

CITY COUNCIL ACTION REPORT

September 4, 2008

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services
Steven J. Vandette, City Engineer
Patricia A. Petitto, Real Estate Consultant, Greenstar & Associates, LLC

SUBJECT: Request for Approval of Purchase Agreement and Acceptance of Regrading and Temporary Construction Permit, John R Road Improvements, Square Lake Road to South Boulevard – Project No. 02.204.5 – Parcel #41 – Sidwell #88-20-02-279-070
Leonard C. Frederick and Esther M. Frederick

Background:

- In connection with the proposed improvements to John R Road, from Square Lake Road to South Boulevard, the Real Estate & Development Department received a purchase agreement and Regrading and Temporary Construction Permit from Leonard C. Frederick and Esther M. Frederick. This parcel is located on the west side of John R Road, between Lyster and Chancery in the northeast ¼ of Section 2.

Financial Considerations:

- An appraisal was prepared by Andrew Reed, State Certified Appraiser and reviewed by Kimberly Harper, Deputy Assessor and State Licensed Appraiser, and Larysa Figol, Limited Real Estate Appraiser. Staff believes that \$21,300, plus closing costs for the acquisition of the property described in the purchase agreement and \$350 for the Regrading and Temporary Construction Permit are justifiable amounts for this acquisition.
- Eighty percent of these costs will be reimbursed from Federal funds. Funds for the City of Troy's share are included in the 2008-09 Major Road fund, account number 401479.7989.022045.

Legal Considerations:

- The format and content of the purchase agreement is consistent with documents previously accepted by City Council.

Policy Considerations:

- The purpose of this project is to relieve congestion, improve safety and improve the flow of traffic. (Outcome Statements I, II and III)

Options:

- City Management recommends that City Council approve the attached purchase agreement and accept the attached Regrading and Temporary Construction Permit from Leonard C. Frederick and Esther M. Frederick so that the City can proceed with the acquisition of this right-of-way.

PAP\G\MEMOS TO MAYOR & CC\Frederick Purchase Agreement & RTCE

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Leonard C. Frederick and Esther M. Frederick, husband and wife, (the "Sellers"), the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

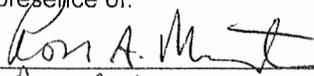
for a public project within the City of Troy and to pay the sum of Twenty-One Thousand, Three Hundred and no/100 Dollars (\$21,300) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.
2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.
3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.
4. Buyer shall, at its own expense, provide title insurance information, and the Seller shall disclose any encumbrances against the property.
5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.
6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.
7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.
8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.
9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project.
10. Additional conditions, if any:

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

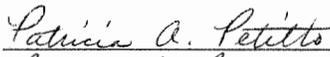
IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this
3RD day of SEPTEMBER, 2008.

In presence of:

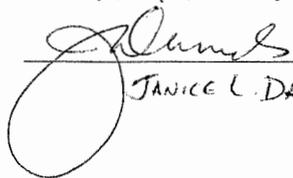


ROSS A. MARTLEW

CITY OF TROY (BUYER)

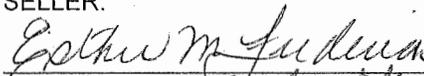


PATRICIA A. PETITTO



JANICE L. DANIELS

SELLER:



ESTHER M. FREDERICK



LEONARD C. FREDERICK

Exhibit "A"

Section 2, John R Widening Project

Parcel: 88-20-02-279-070

Parcel #41

PARENT PARCEL #41 DESCRIPTION:

T2N, R11E, SEC 2, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS PART OF THE NORTHEAST 1/4 BEGINNING AT A POINT DISTANT N 00°39'12" E 1536.36 FT FROM EAST 1/4 CORNER, THENCE N 89°39'10" W 330 FT, THENCE S 78°32'56" W 70 FT, THENCE N 03°34'47" E 78.83 FT ALONG THE SHORE LINE OF CRYSTAL LAKE, THENCE N 55°17'42" E 78.99 FT, THENCE S 89°39'10" E 330 FT TO POINT ON THE EAST SECTION LINE, THENCE S 00°39'12" W 109.76 FT TO BEGINNING, THE EAST 33 FEET OF WHICH IS CURRENTLY BEING USED FOR ROADWAY PURPOSES. CONTAINING 0.97 ACRES.

