



## CITY COUNCIL AGENDA ITEM

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Date: October 14, 2013

To: Brian Kischnick, City Manager

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

Subject: Private Agreement – Contract for Installation of Municipal Improvements  
MJR Troy Grand Cinemas 16 - Project No. 13.917.3

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### **History**

The MJR Troy Grand Cinemas 16 proposed by MJR Group L.L.C. is located at the south east corner of Maple Road and Livernois Road.

Troy Planning Commission recommended preliminary site plan approval on July, 9 2013.

Site grading and utility plans for this development were reviewed and recently approved by the Engineering Department. The plans include municipal improvements; water main, storm sewer, sanitary sewer, paving, sidewalks, soil erosion and landscaping, which will be constructed by MJR Group L.L.C. on behalf of the City of Troy. The required fees and refundable escrow deposits in the form of Cash, that will assure completion of the municipal improvements, have been provided by MJR Group L.L.C. (see attached Private Agreement).

### **Financial**

See attached summary of required deposits and fees for this Private Agreement.

### **Recommendation**

Approval of the Contract for Installation of Municipal Improvements (Private Agreement) is recommended.

# City Of Troy

## Contract for Installation of Municipal Improvements (Private Agreement)

Project No.: **13.917.3**

Project Location: **NW 1/4 Section 34**

Resolution No:

Date of Council Approval:

This Contract, made and entered into this 21st day of October, 2013 by and between the City of Troy, a Michigan Municipal Corporation of the County of Oakland, Michigan, hereinafter referred to as "City" and MJR Theatre Service whose address is 41000 Woodward Ave., Suite 135 East, Bloomfield Hills, MI 48304 and whose telephone number is 248-548-8282 hereinafter referred to as "Owners", provides as follows:

**FIRST:** That the City agrees to permit the installation of water main, storm sewer, sanitary sewer, paving, sidewalks, soil erosion and landscaping in accordance with plans prepared by Boss Engineering whose address is 3121 East Grand River, Howell, MI 48843 and whose telephone number is 517-546-4836 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 \$ 80,905.00. 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 checked="" type="checkbox"/>
Performance Bond & 10% Cash	<input type="checkbox"/>

Refundable cash deposit in the amount of \$ 18,091.00. This amount will be deposited with the City in the form of (check one):

Cash	<input type="checkbox"/>	Check	<input checked="" type="checkbox"/>
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Non-refundable cash fees in the amount of \$ 16,748.00. This amount will be paid to the City in the form of (check one):

Cash	<input type="checkbox"/>	Check	<input checked="" type="checkbox"/>
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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**  
Contract for Installation of Municipal Improvements  
(Private Agreement)

**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**  
Contract for Installation of Municipal Improvements  
(Private Agreement)

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

OWNERS **MJR Group, L. L. C.**  
By: **MJR Theatre Service, Inc.**  
Its Manager  
By:   
**Michael R. Mihalich**  
Its President

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

Please Print or Type

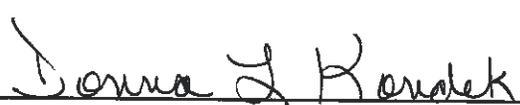
Dane M. Slater, Mayor

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

\_\_\_\_\_  
M. Aileen Bittner, City Clerk

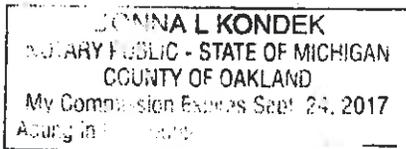
STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 11TH day of OCTOBER, A.D. 2013, before me personally appeared MICHAEL R MIHALICH 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

My commission expires: SEPT 24, 2017



**Detailed Summary of Required Deposits & Fees**  
**MJR Troy Grand Cinema 16**  
**13.917.3**

**ESCROW DEPOSITS (PUBLIC):**

Sanitary Sewers	\$0
Water Mains	\$80,905
Paving	\$0
Sidewalks	\$0
Deceleration and/or Passing Lane - MAJOR ROAD	\$0
Major Road Improvements (other than decel or passing lanes)	\$0
Underground Detention System/Restricted Outlet/Sewer Tap/Oil & Gas Trap	\$0
<b>TOTAL ESCROW DEPOSITS (Refundable):</b>	<b><u>\$80,905</u></b>

