misc as this produces silty runoff to the rain garden areas.
2. Ensure that the rain garden areas are completely vegetated.
3. Complete the landscaping closer to the Temple.

The applicant should request an additional inspection through the Community Development Department after completion of these items. Should you have further questions, do not hesitate to contact our office.

Sincerely,

SPALDING DeDECKER ASSOCIATES, INC.

A handwritten signature in black ink that reads "K Danowski".

Kim Danowski,
Construction Technician

cc: Aaron Staup, City of Novi – Engineering Department, CE Coordinator (e-mail)
C.J. Killebrew, City of Novi – Code Compliance (e-mail)
Sheila Weber, City of Novi – Bond Coordinator (e-mail)
Praveem Manyam (e-mail)
Ted Meadows, SDA (e-mail)
SDA SESC File

Engineering Consultants

Infrastructure • Land Development • Surveying



 SPALDING DEDECKER ASSOCIATES, INC.

905 South Boulevard East • Rochester Hills • Michigan 48307 • Tel 248 844 5400 • Fax 248 844 5404

February 22, 2013

 Mr. Aaron Staup
 Construction Engineering Coordinator
 Department of Public Services
 Field Services Complex
 26300 Delwal Drive
 Novi, MI 48375

 Re: **Sri Venkateswara Temple**
Site Utilities and Pavement Punch List, Cost Estimate and Financial Guarantee
 Novi SP No.: 08-0008
 SDA Job No.: NV09-209

Dear Mr. Staup:

Please be advised that our field personnel visited the above referenced site in February 20, 2013 to verify the status of the above mentioned site's pavement and site utilities. As a result of the walkthrough, we recommend that the Incomplete Site Work Financial Guarantee be \$169,400. This amount is based on the remaining civil site improvements listed below. These items must be completed prior to substantial completion of the project. This **does** include the City of Novi 2.0 multiplier.

Incomplete Pavement Items

As a response to the aforementioned walk-through, these are items that have yet to be addressed:

- | | |
|--|----------|
| 1. Complete Construction of Dumpster Enclosure | \$5,000 |
| 2. Place Stop Sign at Correct Height | \$500 |
| 3. Place Asphalt Top Course (138,927 SQFT 1.5" of 1100T) | \$79,200 |

As a consequence, SDA recommends the City withhold a minimum amount of **\$169,400** for the incomplete pavement.

This letter serves only as an estimate for the Site Work Financial Guarantee necessary to complete the punchlist items for the site. Upon further investigation the fees may increase or decrease depending on the work necessary to complete the project.

If you have any questions, please do not hesitate to contact us at our office.

Engineering Consultants

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Mr. Aaron Staup
City of Novi Engineering Division
Page 2

Sincerely,

SPALDING DeDECKER ASSOCIATES, INC.



Ted Meadows
Contract Administrator

cc: Charles Boulard, City of Novi – Community Development Director (e-mail)
Sarah Marchioni, City of Novi – Building Department Clerk (e-mail)
Sheila Weber, City of Novi – Bond Coordinator (e-mail)
Christopher Robbins, PE, SDA (e-mail)
SDA CE Job File

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SPALDING DEDECKER ASSOCIATES, INC.
905 South Boulevard East
Rochester Hills, MI 48307
Phone: (248) 844-5400 Fax: (248) 844-5404



PUNCH LIST

Day & Date	February 21, 2013	Project #	NV09-209	Sheet 1	of 2
Client	City of Novi	Design Engineer			
Project Name	Sri Venkateswara Temple				
Contractor	CI Contracting, Inc.	Technician	Ted Meadows		

Item	Non-Conformance Issues	Date Corrected
1.	All curb drops for drainage to bio-swales <ul style="list-style-type: none">Provide stone. Stone should be 3"x4" in dimension rip rap. This must be put in place to control erosion already occurring.	4-18-2012
2.	Stop sign and at entrance <ul style="list-style-type: none">Relocate sign to the correct side of the entrance, right side. 2/20/13Place at correct height.	\$500
3.	Southern Most Hydrant along Taft Road <ul style="list-style-type: none">Clean and paint.	4-18-2012
4.	Pick up MISS DIG markers and survey stakes along Taft Road.	4-18-2012
5.	Provide bar grates on 12" Storm Sewer at entrance, both the north and south end.	4-18-2012
6.	Sanitary Manhole No. 100 <ul style="list-style-type: none">Remove site tube.Provide galvanized cap on air test pipe.Provide foam around outlet pipe.	4-18-2012
7.	At north end of entrance to the site, the water spills out of the gutter pan and onto grade. Grade is already eroding away. Provide rip-rap spill way to existing ditch.	2/20/13
8.	Provide seed and mulch blanket over open space on north side of entrance.	2/20/13
9.	Remove construction barrel from corner of Grand River and Taft Road. Remove construction barrel from north side of site entrance. Remove construction barrel from hillside near Outlet Structure No. 5.	4-18-2012
10.	Remove silt sacks from catch basins at corner of Grand River and Taft Road.	4-18-2012
11.	Outlet Structure No. 5 <ul style="list-style-type: none">Point and tuck around outlet pipe.Provide bar grate for End Section draining Outlet Structure No. 5.	4-18-2012
12.	Provide seed and mulch blanket for north facing bank along drive to temple.	2/20/13
13.	Remove plastic from ADA detectable warning strips.	4-18-2012
14.	Storm Structures 100, 103, 107 <ul style="list-style-type: none">Cut lift straps.	4-18-2012