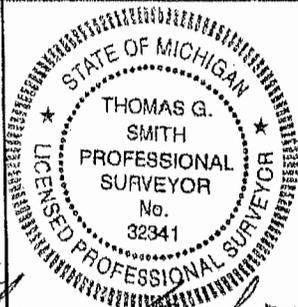
PARCEL #88-20-02-279-070

REAMINDER PARCEL DESCRIPTION:

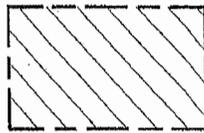
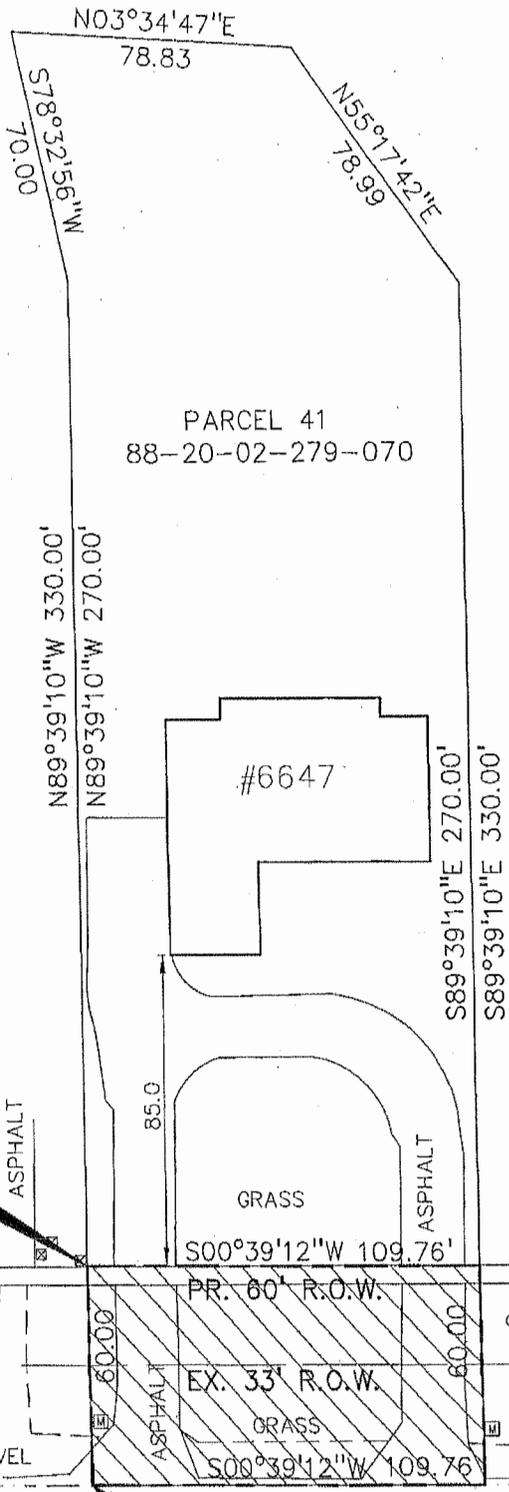
T2N, R11E, SEC 2, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS PART OF THE NORTHEAST 1/4 BEGINNING AT A POINT DISTANT N 00°39'12" E 1536.36 FT & N 89°39'10" W 60 FT FROM THE EAST 1/4 CORNER, THENCE N 89°39'10" W 270 FT, THENCE S 78°32'56" W 70 FT, THENCE N 03°34'47" E 78.83 FT ALONG THE SHORE LINE OF CRYSTAL LAKE, THENCE N 55°17'42" E 78.99 FT, THENCE S 89°39'10" E 270 FT TO POINT ON THE WEST 60' R.O.W. LINE OF JOHN R ROAD, THENCE S 00°39'12" W 109.76 FT TO BEGINNING. CONTAINING 0.82 ACRES.

PROPOSED RIGHT OF WAY ACQUISITION:

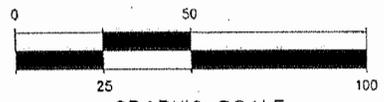
T2N, R11E, SEC 2, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS PART OF THE NORTHEAST 1/4 BEGINNING AT A POINT DISTANT N 00°39'12" E 1536.36 FT FROM EAST 1/4 CORNER, THENCE N 89°39'10" W 60.00 FT, THENCE N 00°39'12" E 109.76 FT, THENCE S 89°39'10" E 60.00 FT, THENCE S 00°39'12" W 109.76 FT TO THE POINT OF BEGINNING, ALSO KNOWN AS R.O.W. PARCEL #41, THE EAST 33 FEET OF WHICH IS CURRENTLY BEING USED FOR ROADWAY PURPOSES. CONTAINING 6,585 SQUARE FEET; 0.15 ACRES (GROSS) OR 2,963 SQUARE FEET; 0.07 ACRES (NET).



