



# CITY COUNCIL ACTION REPORT

March 14, 2007

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Asst. City Manger/Economic Development Services  
Steven J. Vandette, City Engineer *[Signature]*

SUBJECT: Agenda Item - Private Agreement for Village of Tuscany Site Condominiums  
Project No. 06.908.3

Background:

- The Planning Commission granted preliminary site plan approval for the above referenced project on 06/13/2006. The Engineering Department has reviewed the plans for this project and recommends approval. The plans include water main, sanitary sewer, storm sewer, paving, sidewalks, detention and soil erosion.

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:

- Consistent with Goal #2 of the City of Troy 2006-2008 Goals & Objectives policy (Retain and Attract Investment While Encouraging Redevelopment).

Options:

- Council can approve or deny the recommendation.

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

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

PROJECT NO. **06.908.3**

PROJECT LOCATION:

**NE 1/4 SEC. 14**

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 **Mr. Gary Abitheira** whose address is **979 Badder, Troy, MI 48083** and whose telephone number is **248-840-2828** hereinafter referred to as "Owners".

**WITNESSETH, FIRST:** That the City agrees to allow the installation of **Water Main, Sanitary Sewer, Storm Sewer, Paving, Sidewalks, Detention and Soil Erosion** in accordance with plans prepared by **Gateway Engineering & Surveying**, whose address is **8155 Annsbury, Suite 109, Shelby Twp., MI 48316** and whose telephone number is **586-786-5533** and approved prior to construction by the City specifications of the City shall be complied with for this construction.

**SECOND:** That the Owners agree to contribute the approximate contract price of **\$ 314,967.00**. 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 only upon presentation of duly executed waivers of lien and sworn statements satisfactory to the City, and after final inspection and approval by the Engineering Department for the City. In addition, the owners agree to deposit and contribute **\$53,948.00** cash fee per the attached **Detailed Summary of Required Escrow Deposits Cash Deposits and Cash Fees.**

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**THIRD:** The owners may contract for construction of said improvement or may have the City advertise for bids. In the even the Owners select their own contractor, such contractor shall be subject to prior written approval by the City and completed contract documents shall be submitted to the City.

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 **\$352,836.00** 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, 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 City will disburse such additional amount in accordance with Paragraph SECOND hereof. In the event the total cost of completion shall be less than the sum deposited with City in accordance with Paragraph SECOND hereof, City will reimburse to the Owners the excess funds remaining after disbursement of funds.

**SIXTH:** 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 for such public utilities as required by the City Engineer.

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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:

By:

*[Handwritten signature]*

*Gary Abithera*

Please Print or Type

Louise E. Schilling, Mayor

Please Print or Type

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 14th day of March, A.D. 2007, before me personally appeared Gary Abithera 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.

*Laurel Nottage*

NOTARY PUBLIC, Oakland County, Michigan

*Acting in Oakland County*

My commission expires: 10-12-11