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15.	Storm Structure 106, 108 <ul style="list-style-type: none"> Remove casting from curb or pavement, rebuild adjustment, and reset casting in thick bed of mortar. Once casting has been reset replace pavement. It is acceptable to replace pavement with concrete. 	4-18-2012
16.	Gate Valve and Wells along West Side of Site <ul style="list-style-type: none"> Provide caps and duct tape on corporations. 	4-18-2012
17.	Hydrant and Northwest Corner of Site <ul style="list-style-type: none"> Relocate hydrant to move hydrant valve box out of curb line. 	2/20/13
18.	Sanitary Manholes 100, 101, 102 <ul style="list-style-type: none"> Provide foam around outlet pipes. 	4-18-2012
19.	Sanitary Manholes 102 <ul style="list-style-type: none"> Rebuild channel. 	4-18-2012
20.	Sanitary Manholes 101 <ul style="list-style-type: none"> Remove plastic from inlet and outlet pipe. 	4-18-2012
21.	Complete construction of dumpster enclosure. <ul style="list-style-type: none"> Provide grate, backfill behind enclosure, and complete curb and gutter. 	\$5,000
22.	Complete construction of retaining walls.	2/20/13
23.	Hydrant at SW corner of site <ul style="list-style-type: none"> Provide new operating nut. Nut has been worn round by use of pipe wrenches when being turned on. At time of initial inspection on 12/19/11 operating nut and hydrant were acceptable. 	2/20/13
24.	Complete top course of asphalt for entire parking lot.	

Although every effort has been made to prepare a complete punch list for this project, we reserve the right to revise and amend this punch list as work is completed and other items come to our attention. Any revisions or additions will result in an updated and reissued punch list.

SLM



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TRAFFIC CONTROL DEVICE INSPECTION REPORT

Inspection Date: 02/25/13 Site Plan No.: JSP08-0008

Project: SV Temple

Requestor: _____

INSPECTION CHECKLIST:

(mark boxes below with an "X" if item is satisfactorily completed, or "NA" if not applicable)

	All signage and pavement markings have been installed in the locations shown on the stamping set.
	All signage meets MMUTCD standards for color, shape, size and wording.
	All signage is installed on standard u channel posts at the proper height (7' in areas near pedestrians, 5' others). Non-standard posts within the right-of-way must be crashworthy and must have a license agreement in place.
	All pavement markings meet MMUTCD standards for color, width, location.
	All signage and pavement markings are reflective.
	Street name signs meet the requirements of Section 31-55. minimum size of six (6) inches by twenty-four (24) inches with four-inch white letters on green background, intersections of streets with thoroughfares designated as arterial or major arterial such street signs shall be a minimum size of nine (9) inches in height with six-inch letters. Otherwise a license agreement is required.
	Regulatory signs have traffic control order on file. (If not, notify DPW that a traffic control order is required).
**** ****	Photos must be attached to depict the field conditions at the time of inspection.

INSPECTION RECOMMENDATION:

APPROVED

REJECTED (see attach list of deficiencies)

Name of Inspector: Adam Wayne

Phone: 248-735-5648



cityofnovi.org

TRAFFIC CONTROL DEVICE INSPECTION REPORT

Inspection Date: 02/25/13

Site Plan No.: JSP08-0008

Project: SV Temple

Requestor: _____

PUNCHLIST:

- All signage and pavement markings must be installed per the approved Stamping Set.
- All signage is installed on standard u channel posts at the proper height (7' in areas near pedestrians, 5' others). Non-standard posts within the right-of-way must be crashworthy and must have a license agreement in place. All Yield Signs shall be constructed using HIP sheeting and a minimum size of 30"x30".



The current 'STOP' sign installed at the exit onto Taft Rd is damaged. Replace the sign at the required 7' height.

When the above deficiencies have been addressed, please contact the Engineering Department (248-347-0454) for a reinspection.

Marchioni, Sarah

From: Wayne, Adam
Sent: Monday, February 25, 2013 1:23 PM
To: Marchioni, Sarah
Cc: Weber, Sheila
Subject: RE: Traffic control inspection - SV Temple, SP08-0008
Attachments: TRAFFIC CONTROL INSPECTION-SV Temple-2-25-13.pdf

Please see the attached Traffic Control Inspection Report rejecting the Traffic Control for SV Temple. Engineering is recommending the Traffic Control Financial Guarantee be modified to \$25,600 (48 signs at \$533.33 per sign to accommodate for the 2.0 multiplier).

Adam

From: Marchioni, Sarah
Sent: Monday, February 25, 2013 11:14 AM
To: Wayne, Adam
Cc: Weber, Sheila
Subject: RE: Traffic control inspection - SV Temple, SP08-0008

Any way possible you could take a look at this today if you have not already? I have all my letters except yours and I know we are supposed to get a ton of snow tomorrow.

From: Wayne, Adam
Sent: Wednesday, February 20, 2013 12:50 PM
To: Marchioni, Sarah
Cc: Weber, Sheila
Subject: RE: Traffic control inspection - SV Temple, SP08-0008

I will look into it.

From: Marchioni, Sarah
Sent: Wednesday, February 20, 2013 12:26 PM
To: Wayne, Adam
Cc: Weber, Sheila
Subject: Traffic control inspection - SV Temple, SP08-0008

Hi Adam,

I sent you a request on 07/12/12 for the above. Did you ever do a report? I am trying to send everything to Beth for a completion agreement this week. Don't forget that we need to hold a 2.0 multiplier.

Thanks,
Sarah



Sarah Marchioni | Building Permit Coordinator
City of Novi | 45175 W. Ten Mile Road | Novi, MI 48375 USA
t: 248.347.0430 f: 248.735.5600

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