



## CITY COUNCIL ACTION REPORT

October 13, 2009

TO: John Szerlag, City Manager

FROM: Mark Miller, Acting Asst. City Manager/Economic Development Services  
Steven J. Vandette, City Engineer *SJV*

SUBJECT: Private Agreement for HCR Manor Care  
Project No. 08.923.3

### Recommendation:

- The Engineering Department has reviewed the plans for this project and recommends approval. The plans include water main, sanitary sewer, sidewalk, soil erosion, and deceleration lane. The site is located on the southeast corner of Livernois and South Boulevard.

### 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

Prepared by: G. Scott Finlay, PE

**Detailed Summary of Required Deposits & Fees**  
**Heartland Health Care**  
**08.923.3**

**ESCROW DEPOSITS (PUBLIC):**

Sanitary Sewers	<u>\$30,000</u>
Water Mains	<u>\$7,800</u>
Sidewalk	<u>\$14,125</u>
Deceleration and/or Passing Lane - MAJOR ROAD	<u>\$21,296</u>
<b><u>TOTAL ESCROW DEPOSITS (Refundable):</u></b>	<b><u>\$73,221</u></b>

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

Water Main Testing and Chlorination	<u>\$650</u>
Engineering Review Fee (Private Improvements)	<u>\$7,048</u>
Plan Review and Construction Inspection Fee (Public Improvements)	<u>\$5,931</u>
<b><u>TOTAL CASH FEES (NON-REFUNDABLE):</u></b>	<b><u>\$13,629</u></b>

**CASH DEPOSITS (Refundable):**

Street Cleaning/Road Maintenance	<u>\$5,000</u>
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**PAID**  
OCT 12 2009  
CITY OF TROY  
TREASURER'S OFFICE

## City Of Troy

Contract for Installation of Municipal Improvements  
(Private Agreement)

Project No.: 08.923.3

Project Location: NW 1/4 Section 3

Resolution No: \_\_\_\_\_

Date of Council Approval: \_\_\_\_\_

This Contract, made and entered into this 8<sup>th</sup> day of October, 20<sup>09</sup> by and between the City of Troy, a Michigan Municipal Corporation of the County of Oakland, Michigan, hereinafter referred to as "City" and Heartland-Oakland MI, LLC whose address is 333 N. Summit, Toledo, Ohio 43699 and whose telephone number is 419-252-5958 hereinafter referred to as "Owners", provides as follows:

**FIRST:** That the City agrees to permit the installation of water main, sanitary sewer, sidewalk, soil erosion and deceleration lane in accordance with plans prepared by Nowak & Fraus whose address is 1350 N. Stephenson Hwy., Royal Oak, MI 48067 and whose telephone number is 248-399-0886 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 \$ 73,221.00. 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 \$ 5,000.00. This amount will be deposited with the City in the form of (check one):

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

Non-refundable cash fees in the amount of \$ 13,629.00. This amount will be paid to the City in the form of (check one):

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

### 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 October, 2009.

OWNERS  
Heartland-Oakland MI, LLC  
By: Matthew S. Kang  
Its: Secretary/Treasurer

CITY OF TROY

By:

Matthew S. Kang  
Please Print or Type

\_\_\_\_\_  
Louise E. Schilling, Mayor

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

\_\_\_\_\_  
Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this \_\_\_\_\_ day of October, A.D. 2009, before me personally appeared \_\_\_\_\_ 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  
Acting in Oakland County, Michigan  
My commission expires: \_\_\_\_\_

STATE OF OHIO, COUNTY OF LUCAS

On this 04<sup>th</sup> day of October, A.D. 2009, before me personally appeared Matthew S. Kang, the Secretary/Treasurer of Heartland-Oakland MI, LLC, known by me to be the same person who executed this instrument and who acknowledged this to be his free act and deed on behalf of the Company.

Cheryl Adamski  
Notary Public, Lucas County, Ohio  
Acting in Lucas County  
My Commission Expires: 07-27-2013



CHERYL L. ADAMSKI  
Notary Public, State of Ohio  
My Commission Expires 07-27-2013