

RESOLUTION NO. CR-15-99

A RESOLUTION TO AUTHORIZE THE CITY ADMINISTRATOR TO
SIGN A DECLARATION OF EASEMENTS AND COVENANTS

WHEREAS, the City of Grove City is in need of securing a relocated storm sewer easement across a portion of property owned by Tim Donut U.S. Limited, Inc.; and

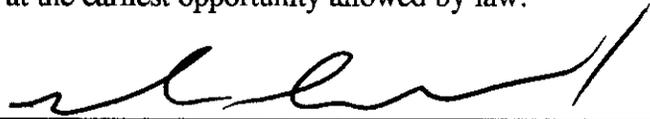
WHEREAS, Tim Donut U.S. Limited, Inc. is in need of securing an access easement over a portion of property owned by the City of Grove City; and

WHEREAS, the parties have mutually reached an agreement with regards to accomplishing the desired results.

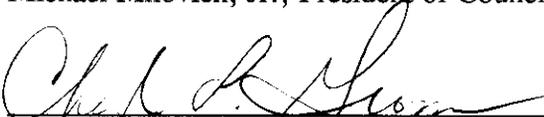
NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GROVE CITY, STATE OF OHIO, THAT:

SECTION 1. The City Administrator is hereby authorized to sign and execute, on behalf of the City, the Declaration of Easements and Covenants, attached hereto and made a part hereof.

SECTION 2. This resolution shall take effect at the earliest opportunity allowed by law.



Michael Milovich, Jr., President of Council



Cheryl L. Grossman, Mayor

Passed: 3-15-99
Effective: 3-15-99

Attest:



Tami K. Kelly, CMC/AAE, Clerk of Council

I Certify that this resolution
is correct as to form.



Thomas R. Clark, Director of Law

EXHIBIT B

LEGAL DESCRIPTION OF RECORD IN OFFICIAL RECORD 34101A01-PARCEL I

Situated in the Virginia Military Survey No. 8231, City of Grove City, County of Franklin, State of Ohio, being part of a 34.05 acre tract as conveyed to Mary Jane Morris, Kathryn M. Wendschul and Lewis H. Keller as recorded in Deed Book 2848, Page 108, Franklin County, Ohio records and more particularly described as follows.

For reference, beginning at a point in the center of Stringtown Road at the northeast corner of said original 34.05 acre tract, station 51+16.00.

Thence SOUTH 7 deg. 06' 50" WEST a distance of 65.02 feet to a point on the south right of way line of Stringtown Road.

Thence NORTH 81 deg. 24' 10" WEST a distance of 194.43 feet along the south right of way line of Stringtown Road to an iron pin and being the true point of beginning of this conveyance.

Thence from said true point of beginning SOUTH 8 deg. 35' 50" WEST a distance of 250.00 feet to an iron pin.

Thence NORTH 81 deg. 24' 10" WEST a distance of 42.34 feet to an iron pin in the centerline of Republican Run.

Thence along the centerline of said Republican Run the following three (3) courses and distances, namely, NORTH 25 deg. 28' 50" EAST a distance of 22.04 feet to an iron pin.

Thence NORTH 21 deg. 04' 10" WEST a distance of 39.30 feet to an iron pin. Thence NORTH 67 deg. 58' 10" WEST a distance of 169.12 feet to an iron pin. Thence, leaving said Republican Run, NORTH 1 deg. 40' 48" EAST a distance of 151.57 feet to an iron pin on the south right of way line of said Stringtown Road, at 70.00 feet at right angle from centerline station of 46+85.00.

Thence SOUTH 81 deg. 24' 10" EAST a distance of 65.00 feet along said south right of way line of Stringtown Road and paralleling at 70.00 feet at right angle to the centerline of said Stringtown Road to an iron pin.

Thence SOUTH 84 deg. 58' 45" EAST a distance of 80.26 feet along the south right of way line of Stringtown Road to an iron pin.

Thence SOUTH 81 deg. 24' 10" EAST a distance of 93.04 feet along the south right of way line of Stringtown Road and paralleling at 65.00 feet at right angle to the centerline of said Stringtown Road to place of beginning, containing 0.9852 acres.

