



CITY COUNCIL ACTION REPORT

July 19, 2010

TO: John Szerlag, Acting City Manager

FROM: Mark F. Miller, Acting Assistant City Manager/Economic Development Services
Steven J. Vandette, City Engineer *SV*

SUBJECT: Private Agreement for Kilmer PUD 10
Project No. 08.921.3

Recommendation:

- The Engineering Department has reviewed the plans for this project and recommends approval. The plans include sanitary sewer, storm sewer, water main, paving, soil erosion and landscaping. The site is located on the north of Big Beaver and east of Kilmer in Section 22.

Financial Considerations:

- The owner has provided the necessary escrow deposit and paid the cash fees in accordance with the attached Private Agreement.

Legal Considerations:

- There are no legal considerations associated with this item.

Policy Considerations:

- Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

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

City Of Troy

Contract for Installation of Municipal Improvements
(Private Agreement)

Project No.: **08.921.3**

Project Location: **SW 1/4 Section 22**

Resolution No: **Resolution Number**

Date of Council Approval: **Council Approval Date**

This Contract, made and entered into this **26th** day of **July, 2010** by and between the City of Troy, a Michigan Municipal Corporation of the County of Oakland, Michigan, hereinafter referred to as "City" and **T.H. Marsh Constrction Co.** whose address is **300 Balmoral Centre, 32121 Woodward Ave., Royal Oak, MI 48073** and whose telephone number is **248-586-4130** hereinafter referred to as "Owners", provides as follows:

FIRST: That the City agrees to permit the installation of **sanitary sewer, storm sewer, water main, paving, soil erosion and landscaping** in accordance with plans prepared by **Professional Engineers Associates** whose address is **2430 Rochester Ct., Suite 100, Troy, MI 48083** and whose telephone number is **248-689-9090** 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 \$ **142,772.00**. 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"/> 14,277.20 (REFUNDABLE) |

Refundable cash deposit in the amount of \$ **21,777.00**. This amount will be deposited with the City in the form of (check one):

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

Non-refundable cash fees in the amount of \$ **14,670.00**. This amount will be paid to the City in the form of (check one):

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

City Of Troy

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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.

City Of Troy

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(Private Agreement)

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this 8th day of July, 2010.

OWNERS

CITY OF TROY

By: Marsh - Bostick Alliance, LLC

By:



Please Print or Type

Louise E. Schilling, Mayor

Ryan S. Marsh
Manager

~~Please Print or Type~~

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 16th day of July, A.D. 2010, before me personally appeared Ryan S. Marsh 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
Wayne

AMANDA LONG
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Feb 8, 2012
ACTING IN COUNTY OF Oakland

My commission expires: 2-8-2012

Detailed Summary of Required Deposits & Fees
Kilmer PUD #10
08.921.3

ESCROW DEPOSITS (PUBLIC):

Sanitary Sewers	\$26,525
Water Mains	\$91,791
Paving	\$19,500
Sidewalks	\$4,956

TOTAL ESCROW DEPOSITS (Refundable): **\$142,772**

CASH FEES (Non-Refundable):

Engineering Review Fee (Private Improvements)(PA1)	\$7,828
Water Main Testing and Chlorination (PA 2)	\$980
Plan Review and Construction Inspection Fee (Public Improvements) (PA1)	\$11,094
Less Initial Engineering Review Fee (Public & Private)(1.1%)	\$5,232

TOTAL CASH FEES (Non-Refundable): **\$14,670**

CASH DEPOSITS (Refundable):

Street Cleaning/Road Maintenance	\$5,000
Soil Erosion/Sedimentation Control Repair, Replace, or Maintenance	\$2,500
Punchlist & Restoration	\$14,277

TOTAL CASH DEPOSITS (Refundable): **\$21,777**

Total Escrow & Cash Deposits (Refundable): **\$164,549**

Total Cash Fees (Non-Refundable): **\$14,670**

Total Amount: **\$179,219**