**CASH FEES (Non-Refundable):**

Engineering Review Fee (Private Improvements)(PA1)	\$22,466
Water Main Testing and Chlorination (PA 2)	\$853
Plan Review and Construction Inspection Fee (Public Improvements) (PA1)	\$6,554
Soil Erosion/Sedimentation Control Commercial Permit Fee (SUB 10)	\$0
Soil Erosion/Sedimentation Control Commercial Inspection Fee (SUB 10)	\$0
Less Initial Engineering Review Fee (Public & Private)(1.1%)	-\$13,125
<b>TOTAL CASH FEES (Non-Refundable):</b>	<b><u>\$16,748</u></b>

**CASH DEPOSITS (Refundable):**

Street Cleaning/Road Maintenance	\$5,000
Soil Erosion/Sedimentation Control Repair, Replace, or Maintenance	\$5,000
Punchlist & Restoration	\$8,091
<b>TOTAL CASH DEPOSITS (Refundable):</b>	<b><u>\$18,091</u></b>

Total Escrow & Cash Deposits (Refundable): **\$98,996**

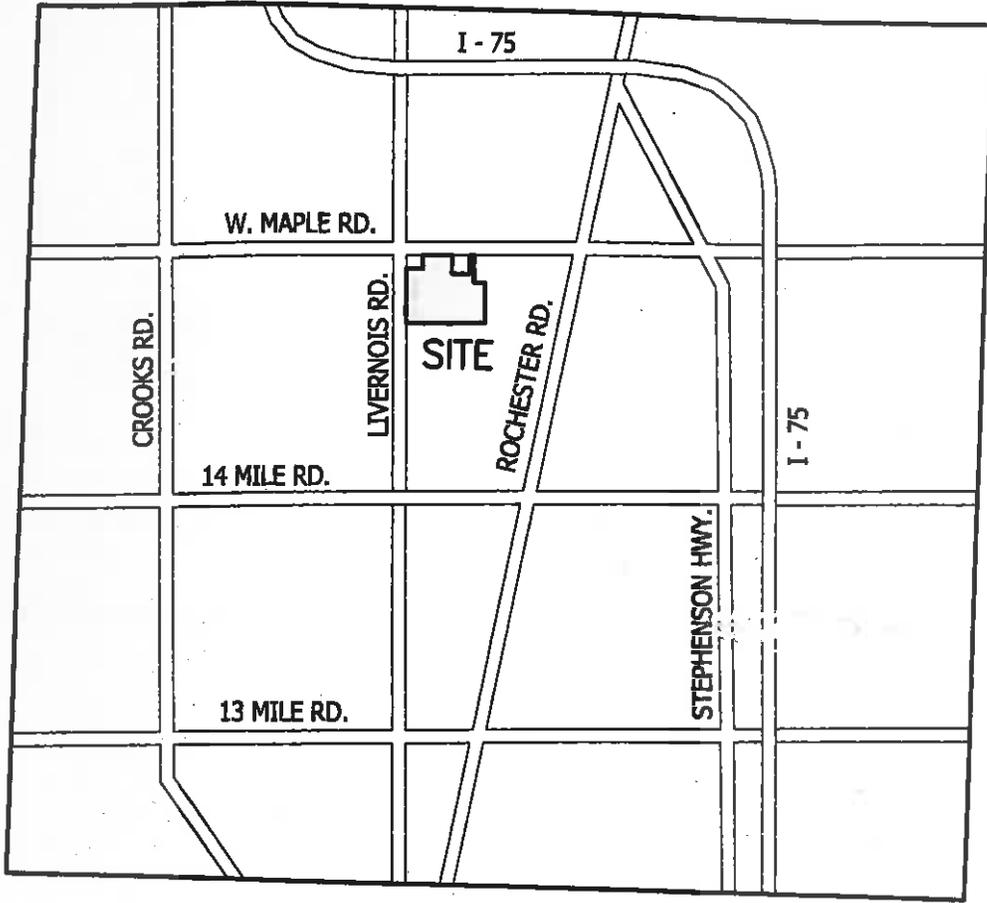
Total Cash Fees (Non-Refundable): **\$16,748**

Total Amount: **\$115,744**

**PAID**

OCT 11 2013

CITY OF TROY  
TREASURER'S OFFICE



LOCATION MAP