EXHIBIT A

Situated in Virginia Military Survey No. 8231, City of Grove City, County of Franklin, State of Ohio. Being part of a 34.05 acre tract as conveyed to Mary Jane Norris, Kathryn M. Wendschul and Lewis H. Keller as recorded in Deed Book 2648, page 108, Franklin County, Ohio records and more particularly described as follows:

Beginning at an iron pin on the South right of way line of Stringtown Road and on the East line of said original 34.05 acre tract. Said point is further referenced as being South $7^{\circ} 06' 50''$ West a distance of 65.02 feet along said East line of the original 34.05 acre tract from a point in the center of Stringtown Road, (Northeast corner of said original 34.05 acre tract), Station 51 + 16.00 of Stringtown Road realignment.

Thence from said point of beginning, South $7^{\circ} 06' 50''$ West a distance of 22.01 feet along the East line of said 34.05 acre tract, Deed Book 2648, page 108, to an iron pin.

Thence North $81^{\circ} 24' 10''$ West a distance of 195.00 feet, parallel to and 22.00 feet distant at right angle to the South right of way line of said Stringtown Road, to an iron pin.

Thence North $8^{\circ} 35' 50''$ East a distance of 22.00 feet to an iron pin on the South right of way line of Stringtown Road, centerline Station of 49 + 23.04.

Thence South $81^{\circ} 24' 10''$ East a distance of 194.43 feet to place of beginning, containing 0.0983 acre.

Subject to all legal highways, easements and restrictions of record.

Grantor acquired previous title as recorded in Deed Book 2648, page 108.

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 15 day of March, 1999, before me personally appeared Charles W. Boso Jr., the City Administrator of the **CITY OF GROVE CITY, OHIO**, who was known to me as the person described in and who executed the foregoing instrument on behalf of said city, and who acknowledged that he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the city by proper authority, and the instrument was the act of the city for the purpose therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.

(SEAL)



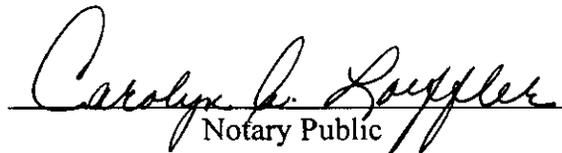
Notary Public
Lifetime Commission
Attorney at Law

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 19th day of February, 1999, before me personally appeared **Gordon F. Teter**, the Chairman of the Board and Chief Executive Officer of **TIM DONUT U.S. LIMITED, INC.**, a Florida corporation, who is known to me as the person and officer described in and who executed the foregoing instrument on behalf of said corporation, and who acknowledges that he held the position or title set forth in the instrument and certificate, that he signed the instrument on behalf of the corporation by proper authority, and that the instrument was the act of the corporation for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.

(SEAL)



Notary Public

This instrument prepared by:
Beth L. Dreitler, Attorney at Law
Tim Donut U.S. Limited, Inc.
4288 West Dublin-Granville Road
P. O. Box 256
Dublin, Ohio 43017



CAROLYN A. LOEFFLER
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES OCT. 14, 2001

Tim Donut will warrant and defend the easement and rights herein granted against all claims of all persons whomsoever.

The easements and covenants herein shall be for the use and benefit of the City Parcel and the Tim Donut Parcel, as the case may be, and the owners from time to time of all or any part of the City Parcel and the Tim Donut Parcel. All provisions of this Declaration, including the covenants, benefits and burdens, shall run with the land and be binding upon and inure to the heirs, executors, administrators, personal and/or legal representatives, successors, assigns and tenants of the City and Tim Donut. The rule of strict construction shall not apply to this grant. This grant shall be given a reasonable construction so that the intention of the parties to confer a commercially usable right of enjoyment on the City and Tim Donut is carried out.

IN WITNESS WHEREOF, this Declaration is executed as of the day and year first above written.

Witnesses:

Thomas R. Clark
Print Name: Thomas R. Clark

Jami K. Kelly
Print Name: Tami K Kelly

Beth L. Dretler
Print Name: BETH L. DRETTLER

Carolyn A. Loeffler
Print Name: CAROLYN A. LOEFFLER

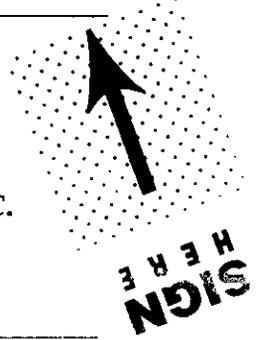
THE CITY OF GROVE CITY, OHIO

By: [Signature]
Title: City Administrator

TIM DONUT U.S. LIMITED, INC.

