K-01

March 21, 2006

TO: John M. Lamerato, Acting City Manager

FROM: Doug Smith, Real Estate and Development Director

SUBJECT: AGENDA ITEM – Disposal/Sale of Excess Property

City Council requested a review of our policies and procedures for the disposal or sale of excess property. I will be prepared to make a short presentation at a future City Council Meeting including the following:

1. A review of the sections of Chapter 12 of the Troy City Charter governing purchases, contracts and leases and the process for selling surplus property.

2. A review of the 1985 City Council Resolution and current policies governing the disposal/sale of excess right-of-way (remnant parcels); and

3. Recommendations for amendments to City Council Resolution #85-254.

This overview is intended to generate a discussion with City Council with any final modifications or amendments to existing policy to be considered at a future meeting.

Attachments:
1. Chapter 12 of City Charter
2. Bid Proposal
3. Background memo on remnant parcel sales from February 1985
4. Redline copy and clean copy of recommended changes

Prepared by: Patricia A. Petitto, Senior Right of Way Representative

CHAPTER 12 - PURCHASES - CONTRACTS - LEASES

Section 12.1 - Purchase and Sale of Property:

The City Manager shall be responsible for the purchase and sale of all City property.

Comparative prices shall be obtained for the purchase or sale in amount not in excess of ten thousand dollars of all materials, supplies and public improvements except (a) in the employment of professional services and (b) when the City Manager shall determine that no advantage to the City would result.

In all sales or purchases in excess of ten thousand dollars, (a) the sales or purchases shall be approved by the Council, (b) competitive bids shall be obtained through a traditional sealed bid procedure or alternative methods, providing the method used preserves the integrity of the competitive process, except where the Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids, and (c) the requirements of Section 12.2 shall be complied with. No sale or purchase shall be divided for the purpose of circumventing the dollar value limitation contained in this section. The Council may authorize the making of public improvements or the performance of any other city work by any city agency without competitive bidding.

Purchases shall be made from the lowest competent bidder meeting specifications, unless the Council shall determine that the public interest will be better served by accepting a higher bid, sales shall be made to the bidder whose bid is most advantageous to the City.

The City Manager may make necessary purchases without sealed bid, prior council approval, and in excess of the limits provided in this chapter when an emergency, because of a natural disaster, civil disturbance or similar calamity, is officially declared. Any such purchases shall be affirmed at the next regularly scheduled council meeting.

All purchases and sales shall be evidenced by written contract or purchase order.

The City may not sell any park, cemetery or any part thereof except in accordance with restrictions placed thereon by statute.

The City may not purchase, sell or lease any real estate or any interest therein except by the affirmative vote of four or more members of the Council.

The purchase and sale of all city property shall be subject to the provisions of Section 6.12.

Detailed purchasing, sale and contract procedures shall be established by ordinance.

Section 12.2 - Contracts

The authority to contract on behalf of the City is vested in the Council and shall be exercised in accordance with the provisions of statute and of this Charter, provided that purchases and sales may be made by the City Manager subject to the provisions of Section 12.1

Any contract or agreement in an amount of one thousand dollars or more made with form or terms other than the standard city purchase order form shall before execution be submitted to the Attorney and his opinion obtained with respect to its form and legality. A copy of all contracts or agreements requiring such opinion shall be filed in the office of the Clerk together with a copy of the opinion.

Before any contract, agreement or purchase order obligating the City to pay an amount of one thousand dollars or more is executed the accounting officer of the City shall first have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years, but this exception shall not apply to a contract for purchase or construction being financed by an installment contract under authority of Section 11.2. Certification by the accounting officer of the City shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

No contract or purchase order shall be subdivided for the purpose of circumventing the dollar value limitations contained in this Section.

No contract shall be amended after the same has been made except upon the authority of the Council, provided that the City Manager may amend contracts for those purchases and sales made by him under the authority of Section 12.1

No compensation shall be paid to any contractor except in accordance with the terms of the contract.

No contract shall be made with any person, firm or corporation in default to the City.

An individual agreement of employment shall not be deemed a contract requiring opinion by the Attorney or certification by the accounting officer of the City.

Section 12.3- Restriction on Powers to Lease Property:

Any agreement or contract for the renting or leasing or long term use of public property to any person for a period longer than three years shall be subject to the same referendum procedure as is provided in the case of ordinances passed by the Council, but any petition for such referendum must be filed within thirty days after publication of the proceedings of the meeting of the Council at which such agreement or contract is authorized.

The transfer or assignment of any agreement or contract for such renting or leasing or long-term agreements exceeding three years for public property may be made only upon approval of the Council, but approval of such transfer shall not be subject to referendum.