Thomas G. Smith



Right-of-Way Acquisition
 Gross Area=6,585 sf; 0.15 AC
 Net Area=2,963 sf; 0.07 AC



GRAPHIC SCALE
 1" = 50'

E 1/4 CORNER
 SECTION 2
 T2N-R11E



N00°39'12"E
 1536.36'

JOHN R ROAD (120' WIDE)

ORCHARD, HILTZ & McCLIMENT, INC.
 34000 Plymouth Road
 Livonia, MI, 48150 (734)622-6711



500 W. Big Beaver Rd.
 Troy, Michigan 48064
 (248) 524-3594
 www.ci.troy.mi.us

6647 John R
 Right-of-Way
 Acquisition Sketch

SCALE:	DRAWN BY:	CHECK BY:	FILE
1" = 50'	JRV	GWC	P41-SEC2_ROW
	1-27-06	2-17-06	
STEVEN J. VANDETTE CITY ENGINEER		SHEET No.	JOB No.
		1 of 2	2002-234



Document Prepared by
 Professional Engineering
 Associates, Inc.

3-06 DATE 1 REV.

CONTRACT No.

REGRAVING AND TEMPORARY CONSTRUCTION PERMIT

Sidwell # 88-20-02-279-070
Parcel #41

Leonard C. Frederick and Esther M. Frederick, husband and wife, Grantor(s), whose address is 6647 John R., Troy, MI 48085, for and in consideration of \$350 paid by the CITY OF TROY, a Michigan Municipal Corporation, hereinafter called the CITY, whose address is 500 West Big Beaver Road, Troy, Michigan, hereby grants to the CITY, during the construction of and for a period of six (6) Months after completion of John R Road Improvements, from Square Lake Road to South Boulevard (City of Troy Project No. 02.204.5)*, the right to move men, equipment, and materials on and through, and to store equipment, materials, and excavated matter on the following described property, located in the City of Troy, to-wit:

SEE ATTACHED EXHIBIT "A" FOR PARENT PARCEL LEGAL DESCRIPTION AND DESCRIPTION OF PERMIT AREA

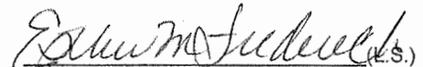
IN FURTHER CONSIDERATION, the premises so disturbed by reason of the exercise of any of the foregoing powers, shall be reasonably restored to its original condition by the City.

*It is anticipated that construction funding will be available in the 2010 calendar year. However, if construction is delayed this document will be effective during the actual construction year(s) and for a period of six (6) Months after completion of this project.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representative, successors, and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures(s) this 30th day of JUNE, 2008.

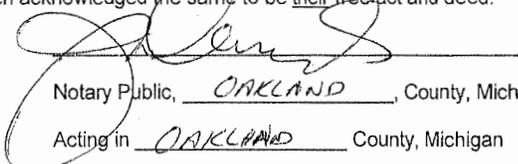

*Leonard C. Frederick


*Esther M. Frederick

STATE OF MICHIGAN
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 30th day of JUNE 2008, by Leonard C. Frederick and Esther M. Frederick, husband and wife, to me known to be the same person(s) described in and who executed the within instrument, and who then acknowledged the same to be their free act and deed.

JANICE L. DANIELS
Notary Public, State of Michigan
County of Oakland
My Commission Expires Aug. 3, 2012
Acting in the County of OAKLAND


Notary Public, OAKLAND County, Michigan
Acting in OAKLAND County, Michigan
My Commission Expires

Prepared by: Patricia A. Petitto
500 West Big Beaver
Troy, MI 48084

Return to: City Clerk, City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

Exhibit "A"

Section 2, John R Widening Project
Parcel: 88-20-02-279-070
Parcel #41

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PARCEL #88-20-02-279-070

10' GRADING PERMIT #1:

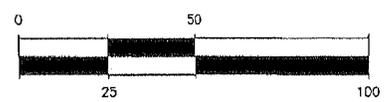
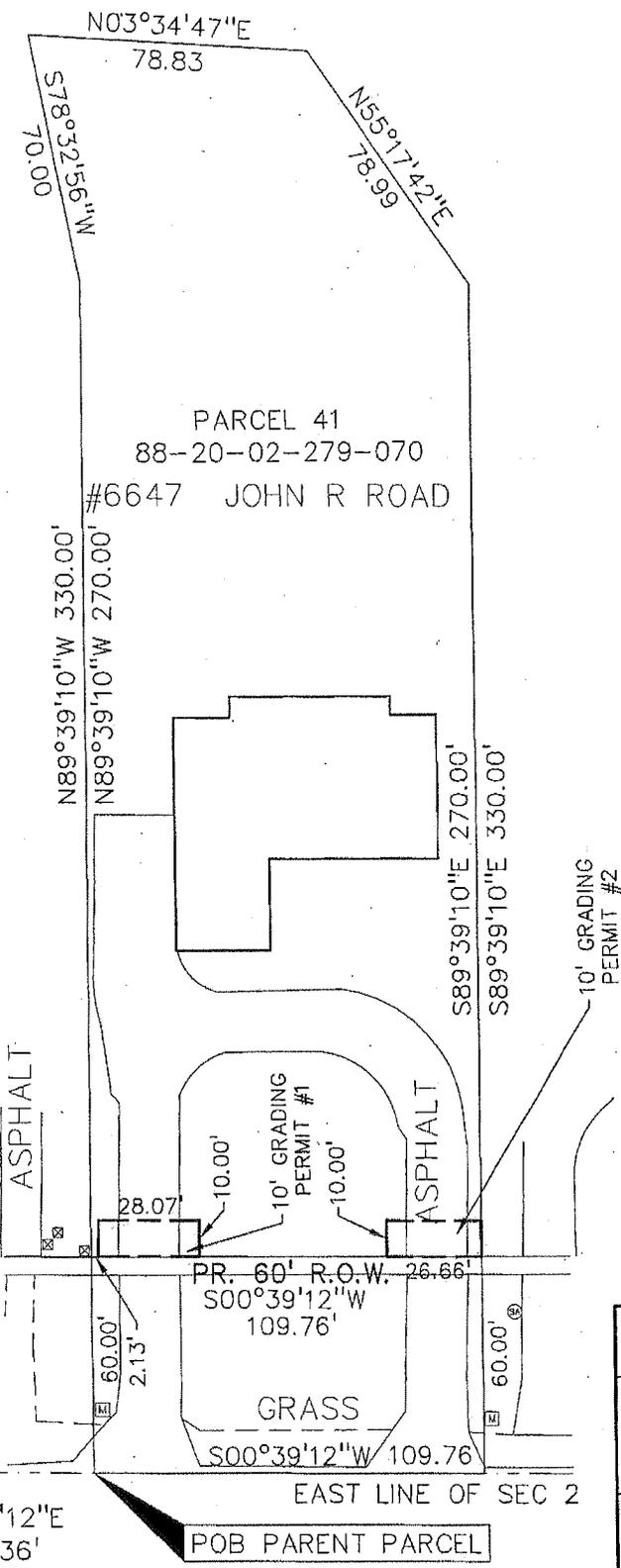
A 10 FOOT GRADING PERMIT IN T2N, R11E, SEC 2, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS BEING THE NORTH 28.07 FEET OF THE SOUTH 30.20 FEET OF THE WEST 10.00 FEET OF THE EAST 70.00 FEET OF THE FOLLOWING DESCRIBED PARCEL:
T2N, R11E, SEC 2, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS PART OF THE NORTHEAST 1/4 BEGINNING AT A POINT DISTANT N 00°39'12" E 1536.36 FT FROM EAST 1/4 CORNER, THENCE N 89°39'10" W 330 FT, THENCE S 78°32'56" W 70 FT, THENCE N 03°34'47" E 78.83 FT ALONG THE SHORE LINE OF CRYSTAL LAKE, THENCE N 55°17'42" E 78.99 FT, THENCE S 89°39'10" E 330 FT TO POINT ON THE EAST SECTION LINE, THENCE S 00°39'12" W 109.76 FT TO BEGINNING.

10' GRADING PERMIT #2:

A 10 FOOT GRADING PERMIT IN T2N, R11E, SEC 2, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS BEING THE NORTH 26.66 FEET OF THE WEST 10.00 FEET OF THE EAST 70.00 FEET OF THE FOLLOWING DESCRIBED PARCEL:
T2N, R11E, SEC 2, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS PART OF THE NORTHEAST 1/4 BEGINNING AT A POINT DISTANT N 00°39'12" E 1536.36 FT FROM EAST 1/4 CORNER, THENCE N 89°39'10" W 330 FT, THENCE S 78°32'56" W 70 FT, THENCE N 03°34'47" E 78.83 FT ALONG THE SHORE LINE OF CRYSTAL LAKE, THENCE N 55°17'42" E 78.99 FT, THENCE S 89°39'10" E 330 FT TO POINT ON THE EAST SECTION LINE, THENCE S 00°39'12" W 109.76 FT TO BEGINNING.



Thomas G. Smith



GRAPHIC SCALE
1" = 50'

E 1/4 CORNER
SECTION 2
T2N-R11E

N00°39'12"E
1536.36'

POB PARENT PARCEL

JOHN R ROAD (120' WIDE)

PARCEL 41

ORCHARD, HILTZ & McCLIMENT, INC.
34000 Plymouth Road
Livonia, MI, 48150 (734)522-6711



**City of
Troy**

500 W. Big Beaver Rd.
Troy, Michigan 48084
(248) 524-3594
www.ci.troy.mi.us

6647 John R
Grading Permit
Sketch

SCALE:	DRAWN BY:	CHECK BY:	FILE
1" = 50'	JRV	GWC	279-070 GRD
	2-10-06	3-17-06	

DATE REV.
CONTRACT No.



Document Prepared by
Professional Engineering
Associates, Inc.

STEVEN J. VANDETTE
CITY ENGINEER

SHEET No. JOB No.
1 of 2 2002-234