By: Gordon F. Teter
Title: GORDON F. TETER
Chairman of the Board
Chief Executive Officer

Law Dept. BED



{Acknowledgments on next page.}

EXHIBIT C

LEGAL DESCRIPTION FOR PROPOSED 15' EASEMENT

Situated in the State of Ohio, County of Franklin, City of Grove City, Virginia Military Survey No. 8231, and being a 15 foot wide easement across and through a 0.9852 acre tract of land conveyed to Dean W. Fried of record in Official Record 34101A01 (all references refer to the records of the Recorder's Office, Franklin County, Ohio), said 0.9852 acre tract being part of that original 34.05 acre tract of land as conveyed to Mary Jane Morris, Kathryn M. Wendschul and Lewis H. Keller of record in Deed Book 2648, Page 108, said 15 foot wide easement being more particularly described as follows:

Beginning for reference at an 3/4" iron pipe set at the northeast corner of said 0.9852 acre tract, also being the northwest corner of a 0.0983 acre tract of land as conveyed to the City of Grove City of record in Deed Book 3754, Page 214, also being a point in the southerly right of way line of Stringtown Road; thence along the northerly line of said 0.9852 acre Dean W. Fried tract, the southerly right of way line of Stringtown Road, NORTH 81°24'10" WEST a distance of 32.82 feet, the TRUE POINT OF BEGINNING of the 15 foot wide easement described herein;

Thence from the TRUE POINT OF BEGINNING, across and through said 0.9852 acre Dean W. Fried tract the following three (3) bearings and distances:

1. South 5°01'29" West a distance of 123.92 feet;
2. South 76°48'08" West a distance of 76.36 feet;
3. South 22°02'04" West a distance of 32.13 feet to a point in a southerly line of said 0.9852 acre Dean W. Fried tract;

thence along the southerly line of said 0.9852 acre Dean W. Fried tract, North 87°57'58" West a distance of 15.00 feet;

thence across and through said 0.9852 acre Dean W. Fried tract the following three (3) bearings and distances:

1. North 22°02'04" East a distance of 39.90 feet;
2. North 76°48'08" East a distance of 73.28 feet;
3. North 05°01'29" East a distance of 114.00 feet to a point in the northerly line of said 0.9852 acre Dean W. Fried tract, the southerly right of way line of Stringtown Road;

thence with the northerly line of said 0.9852 acre Dean W. Fried tract, the southerly right of way line of Stringtown Road, South 81°24'10" East a distance of 15.03 feet to the point of beginning and containing 3447 square feet of land, more or less.

Basis of Bearings: The southerly right of way line of Stringtown Road was assigned a bearing of NORTH 81° 24' 10" WEST as described in Official Record 34101A01.

The above description was prepared by David M. Harmath, Ohio Professional Surveyor No. 7886, of GEO-GRAPHICS, INC., Land Surveying and Civil Engineering, Columbus, Ohio from the results of an actual field survey of the premises performed on July 18, 1997.

City and appurtenant to the Tim Donut Parcel for ingress, egress, access and right-of-way across the City Parcel described in Exhibit A attached hereto for the purpose of providing access to and from Stringtown Road and the Tim Donut Parcel.