Rentals, leases, long-term use agreements exceeding three years, and renewals thereof shall be for a fair consideration, as determined by the Council.

REAL ESTATE SALE

DRAFT

BID PROPOSAL
INSTRUCTIONS, TERMS, AND CONDITIONS OF SALE

DATE: _____, 2005 **ITB-COT**

Sealed proposals to **FOR THE SALE OF CITY OF TROY OWNED PROPERTY LOCATED AT** _____ will be received by the City of Troy at the office of the City Clerk, 500 W. Big Beaver Road, Troy, MI 48084 until _____**day,** _____**, 2005** at **10:00 AM**, after which time they will be publicly opened and read in the Troy City Offices. **The City does NOT accept bid responses via fax transmission.**

MARK ENVELOPES: **ITB-COT** ON THE LOWER LEFT-HAND CORNER.

1. CHANGES OR ALTERATIONS TO BID DOCUMENTS INCLUDING SPECIFICATIONS MAY RESULT IN A BID BEING CONSIDERED NON-RESPONSIVE. The only authorized vendor changes to a bid document will be in the areas provided for a bidder's response, including the "Exceptions" section of the bid proposal. If a change or alteration to the documents is undetected and the bidder is awarded a sale, the original terms, conditions in the Authorized Version of the bid document will be applicable during the term of the contract.

   The City of Troy shall accept NO CHANGES to the bid document made by a POTENTIAL BUYER unless those changes are set out in the "Exceptions" provision of the Authorized Version of the bid document. It is the potential buyer's responsibility to acquire knowledge of any changes, modifications or additions to the Authorized Version of the bid document. Any potential buyer who submits a bid and later claims it had no knowledge of any changes, modifications or additions made by the City of Troy to the Authorized Version of the bid document, shall be bound by the bid, including any changes, modifications or additions to the Authorized Version. If a bid is awarded to a buyer who claims that it had no knowledge of any changes, modifications or additions made by the City of Troy to the Authorized Version of the bid, and that buyer fails to accept the bid award, the City of Troy may pursue costs and expenses to re-bid the item from that buyer. The Authorized Version of the bid document shall be that bid document appearing on the MITN System with any amendments and updates.

   The City of Troy officially distributes bid documents from the Purchasing Department or through the Michigan Intergovernmental Trade Network (MITN). Copies of bid documents obtained from any other source are not considered official copies. Only those potential buyers who obtain bid documents from either the Purchasing Department or the MITN system are guaranteed access to receive addendum information, if such information is issued. If you obtained this document from a source other than the sources indicated, it is recommended that you register on the MITN site, www.govbids.com, and obtain an official copy.

2. **BID (SALE) SURETY: A cashier's check, certified check, or money order in the amount of 10% of the sale price** must accompany the bid document to insure the sale offer. The check shall be made payable to the City of Troy. If the successful bidder does not consummate the purchase, the sale surety check tendered by the successful bidder will become the property of the City of Troy upon acceptance of the bid (offer) by resolution of the Troy City Council. If the purchase is consummated, the check will be applied to the balance due.

   The three (3) highest bidder's bid (sale) surety will be held until sale award by the Troy City Council. All other bidders will have their bid deposits returned within 72 hours after the bid has been opened.

3. The City reserves the right to reject any or all bids, to waive any informality in the proposal received, and to accept any proposal or part thereof, which it shall deem to be most favorable to the interests of the City.

4. The successful bidder will be expected to close within 60 days of the sale. Terms: cashier's check, certified check, or money order made payable to the City of Troy.

5. All improvements on any of property sold by the City of Troy become the responsibility of the purchaser.

6. Bids (offers) less than the minimum indicated or offers with terms other than those stated will not be accepted.

7. The City of Troy will retain existing platted and recorded easement rights.

8. Property and structures will be purchased in an "as is" condition.

9. The Troy City Council retains final authority to approve or disapprove the sale of the parcel.

10. VALUE: The value of the property is to be established by an appraisal at the direction of the officials of the City of Troy.

11. BROKERAGE FEE: Proposals received for the sale of the property described above must state the total sale price to be paid to the City. The buyer shall pay any brokerage fee.

12. TITLE INSURANCE: Title insurance will be provided by the City of Troy in the amount of the selling price together with a warranty deed to the property at closing.

13. DESIGNATED CITY REPRESENTATIVE: _____, of the City of Troy Real Estate and Development Department, is the designated City representative for this sale.

14. ADDITIONAL INFORMATION: For additional information, information concerning a site visit, or questions concerning this sale contact: _____, at (248) 524-3498

15. The City of Troy will disclose all known information that is available concerning the property, and is not responsible for any information not disclosed that is unknown at the time of sale and later becomes an issue.

