



June 26, 2019

Council Meeting of July 2, 2019

Subject: Amend Development Agreement –
Branch Construction LLC, 2364 and
2378 Norcrest Drive

The Honorable Mayor
and
Members of the City Council

Ladies and Gentlemen:

In January 2018 the City sold two residential lots located at 2364 and 2378 Norcrest Drive to Branch Construction, LLC. The Purchase Agreement requires that building permits to construct a single-family home for each parcel be secured within eighteen (18) months of the date of closing. Due to the topographical challenges at the site that require a special exception from the Department of Environment, Great Lakes, and Energy, Branch Construction is requesting an amendment to the Purchase Agreement extending the reversion clause.

Staff recommends approval of the six-month extension to the reversion clause as requested by Branch Construction. The approval is contingent on the City receiving payment for any outstanding balances currently owed by Branch Construction, LLC.

Attached for the City Council’s consideration is a resolution approving the amendment to extend the reversion clause to expire on December 17, 2019.

Respectfully Submitted,

Mark C. Meyers
City Administrator

ADC/
Attachments

Administration/City Clerk (231) 798-4391	Assessing Division (231) 799-6806	Building Division (231) 799-6801	Finance/Treasurer (231) 799-6805	Fire Prevention (231) 799-6809	Fire Department (231) 798-2255
Parks/Recreation (231) 799-6802	Planning/Zoning (231) 799-6800	Police Department (231) 733-2691	Public Works (231) 799-6803	Streets Division (231) 798-2156	Water/Sewer (231) 799-6804

RESOLUTION

WHEREAS, Branch Construction, LLC of 1629 Forest Park Road, Norton Shores, MI purchased the properties located at 2364 and 2378 Norcrest Drive; and

WHEREAS, The Purchase Agreement requires the Buyer, Branch Construction to secure building permits to construct a single-family home on each parcel within eighteen months of the closing date; and

WHEREAS, Branch Construction, LLC has requested an extension of the July 17, 2019 reversion clause deadline to include an additional six months to expire on December 17, 2019; and

WHEREAS, Branch Construction has outstanding balances owed to the City in the amount of \$10,507.18 which must be paid before July 17, 2019;

NOW, THEREFORE, BE IT RESOLVED that the Norton Shores City Council hereby authorizes the Mayor and City Clerk to execute an amendment to the Purchase Agreement entered into by Branch Construction, LLC for the properties located at 2364 and 2378 Norcrest Drive providing a six month extension to the reversion clause contingent on the City receiving full payment of any outstanding balances owed by Branch Construction, LLC prior to July 17, 2019.

At a regular meeting of the City Council of the City of Norton Shores, held at the Norton Shores Branch Library, 705 Seminole Road, on the 2nd day of July 2019, the foregoing resolution was moved for adoption by Council Member _____. The motion was supported by Council Member _____.

Ayes:

Nays:

Shelly Stibitz, City Clerk



Internal Memo

June 26, 2019

TO: Mark C. Meyers, City Administrator

FROM: Anthony Chandler, Director of Administrative Services *AC*

SUBJECT: Amend Agreement – Branch Construction, LLC

As you will recall, the City sold two residential lots located at 2364 and 2378 Norcrest Drive to Branch Construction in January 2018 for \$35,000 and an additional \$16,560 for water and sewer connection fees. The Purchase Agreement includes a reversion clause in the event that the Buyer fails to secure building permits to construct a single-family home on each lot within 18 months of closing. The 18 month deadline will expire on July 17, 2019 and Branch Construction has requested a six-month extension to the reversion clause in the Purchase Agreement.

The two lots are located in a critical dune area and are subject to regulations set forth by the Department of Environment, Great Lakes, and Energy (EGLE). *For reference purposes, EGLE was formerly called the DEQ.* Following a preapplication meeting with Branch Construction and the EGLE, it was determined that slopes on the property measured greater than 1:3 which requires a special exception. Branch Construction is still awaiting the EGLE to grant the special exception and therefore has requested a six-month extension until the end of the year to successfully secure building permits as required in the reversion clause.

Staff has met with Branch Construction to discuss this amendment and based on the feedback received they are confident that a six-month extension will provide adequate time to secure building permits as required in the reversion clause. However, in preparation for this item to be presented to Council it was discovered that Branch Construction is delinquent in payments to the City on two separate building projects from the past. The over due payments are as follows:

- 1) 6534 Harbor Pines Lane – a disconnected stop box was repaired by the City in the amount of **\$595.94** which is still owed.
- 2) 166 West Farr Road – a sewer lateral was repaired by the City in the amount of **\$9,911.24** which is still owed.

The City Charter, Section 4.21 (pg. 15) states “the Council shall not have the power to make any contract with, or give an official position to one who is in default to the City”.

Branch Construction has been made aware of the outstanding invoices referenced above. As a result, staff is recommending that the City Council approve a six-month extension to the reversion clause in the Purchase Agreement to expire on December 17, 2019, contingent on the City being paid in arrears for any outstanding balances currently owed by Branch Construction. Payments for the outstanding invoices shall be collected prior to July 17, 2019.

Please let me know if you have any questions with this request.

Branch Construction

1629 Forest Park RD
Norton Shores, MI.
PH. (231) 206-1679

City of Norton Shores:

In Regards to lots 2364 and 2378 Norcrest Dr. and my agreement with the city of Norton Shores to develop these parcels, I would respectfully like to ask for a 6 month extension on my agreement. Since these lots are located within the critical dunes area I need to obtain a permit from the DEQ. I have submitted my initial paperwork and paid fees to the state of Michigan to obtain this permit but when a field supervisor came out to do a site evaluation they deemed both sites to have slopes greater than 33% located in the building envelope. This means that those areas with the steeper slopes cannot be altered in any way without obtaining a variance. Obtaining this variance should not be an issue but it does require a public posting, additional fees, and proof that there is no other location on the property that can be built upon. I have contracted with Westshore consulting to do a topographical survey of both lots depicting the building envelopes, required setbacks, and any slopes greater than 33%, upon completion I plan submitting this back to the state for review.

Allen Branch



CITY OF NORTON SHORES

INVOICE

COPY

4814 HENRY ST
NORTON SHORES, MI 49441
Phone 231-799-6805 Fax 231-798-4680

DATE: 6/5/19
INVOICE # 530114
TERM: NET 30 DAYS

Bill To:
Branch Construction
1629 Forest Park Rd
Norton Shores, MI 49441

DESCRIPTION	AMOUNT
Stop box was found disconnected & laying on the ground. We repaired the stop box. 6453 Harbor Pines Ln	\$595.94
TOTAL	\$595.94

Make all checks payable to CITY OF NORTON SHORES
If you have any questions concerning this invoice, contact Mike Huston, Finance Director at 231-332-2031

THANK YOU FOR YOUR BUSINESS!

CITY OF NORTON SHORES

INVOICE

COPY

4814 HENRY ST
NORTON SHORES, MI 49441
Phone 231-799-6805 Fax 231-798-4680

DATE: 5/10/19
INVOICE # 530113
TERM: NET 30 DAYS

Bill To:
Wilkerson & Sons Excavating
6207 Hall Rd
Muskegon, MI 49442

DESCRIPTION	AMOUNT
Repair sewer lateral damaged by Wilkerson & Sons Excavating at 166 W Farr Rd	\$9,911.24
TOTAL	\$9,911.24

Make all checks payable to CITY OF NORTON SHORES
If you have any questions concerning this invoice, contact Mike Huston, Finance Director at 231-332-2031

THANK YOU FOR YOUR BUSINESS!