2. Storm Sewer Easement. Tim Donut hereby grants, conveys and delivers to the City, for the use and benefit of the City and its successors and assigns, a non-exclusive, perpetual easement for the purpose of maintenance, repair, replacement, operation and inspection of a storm sewer line from and after the initial installation of such storm sewer line by Tim Donut over, upon, across and through that portion of the Tim Donut Parcel fifteen feet (15') in width as is more particularly described on Exhibit C attached hereto and made a part hereof (the "**Storm Sewer Easement**"). The easement granted herein shall include the right of the City to enter upon such other portions of the Tim Donut Parcel as are reasonably necessary for the purpose of maintaining, repairing, replacing and inspecting the storm sewer line located in the Storm Sewer Easement area. In exercise of its rights hereunder, the City hereby agrees: (a) to use all reasonable efforts under the circumstances to not unreasonably disrupt, interrupt, impair or unduly interfere with access to the Tim Donut Parcel or the business being operated by Tim Donut thereon; (b) to give Tim Donut advance written notice reasonable under the circumstances prior to undertaking any maintenance, repair or replacement of the storm sewer line in the Storm Sewer Easement area; and (c) to promptly and at its sole cost and expense repair and restore the Storm Sewer Easement area and any portion of the Tim Donut Parcel which is disturbed by exercise of the rights granted hereunder to as near its original condition as is reasonably practical. In the event the City fails or refuses to repair and restore the Storm Sewer Easement area as aforesaid, Tim Donut shall have the option, but not the obligation, after providing the City with prior reasonable notice thereof under the circumstances, of performing the necessary repair or restoration, in which case the City shall promptly, upon receipt of itemized billing therefor, reimburse Tim Donut for the reasonable cost of such repair or restoration work. Tim Donut shall have the right to fully use and enjoy said Storm Sewer Easement for all purposes except as shall impair or impede the ability of the City to operate, maintain, repair, inspect or replace said storm sewer line within the Storm Sewer Easement in accordance with the terms herein.

TO HAVE AND TO HOLD the easements and rights granted herein by the City unto Tim Donut, its successors and assigns forever and to have and to hold the easements and rights granted herein by Tim Donut unto the City, its successors and assigns forever. The City, for the City and its successors and assigns, hereby warrants and covenants with Tim Donut, its successors and assigns, that the City is the true and lawful owner in fee simple of the City Parcel described in Exhibit A attached hereto and has the right and full power to grant and convey the easement and rights herein granted, and that the City will warrant and defend the easement and rights herein granted against all claims of all persons whomsoever. Tim Donut, for Tim Donut and its successors and assigns, hereby warrants and covenants with the City, its successors and assigns, that Tim Donut is the true and lawful owner in fee simple of the Tim Donut Parcel and has the right and full power to grant and convey the easement and rights herein granted, and that

DECLARATION OF EASEMENTS AND COVENANTS

This Declaration of Easements and Covenants (hereinafter the "**Declaration**") is made and entered into this 15 day of ~~February~~^{March}, 1999, by and between **TIM DONUT U.S. LIMITED, INC.**, a Florida corporation (hereinafter referred to as "**Tim Donut**"), whose mailing address is 4288 West Dublin-Granville Road, P. O. Box 256, Dublin, Ohio 43017, and the **CITY OF GROVE CITY, OHIO** (hereinafter referred to as the "**City**"), whose mailing address is P. O. Box 427, 4035 Broadway, Grove City, Ohio 43123.

WITNESSETH:

WHEREAS, the City is the owner of that certain real estate located in the State of Ohio, County of Franklin and City of Grove City, as more particularly described in **Exhibit A** which is attached hereto and made a part hereof (which real estate is hereinafter referred to as the "**City Parcel**"); and

WHEREAS, Tim Donut is the owner of that certain real estate located in the State of Ohio, County of Franklin and City of Grove City, as more particularly described in **Exhibit B** which is attached hereto and made a part hereof (which real estate is hereinafter referred to as the "**Tim Donut Parcel**");

WHEREAS, in connection with its development of the Tim Donut Parcel, Tim Donut intends to relocate an existing twenty-four inch (24") storm sewer line on the Tim Donut Parcel and the City has requested, and Tim Donut has agreed to grant to the City, an easement for the maintenance, repair, inspection and replacement of the relocated storm sewer line installed by Tim Donut on the Tim Donut Parcel; and

WHEREAS, the City and Tim Donut desire to establish certain easements and covenants in connection with access to and from the Tim Donut Parcel and Stringtown Road and the development and use of the Tim Donut Parcel as more particularly set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the City and Tim Donut, the City and Tim Donut agree as follows:

1. Access Easement. The City hereby grants, conveys and delivers to Tim Donut, for the use and benefit of Tim Donut and its licensees, invitees, customers, successors and assigns, a non-exclusive, perpetual easement in common with other grantees and licensees of the