16. DISCLOSURE STATEMENT: Interested parties may review a disclosure statement regarding this property in the City of Troy Real Estate and Development Department, 500 W. Big Beaver Rd., Troy, MI 48084 (Upper Level) Monday through Friday, 8:30 a.m. to 4:00 p.m.

17. AWARD: The City of Troy reserves the right to award this bid to the highest responsible bidder meeting specifications, or in whatever manner is deemed to be in the City's best interest; to reject low bids that have major deviations from specifications; to accept a higher bid that has only minor deviations.

18. BID DEPOSIT AND FORFEITURE: The bid deposit of the highest bidder shall be forfeit if, after bid opening, a change in bid price or other provision of the bid is required by the bidder that is prejudicial to the interests of the City of Troy or fair competition.

SPECIAL INSTRUCTIONS

- All potential buyers are held to offer prices for 60 days or sale award, whichever comes first.
- Final sale results will be posted on the MITN website after award. Please register to see results - www.govbids.com.

The undersigned proposes to buyer the property describe below in accordance with the Terms and Conditions of the Sale that are to be considered an integral part of this proposal at the following price:

BIDDER'S NAME: _____

LEGAL DESCRIPTION OF PROPERTY TO BE SOLD:

ZONING INCLUDING BUILDING AND USE RESTRICTIONS:

FRONTAGE & ACCESS:

TOPOGRAPHY & DRAINAGE:

SIZE:

UTILITIES:

ENVIRONMENTAL CONCERNS:

IMPROVEMENTS:

COVER:

MINIMUM BID: **$** _____

I hereby offer $ _____ for the land described above, subject to the terms and conditions set forth in this bid proposal including all provisions of the section entitled ***Instructions, Terms, and Conditions.*** Enclosed with the bid proposal document is a bid surety in the form of a cashiers check, certified check, or money order, payable to the City of Troy in the amount of $ _____, which represents ten percent (10%) of my offer. The balance of the bid will be made available within sixty (60) days of receiving written acceptance notice. I understand that if I am not the successful bidder my bid deposit will be returned to me within the timeframes indicated on page 2 of 5.

SIGNATURE PAGE

PRICES:

Prices shall remain firm for 60 days or bid award; whichever comes first.

AUTHORIZED SIGNATURE: _____

NOTE:

The undersigned has checked carefully the bid figures and understands that he/she shall be responsible for any error or omission in this bid offer and is in receipt of all addendum as issued.

BIDDER'S NAME: _____
ADDRESS: _____ CITY: _____ STATE: _____ ZIP: _____
PHONE: (___)_____ FAX NUMBER: (___)_____
AUTHORIZED SIGNATURE: _____
TERMS: **As Stated** CHECK INCLUDED: _____
Email:_____

EXCEPTIONS:

Any exceptions, substitutions, deviations, etc. from the City specifications and this proposal must be stated below. The reason(s) for the exception, substitution, deviation, etc., are an integral part of this bid proposal.

_____
_____
_____

ACKNOWLEDGEMENT:

I, _____, certify that I have read the ***Instructions, Terms, and Conditions*** (Pages 1, 2, and 3 of 5) and that the sale documents contained herein were obtained directly from the City's Purchasing Department or MITN website, www.govbids.com and is an official copy of the Authorized Version.

AUTHORIZED SIGNATURE: _____

U.S. FUNDS:

All prices quoted are to be in U. S. Currency.

February 20, 1985

TO: The Honorable Mayor and City Council

FROM: Frank Gerstenecker, City Manager

SUBJECT: Disposal of Remnant Parcels of Property Remaining After Right-of-Way Taking

Inquiry has been made to this office regarding the policy of the City of Troy in disposing of remnant parcels of land which remain in City ownership as excess right-of-way or remnant parcels remaining after required right-of-way is retained in City ownership. These situations occur with properties having depths which are too shallow to permit a buildable parcel given setback requirements, etc., after the right-of-way is removed from the parcel.

The disposal or sale of these remnant parcels may provide opportunity for the City Council to encourage better land use planning and development along street frontages where remnants are available for disposal. While it may appear to be in the best interest of the City to recover the highest possible payment for the remnant parcel, it also appears to be in the best interest of the community to dispose of the parcel in a manner which will augment good land use planning, zoning and controlled growth.

At locations where we find small, shallow lots, it can also be expected that if those properties are developed singly for non-residential purposes, then one may expect frequent curb cuts and associated driveways each generating traffic turning movement demands and the associated traffic hazards. In addition, one may expect to find compromised quality of construction in smaller non-residential buildings with the attendant premature obsolescence and deterioriation.

With the foregoing considerations, the following resolution of policy is submitted for your review, questions, comments and suggestions.

