



CITY COUNCIL AGENDA ITEM

Date: July 27, 2012

To: Michael W. Culpepper, Interim City Manager

From: Mark F. Miller, Director of Economic and Community Development
Steven Vandette, City Engineer

Subject: Private Agreement – Tim Hortons – 1905 E Maple
Project No. 12.905.3

Background

The Planning Commission granted site plan approval for the above referenced project on 4/2/12. The Engineering Department has reviewed the plans for this project and recommends approval. The plans include an asphalt deceleration lane, concrete approaches & sidewalk, storm sewer, and underground storm water detention.

The Owner has provided cash for escrow and fees in the amount of the estimated cost of public improvements, as required.

Recommendation

Approval is recommended

cc: M. Aileen Bittner, City Clerk (Original Agreement)
Keith Francis, Interim Controller

City Of Troy

Contract for Installation of Municipal Improvements (Private Agreement)

Project No.: **12.905.3**

Project Location: **SE 1/4 Section 26**

Resolution No:

Date of Council Approval:

This Contract, made and entered into this _____ day of _____, 2012 by and between the City of Troy, a Michigan Municipal Corporation of the County of Oakland, Michigan, hereinafter referred to as "City" and Tim Donut U.S. Limited, Inc. whose address is 565 E. Grand River Avenue, Brighton, MI 48116 and whose telephone number is 810-844-2748 hereinafter referred to as "Owners", provides as follows:

FIRST: That the City agrees to permit the installation of Asphalt Deceleration Lane, Concrete Approaches & Sidewalk, Storm Sewer, and Underground Storm Water Detention in accordance with plans prepared by CESO, Inc. whose address is 8164 Executive Court, Suite B, Lansing, MI 48917 and whose telephone number is 517-622-3000 and approved prior to construction by the City in accordance with City of Troy specifications.

SECOND: That the Owners agree to provide the following securities to the City prior to the start of construction, in accordance with the Detailed Summary of Required Deposits & Fees (attached hereto and incorporated herein):

Refundable escrow deposit equal to the estimated construction cost of \$ 61,860.00. This amount will be deposited with the City in the form of (check one):

- | | |
|--|-------------------------------------|
| Cash | <input type="checkbox"/> |
| Certificate of Deposit & 10% Cash | <input type="checkbox"/> |
| Irrevocable Bank Letter of Credit & 10% Cash | <input type="checkbox"/> |
| Check | <input type="checkbox"/> |
| Performance Bond & 10% Cash | <input checked="" type="checkbox"/> |

Refundable cash deposit in the amount of \$ 11,686.00. This amount will be deposited with the City in the form of (check one):

- | | | | |
|------|--------------------------|-------|-------------------------------------|
| Cash | <input type="checkbox"/> | Check | <input checked="" type="checkbox"/> |
|------|--------------------------|-------|-------------------------------------|

Non-refundable cash fees in the amount of \$ 5,968.00. This amount will be paid to the City in the form of (check one):

- | | | | |
|------|--------------------------|-------|-------------------------------------|
| Cash | <input type="checkbox"/> | Check | <input checked="" type="checkbox"/> |
|------|--------------------------|-------|-------------------------------------|

Said refundable escrow deposits shall be disbursed to the Owners after approval by the City. The City reserves the right to retain a minimum of ten (10) percent for each escrowed item until the entire site/development has received final inspection and final approval by all City departments. Refundable cash deposits shall be held until final approval has been issued. Disbursements shall be made by the City within a reasonable time, after request for refund of deposits is made by the Owners.

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THIRD: The owners shall contract for construction of said improvement with a qualified contractor. Owners, or their agents, and contractor(s) agree to arrange for a pre-construction meeting with the City Engineer prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, in accordance with the approved plans. Revisions to approved plans required by unexpected or unknown conflicts in the field shall be made as directed by the City.

FOURTH: Owners agree that if, for any reason, the total cost of completion of such improvements shall exceed the sums detailed in Paragraph SECOND hereof, that Owners will immediately, upon notification by the City, remit such additional amounts in accordance with Paragraph SECOND hereof. In the event the total cost of completion shall be less than the sums as detailed in Paragraph SECOND hereof, City will refund to the Owners the excess funds remaining after disbursement of funds.

FIFTH: Owners agree to indemnify and save harmless City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements and/or right-of-way for such public utilities as required by the City Engineer.

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IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this _____ day of _____, 20_____.

OWNERS
Tim Donut U.S. Limited, Inc.
By:

CITY OF TROY
By:



Michel Meilleur
Senior Vice President, U.S.

Janice Daniels, Mayor



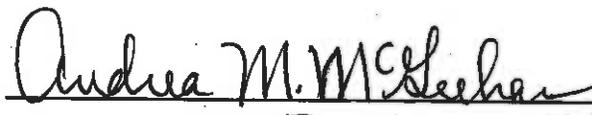
JEFFREY L. BALDWIN
AUTHORIZED SIGNING OFFICER

M. Aileen Bittner, City Clerk



STATE OF ~~MICHIGAN~~ ^{Ohio}, COUNTY OF ~~OAKLAND~~ ^{Franklin}

On this 12th day of July, A.D. 2012, before me personally appeared Michel Meilleur and Jeffrey L. Baldwin known by me to be the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and deed.



NOTARY PUBLIC, ~~Oakland County, Michigan~~ ^{Franklin Ohio}



ANDREA M. MCGEEHAN
Notary Public, State of Ohio
My Commission Expires 01-30-16

My commission expires: _____