August 17, 2006

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Agenda Item - Private Agreement for Kona Grill
Project No. 06.912.3

The Engineering Department has reviewed and approved plans for this project, which includes a public water main.

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

Approval is recommended.

Singh Bhatia

Prepared by: A. Singh Bhatia, P.E.
Civil Engineer

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

Enclosed Private Agreement

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS (PRIVATE AGREEMENT)

PROJECT NO.	06.912.3	PROJECT LOCATION:	NW 1/4 Sec. 27
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 **Kona Grill** whose address is **7150 E. Camelback Rd., Ste. 220, Scottsdale, AZ 85251** and whose telephone number is **(615) 473-8396** hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of **a public water main at 30 E. Big Beaver Rd.** in accordance with plans prepared by **C.M. Lavoie** whose address is **1050 W. Route 126, Plainfield, IL 60544** and whose telephone number is **(815) 254-0505**, and approved BY THE City of Troy Engineering Department.

SECOND: That the Owners agree to contribute the approximate contract price of **$28,814.00**. 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)	$	2,333.93
Engineering Review Fee (Private Improvements) **(PA1)**	$	2,579.76
Water Main Testing Fee **(PA2)**	$	650.00
Street Cleaning/Road Maintenance (Refundable)	$	2,500.00
TOTAL:	$	**$8,063.69**

* 8.1% of approximate contract price

36877.69

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS

(PRIVATE AGREEMENT)

PROJECT NO. 06.912.3	PROJECT LOCATION: NW 1/4 Sec. 27
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 **$ 36,877.69** 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. 06.912.3

PROJECT LOCATION: S.E. N.W. Sec. 27.

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

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

OWNERS

By:

Ronald Eugene Farmer

Please Print or Type

_____

Please Print or Type

CITY OF TROY

By:

_____

Louise E. Schilling, Mayor

_____

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 27 day of July, A.D.20 06, before me personally appeared _____ 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.

Mary Laraine McGinnis

MARY LARAINE McGINNIS
Notary Public, State of Michigan, County of Oakland
My Commission Expires May 30, 2007
Acting in the County of Oakland

NOTARY PUBLIC, Oakland County, Michigan

My commission expires: May 30, 2007

DETAILED SUMMARY OF REQUIRED ESCROW DEPOSITS AND CASH FEES
PRIVATE AGREEMENT FOR KONA GRILL
PROJECT NO. 06.912.3

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

Escrow Deposits:

Water Main	$28,814.00

Total Escrow Deposits (check): $28,814.00

Cash Fees:

Review and Inspection	2,333.93
Engineering Review	2,579.76
Water Main Testing Fee	650.00
Street Cleaning/Road Maintenance	2,500.00

Total Cash Fees (check): $8,063.69