Resolution to Establish Policy Governing
Disposal of Excess Right-of-Way, City of Troy, Michigan

WHEREAS, the City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that . . . "in all sales or purchases in excess of $3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids . . .";

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Troy that it is hereby declared that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

(1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager,

(2) Has submitted a site plan which has been drawn to sufficient detail to indicate any and all features which are governed by codes of the City of Troy, said site plan to be without need for variances from any code of the City of Troy.

(3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use, and

(4) Commits the prospective buyer to a purchase price at a value established by an appraiser named by the Right-of-Way Division of the City of Troy, and

(5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy, and

(6) Is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality,

(7) Is accompanied by a draft of proposed deed restrictions which will be imposed upon the owner of the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions.

Respectfully submitted,

Frank Gerstenecker

Frank Gerstenecker
City Manager

FG/cs

RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS RIGHT-OF-WAY

Resolution #85-254
Moved by Liebrecht
Supported by Stine

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that..."in all sales or purchases in excess of $3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

(1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.

(2) Has submitted a site plan which has been drawn to sufficient detail to indicate any and all features which are governed by codes of the City of Troy, said site plan shall not includes variances from any code of the City of Troy.

(3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and

(4) Commits the prospective buyer to a purchase price at a value established by an appraiser named by the Right-of-Way Division of the City of Troy; and

(5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy; and

(6) Is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality;

(7) Is accompanied by a draft of proposed deed restrictions which will be imposed upon the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

Yeas: All - 7

PROPOSED RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS RIGHT-OF-WAY

~~Resolution #85-254~~
~~Moved by Liebrecht~~
~~Supported by Stine~~

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that..."in all sales or purchases in excess of $3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

(1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.

(2) Has submitted a conceptual site plan which has been drawn to sufficient detail to indicate any and all features such as setbacks, parking and access, storm water detention and building height, which are governed by codes of the City of Troy.~~, said site plan shall not includes variances from any code of the City of Troy.~~

(3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and

(4) Commits the prospective buyer to a purchase price of at least a value established by an appraiser named by the ~~Right-of-Way Division~~ Real Estate & Development Department of the City of Troy; and

~~(5) Commits the buyer to construct or pay for the construction of any and all improvements to public facilities or private improvements as required by ordinances or design standards of the City of Troy; and~~

~~(6) Is accompanied by architectural renderings of all buildings indicated on the site plan along with a description of building materials and methods to permit evaluation of building quality;~~

~~(7)~~(5) Is accompanied by a draft of proposed deed restrictions prepared by the City of Troy which will be imposed upon the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions; and

(6) Nothing in this resolution relieves the Purchaser/Developer of their obligation to adhere to any and all City Ordinances; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.

~~Yeas: All - 7~~

PROPOSED RESOLUTION TO ESTABLISH POLICY GOVERNING DISPOSAL (SALE) OF EXCESS RIGHT-OF-WAY

WHEREAS, The City Council of the City of Troy endeavors to attain the highest and best land use, effective growth control measures and to enhance the health, safety and welfare of the community; and

WHEREAS, Chapter 12 of the Troy City Charter requires that..."in all sales or purchases in excess of $3,000, (a) the sales or purchases shall be approved by the City Council, (b) sealed bids shall be obtained, except where the City Council shall determine that an emergency exists or that the public interest will be best served without obtaining sealed bids...";

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy may determine that the public interest will best be served without obtaining sealed bids for the sale of remnant parcels which remain after required right-of-way is taken when a purchase agreement is offered to the City of Troy by a prospective buyer which:

(1) Has submitted evidence of ownership or control of an assembly of adjoining land of sufficient size so as to achieve what is believed to be the best possible development as determined by the City Council after review and recommendation from the City Manager.

(2) Has submitted a conceptual site plan which has been drawn to sufficient detail to indicate any and all features such as setbacks, parking and access, storm water detention and building height, which are governed by codes of the City of Troy.

(3) Is accompanied by a petition for rezoning, if necessary, in compliance with the Master Land Use Plan of the City of Troy or as may be determined by the City Council of the City of Troy as being the most appropriate land use; and

(4) Commits the prospective buyer to a purchase price of at least a value established by an appraiser named by the Real Estate & Development Department of the City of Troy; and

(5) Is accompanied by a draft of proposed deed restrictions prepared by the City of Troy which will be imposed upon the purchaser of the City-owned property, the adjoining land included in the site plan and their assigns and successors which embodies all of the aforementioned requirements and conditions; and

(6) Nothing in this resolution relieves the Purchaser/Developer of their obligation to adhere to any and all City Ordinances; and

BE IT FINALLY RESOLVED, That the City Council retains discretionary authority to determine the applicability of this policy.