

July 25, 2005

TO: John Szerlag, City Manager

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

SUBJECT: Agenda Item - Private Agreement for Morton's Restaurant  
Project No. 05.908.3

The Engineering Department has reviewed and approved plans for this project, which includes water main, sanitary sewer, sidewalks, paving and soil erosion.

The Owner has provided a performance bond and 10% cash deposit for escrow and cash fees in the amount of the estimated cost of public improvements, as required.

Approval is recommended.

Prepared by: G. Scott Finlay  
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.	05.908.3	PROJECT LOCATION:	SW ¼ Sec. 21
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 REDICO whose address is ONE TOWNE SQUARE - SUITE 1600, SOUTHFIELD, MI 48076 and whose telephone number is (248) 827-1700 hereinafter referred to as "Owners".

**WITNESSETH, FIRST:** That the City agrees to allow the installation of water main, sanitary sewer, sidewalks, paving and soil erosion in accordance with plans prepared by Nowak & Fraus whose address is 1310 N. Stephenson Hwy., Royal Oak, MI 48067 and whose telephone number is 248-399-0886, and approved BY THE City of Troy Engineering Department.

**SECOND:** That the Owners agree to contribute the approximate contract price of \$35,590.00. 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)	\$	2,882.79
Engineering Review Fee (Private Improvements) (PA1)	\$	2,142.04
Water Main Testing Fee (PA2)	\$	650.00
Street Cleaning/Road Maintenance (Refundable)	\$	2,500.00
Soil Erosion Control	\$	436.73
<b>TOTAL:</b>	<b>\$</b>	<b>\$8,611.56</b>

\* 2.1 % (.021) of approximate contract price

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS**

**(PRIVATE AGREEMENT)**

PROJECT NO. 05.908.3  
 RESOLUTION NO. \_\_\_\_\_

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**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 \$ 44,201.56 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. 05.908.3

PROJECT LOCATION: SW ¼ Sec. 21

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  
*PAUL A. STODULSKI*  
By: *[Signature]*  
TREASURER

CITY OF TROY  
By: \_\_\_\_\_

Please Print or Type  
\_\_\_\_\_  
\_\_\_\_\_  
Please Print or Type

Louise E. Schilling, Mayor  
\_\_\_\_\_  
Tonni Bartholomew, City Clerk

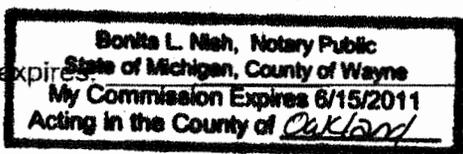
STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 13th day of July, A.D. 2005, before me personally appeared PAUL A Stodulski 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.

*Bonita L Nish*  
(Acting In Oakland County)

NOTARY PUBLIC, Oakland County, Michigan

My commission expires \_\_\_\_\_



DETAILED SUMMARY OF REQUIRED ESCROW DEPOSITS AND CASH FEES  
PRIVATE AGREEMENT FOR MORTON'S RESTAURANT  
PROJECT NO. 05.908.3

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

**Escrow Deposits:**

Water main	21,940.00
Sanitary sewer	2,550.00
Paving	6,500.00
Soil Erosion	4,600.00

**Total Escrow Deposits:** (Performance Bond) **\$ 35,590.00**

**Cash Fees:**

Review & Inspection	\$2,882.79
Engineering Review	2,142.04
Water Main Testing Fee	650.00
Street Cleaning/Road Maintenance	2,500.00
Soil Erosion	<u>436.73</u>

**Total Cash Fees:** (check) **\$ 8,611.56**

