

January 16, 2006

TO: John Szerlag, City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven Vandette, City Engineer

SUBJECT: Agenda Item - Private Agreement for National City Bank
Project No. 05.935.3

The Engineering Department has reviewed and approved plans for this project, which includes paving, water main and stome sewer.

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

Approval is recommended.

Prepared by: Gary Streight, P.E.
Civil Engineer

cc: Tonni Bartholomew, City Clerk (Original Agreement)
James Nash, Financial Services Director

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Enclosed Private Agreement, Detailed Summary, Sketch

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

| | | | |
|----------------|----------|---------------------------|-------------------|
| PROJECT NO. | 05.935.3 | PROJECT LOCATION: | 755 W. Big Beaver |
| RESOLUTION NO. | | DATE OF COUNCIL APPROVAL: | |

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and **Ttert Associates, L.L.C.** whose address is **39400 Woodward Ave., Suite 250, Bloomfield Hills, MI 48304** and whose telephone number is **248-644-7600** hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of **paving, watermain and storm sewer** in accordance with plans prepared by **Professional Engineering Associates** whose address is **2430 Rochester Ct., Troy, MI 48083** and whose telephone number is **248-689-9090**, and approved BY THE City of Troy Engineering Department.

SECOND: That the Owners agree to contribute the approximate contract price of **\$57,000.00**. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

- Cash
- Certificate of Deposit
- Irrevocable Bank Letter of Credit
- Check
- Performance Bond & 10% Cash

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the owner by the City after final inspection and approval by the City of Troy Engineering Department. In addition, the owners agree to contribute the following cash fees:

| | | |
|---|-----------|--------------------|
| * Plan Review and Construction Inspection Fee (Public Improvements) | \$ | 4,617.00 |
| Engineering Review Fee (Private Improvements) (PA1) | \$ | 4,920.00 |
| Water Main Testing Fee (PA2) | \$ | 650.00 |
| Street Cleaning/Road Maintenance (Refundable) | \$ | 5,000.00 |
| TOTAL: | \$ | \$15,187.00 |

* 8.1% (.081) of approximate contract price

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS**(PRIVATE AGREEMENT)**

PROJECT NO. 05.935.3

PROJECT LOCATION:

755 W. Big Beaver

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

THIRD: Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor 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, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of \$ 72,187.00 for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, including, but not limited to, field changes or specification changes as required by the City, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and the City will disburse such additional amounts in accordance with Paragraph SECOND hereof.

SIXTH: Owners agree to indemnify and save harmless the 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 for such public utilities as required by the City Engineer.

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 05.935.3

PROJECT LOCATION:

755 W. Big Beaver

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this 4 day of JANUARY, 2006.

OWNERS REPRESENTATIVE

CITY OF TROY

By:

By:

ENNIO "PETE" PETRELLA
PARTNER & COO - SYNERGY GROUP

Please Print or Type

Louise E. Schilling, Mayor

Please Print or Type

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 4th day of JANUARY, A.D. 2006, before me personally appeared ENNIO PETRELLA, PARTNER & COO 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.

KARENAL PITTMAN

KARENAL PITTMAN
NOTARY PUBLIC MACOMB CO., MI
MY COMMISSION EXPIRES Dec 20, 2008
ACTING IN OAKLAND COUNTY, MI

NOTARY PUBLIC, Oakland County, Michigan

My commission expires: 12-31-08

DETAILED SUMMARY OF REQUIRED ESCROW DEPOSITS AND CASH FEES
PRIVATE AGREEMENT FOR NATIONAL CITY BANK
PROJECT NO. 05.935.3

The estimated costs of public improvements for the aforementioned project are as follows:

Escrow Deposits:

| | |
|-------------|-----------|
| paving | 5,000.00 |
| water main | 48,000.00 |
| storm sewer | 4,000.00 |

Total Escrow Deposits: (loc) **\$ 57,000.00**

Cash Fees:

| | |
|----------------------------------|-----------------|
| Review & Inspection | \$4,617.00 |
| Engineering Review | 4,920.00 |
| Water Main Testing Fee | 650.00 |
| Street Cleaning/Road Maintenance | <u>5,000.00</u> |

Total Cash Fees: (check) **\$ 15,187.00**



CITIZENS
BANK

PHONE: 810.766.7662

January 4, 2006

IRREVOCABLE STANDBY LETTER OF CREDIT NO. 05165

BENEFICIARY

City of Troy
500 West Big Beaver
Troy, MI 48084

APPLICANT

Synergy Group, Inc.
39400 Woodward Avenue
Suite 250
Bloomfield Hills, MI, 48304

PURPOSE: To support the installation of paving, water main and storm sewer in accordance with the plans prepared by Professional Engineering Associates and approved by the City of Troy Engineering Department. Project No. 05.935.3, which is commonly known as 755 W. Big Beaver, Troy, MI.

EXPIRATION DATE

December 31, 2006

AMOUNT

\$57,000.00

We hereby open our Irrevocable Standby Letter of Credit No. 05165 in your favor, for the above applicant, for a sum not exceeding Fifty-seven Thousand & 00/100 (\$57,000.00) United States Dollars, available by your draft drawn at sight on Citizens Bank.

The original of this Letter of Credit, and any amendments, must be returned to us with any drawing(s) hereunder for our endorsement of any payment effected. We undertake to return said original Letter of Credit to you together with our advice of settlement, unless the Credit is fully utilized or expired.

All drafts drawn under this credit must be marked "Drawn under Citizens Bank, Letter of Credit No. 05165, dated January 4, 2006".

Any amendment to the terms of this Credit must be in writing, signed by an authorized signatory of this Bank.

Multiple draws are prohibited. Partial draws are permitted.

We engage with you that each draft drawn under and in compliance with the terms of this credit will be duly honored if presented to Citizens Bank, Attn.: Specialty Finance – MC 001073, at 328 S. Saginaw St., Flint, MI 48502 on or before December 31, 2006.

Except so far as otherwise expressly stated herein, this credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Brochure No. 500.

Should you have occasion to communicate with us regarding this Credit, kindly direct your communication to the attention of our Citizens Bank, Specialty Finance Manager – MC 001073, 328 S. Saginaw St., Flint, MI 48502 making specific reference to our Letter of Credit No. 05165.

Very truly yours,

Brenda M. Stanley
Vice President
Specialty Finance

