

August 18, 2006

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Agenda Item - Private Agreement for Walsh College
Project No. 06.910.3

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

The Owner has provided a certificate of 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, P.E.
Civil Engineer

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

Enclosed Private Agreement, Suggested Resolution

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

| | | | | |
|----------------|----------|---------------------------|--|----------------|
| PROJECT NO. | 06.910.3 | PROJECT LOCATION: | | NW 1/4 Sec. 22 |
| 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 Walsh College whose address is 3838 Livernois Road, Troy, Michigan 48083 and whose telephone number is (248) 689-8282 hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of water main, storm sewer, detention and paving in accordance with plans prepared by Progressive AE whose address is 1811 4 Mile Rd., NE, Grand Rapids, MI 49525 and whose telephone number is 616-361-2664, and approved BY THE City of Troy Engineering Department.

SECOND: That the Owners agree to contribute the approximate contract price of \$70,374.00. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

| | |
|-----------------------------------|-------------------------------------|
| Cash | <input type="checkbox"/> |
| Certificate of Deposit | <input checked="" type="checkbox"/> |
| Irrevocable Bank Letter of Credit | <input type="checkbox"/> |
| Check | <input type="checkbox"/> |
| Performance Bond & 10% Cash | <input type="checkbox"/> |

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) | \$ | 5,700.00 |
| Engineering Review Fee (Private Improvements) (PA1) | \$ | 8,686.00 |
| Water Main Testing Fee (PA2) | \$ | 836.00 |
| Street Cleaning/Road Maintenance (Refundable) | \$ | 5,000.00 |
| TOTAL: | \$ | \$20,222.00 |

* 8.10% (.081) of approximate contract price

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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 \$ 90,596.00 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.

The street cleaning/road maintenance fee will be refunded to the owner upon completion of the installation and return of the street to substantially the condition as existed prior to the installation referred to above.

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

OWNERS

CITY OF TROY

By: Keith A. Pretty

By:

Keith A. Pretty, President.

Please Print or Type

Louise E. Schilling, Mayor

Please Print or Type

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 10th day of August, A.D. 2006, before me personally appeared Keith A. Pretty 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.

Victoria Scavone

VICTORIA SCAVONE
Notary Public, Macomb County, MI
My Commission Expires Jul. 30, 2007

NOTARY PUBLIC, Oakland County, Michigan

My commission expires: July 30, 2007