



CITY of NOVI CITY COUNCIL

**Agenda Item E
September 14, 2009**

SUBJECT: Approval to waive the Maintenance and Guarantee Bond requirement for water and sewer facilities at the Gateway Village of Novi project, located on Grand River Avenue west of Meadowbrook Road in Section 23.

SUBMITTING DEPARTMENT: Department of Public Services – Engineering Division *RH*

CITY MANAGER APPROVAL: *[Signature]*

BACKGROUND INFORMATION:

The developer for the Gateway Village of Novi project is requesting the City waive the two-year Maintenance and Guarantee Bond requirement due to timing and financial reasons. The two-year term would normally begin once a Temporary Certificate of Occupancy for the first unit or building is issued. The City requires a bond for all newly installed water main and sanitary sewer facilities that will ultimately be dedicated as public. This 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.

According to our records, the water main and sanitary sewer facilities were installed, tested and approved for operation in 2002. Since that time, the City has not experienced any problems with the facilities in question.

The written request from the developer (Gateway Village of Novi, LLC) to waive the Maintenance & Guarantee Bond is attached.

RECOMMENDED ACTION: Approval to waive the Maintenance and Guarantee Bond requirement for water and sewer facilities at the Gateway Village of Novi project, located on Grand River Avenue west of Meadowbrook Road in Section 23.

	1	2	Y	N
Mayor Landry				
Mayor Pro Tem Gatt				
Council Member Burke				
Council Member Crawford				

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

Gateway Village

Water/Sewer Utility



Map Author: Eric Costa
Date: 9/1/2009
Project: Water/Sewer
Version #: 1.0

Amended By: Place Name Here
Date: Enter Date
Department: Place here

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.

Utility Type

— Sanitary — WaterMain



1 inch = 167 feet



City of Novi
Department Division
Department Name
45175 W Ten Mile Rd
Novi, MI 48375
cityofnovi.org



September 2, 2009

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Aaron Staup, Construction Engineering Coordinator
City of Novi
Public Services – DPW Garage
26300 Delwal Drive
Novi, MI 48375

**RE: Gateway Village of Novi
Maintenance and Guarantee Bond
Our File No. 660173.NOVI**

Dear Mr. Staup:

The developer of the Gateway Village of Novi project has requested a waiver from City ordinance that requires a two-year Maintenance and Guarantee Bond to be posted as a warranty against defective materials, equipment, labor, workmanship, or otherwise, with respect to public water and sanitary sewer facilities constructed by the developer to serve the project. The water and sanitary sewer facilities for the project were installed, tested, and approved for operation in 2002 and have been functioning properly since that time.

Generally, the terms of a maintenance and guarantee bond require the developer to repair or replace defective water mains and/or sanitary sewer lines 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

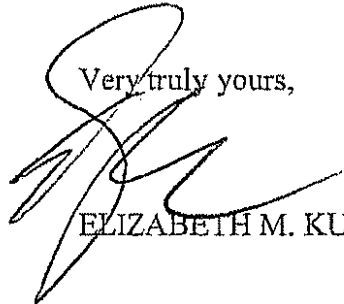
- (3) The granting of the variance will not be detrimental to the public health, safety or welfare, nor injurious to adjoining or neighboring property, nor contrary to the overall purpose and goals of the chapter or article containing the regulation in question.

The developer seeks this variance on the basis that the water and sanitary sewer facilities have been in place and operating properly for approximately seven years while the intended warranty period under the ordinance is two years.

In the event that City Council finds that the standards for a variance or waiver have been met, our office sees no legal impediment to granting the variance.

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

Very truly yours,



ELIZABETH M. KUDLA

EMK

cc: Maryanne Cornelius, City Clerk
Rob Hayes, Public Services Director
Thomas R. Schultz, Esquire

**GATEWAY VILLAGE OF NOVI, LLC
30403 W. Thirteen Mile Road
Farmington Hills, MI 48334**

**Ph: 248-932-9333
Fax: 248-932-3405**

March 19, 2009

Aaron Staup
City of Novi
Construction Engineering Coordinator

Re: Gateway Village of Novi Condominium
Final Close-out

Dear Mr. Staup:

As the developer of Gateway Village of Novi, we would like to request that the City of Novi's requirement for a bond for the acceptance of water and sewer facilities on this project be waived. We understand that the bond is required to insure that the facilities have been properly installed and operate effectively.

The water and sewer has been installed since 2002 and has been operating properly for that period of time. Residents have been living there since January 2003. The reason that we are just "closing out" this project is that there were a number of buildings that kept on being added and now is the time that we have finalized it.

With the experience that these facilities have been operating properly for this period of time, we feel that the bond requirement would be burdensome and unnecessary. As such, we respectfully request that the City of Novi accept these facilities without the requirement for the developer to place a bond.

Thank you.

Sincerely,



Pierre Nona
Manager
Gateway Village of Novi, LLC