



CITY COUNCIL ACTION REPORT

November 10, 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 Permanent Public Utility Easement and Regrading & Temporary Construction Permit – Rochester Road Improvements, Torpey to Barclay
Project No. 99.203.5 – Parcel #43 – Sidwell #88-20-22-226-080
Pomponi's Real Estate Investments

Background:

- In connection with the proposed improvements to Rochester Road, from Torpey to Barclay, the Real Estate & Development Department received a Purchase Agreement, Permanent Public Utility Easement, and a Regrading & Temporary Construction Permit from Pomponi's Real Estate Investments. This parcel is located on the west side of Rochester Road between Troywood and Wattles in the northeast ¼ of Section 22.

Financial Considerations:

- An appraisal was prepared by Raymond V. Bologna, CRE, MAI, State Certified Appraiser and reviewed by Kimberly Harper, Deputy Assessor and State Licensed Appraiser. Staff believes that \$52,926, plus closing costs for the acquisition of the property described in the purchase agreement, \$6,374 for the Permanent Public Utility Easement; and \$60 for the Regrading & 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 401479.7989.992035.

Legal Considerations:

- The format and content of the purchase agreement, easement and permit are 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 Permanent Public Utility Easement and Grading & Temporary Construction Permit from Pomponi's Real Estate Investments so that the City can proceed with the acquisition of this right-of-way.

PAP\G\MEMOS TO MAYOR & CC\Pomponi's Purchase Agreement, PUE & RTCP

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Pomponi's Real Estate Investments, a Partnership Robert J. Pomponi and Isabella R. Pomponi, hiw wife; and John L. Pomponi and Barbara L. Pomponi, his wife (the "Sellers"), the following described premises (the "Property"):

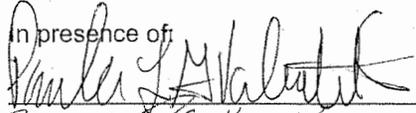
SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of Fifty-Two Thousand, Nine Hundred, Twenty-Six and no/100 Dollars (\$52,926) 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:

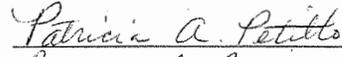
SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 5TH day of NOVEMBER, 2008.

In presence of

PAMELA L. G. VALENTIK

RICHARD KESSLER

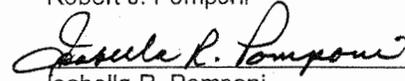
CITY OF TROY (BUYER)

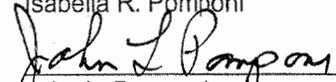

PATRICIA A. PETITTO

SELLERS:

POMPONI'S REAL ESTATE INVESTMENTS, A PARTNERSHIP


Robert J. Pomponi


Isabella R. Pomponi


John L. Pomponi


Barbara L. Pomponi

11-26-07
19990476
20-22-226-080
rev. 01-03-08

EXHIBIT 'A'

DESCRIPTION OF RIGHT OF WAY ACQUISITION

The East 15.00 feet of Lots 60 and 61 of "Northgate Subdivision" a subdivision of part of the Northeast ¼ of Section 22, T2N, R11E, Troy Township (now City of Troy), Oakland County, Michigan as recorded in Liber 44 of plats, Page 55, Oakland County Records.
Said acquisition contains 2,400 square feet, or 0.055 acres, more or less.

PERMANENT UTILITY EASEMENT

Sidwell #88-20-22-226-080
Parcel #43

Pomponi's Real Estate Investments, a Partnership, Robert J. Pomponi and Isabella R. Pomponi, his wife; and John L. Pomponi and Barbara L. Pomponi, his wife, Grantors, whose addresses are: 9047 Point Charity Drive, Pigeon, MI 48755 and 9903 Sunset Boulevard, Pigeon, MI 48755 for and in consideration of the sum of: Six Thousand, Three Hundred, Seventy-Four and no/100 Dollars (\$6,374) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan 48084 grants to the Grantee a utility easement, said easement for land situated in the City of Troy, Oakland County, Michigan described as:

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and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair and/or replacement thereof.

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee. The Grantee agrees to reimburse the Grantors all costs related to the relocation of the current sign to an approved location outside of the easement area, based on the lowest of three bids from an approved sign company.

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

IN WITNESS WHEREOF, the undersigned hereunto affixed 2 signature(s) this 2ND NOVA day of NOVEMBER, 2008.

POMPONI'S REAL ESTATE INVESTMENTS,
A PARTNERSHIP
Robert J. Pomponi (L.S.)
Robert J. Pomponi
Isabella R. Pomponi (L.S.)
Isabella R. Pomponi
John L. Pomponi (L.S.)
*John L. Pomponi
Barbara L. Pomponi (L.S.)
*Barbara L. Pomponi

STATE OF MICHIGAN)
COUNTY OF HURON)

The foregoing instrument was acknowledged before me this 2 day of November, 2008, by Robert J. Pomponi and Isabella R. Pomponi, husband and wife; and John L. Pomponi and Barbara L. Pomponi, husband and wife, of Pomponi's Real Estate Investments, a Partnership.

David J. Watts
* David J. Watts
Notary Public, Huron County, Michigan
Acting in Huron County, Michigan
My Commission Expires 03/02/2011

Prepared by: Patricia A. Petitto
City of Troy
500 W. Big Beaver Road
Troy, MI 48084

Return to: City Clerk
City of Troy
500 W. Big Beaver Road
Troy, MI 48084

11-26-07
19990476
20-22-226-080
rev. 01-03-08

EXHIBIT 'A'

DESCRIPTION OF PUBLIC UTILITY EASEMENT

The West 12.00 feet of the East 27.00 feet of Lots 60 and 61 of "Northgate Subdivision" a subdivision of part of the Northeast ¼ of Section 22, T2N, R11E, Troy Township (now City of Troy), Oakland County, Michigan as recorded in Liber 44 of plats, Page 55, Oakland County Records.
Said easement contains 1,920 square feet, or 0.044 acres, more or less.

REGRADING AND TEMPORARY CONSTRUCTION PERMIT

Sidwell # 88-20-22-276-080
Project # 99.203.5
Parcel #43

Pomponi's Real Estate Investment, a Partnership; Robert J. Pomponi and Isabella R. Pomponi, husband and wife; and John L. Pomponi and Barbara L. Pomponi, husband and wife, Grantor(s), whose address is 9047 Point Charity Drive, Pigeon, MI 48755 and 9903 Sunset Boulevard, Pigeon, MI 48755, for and in consideration of the sum of Sixty and no/100 Dollars (\$60.00) 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 Rochester Road Improvements, Torpey to Barclay, 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"

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.

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 2 day of November 2008.

POMPONI'S REAL ESTATE INVESTMENTS,
A PARTNERSHIP

Robert J. Pomponi (L.S.)
*Robert J. Pomponi

Isabella R. Pomponi (L.S.)
*Isabella R. Pomponi

John L. Pomponi (L.S.)
*John L. Pomponi

Barbara L. Pomponi (L.S.)
*Barbara L. Pomponi

STATE OF MICHIGAN
COUNTY OF ~~CRAWFORD~~ HURON

The foregoing instrument was acknowledged before me this 2 day of November 2008, by Robert J. Pomponi and Isabella R. Pomponi, husband and wife; and John L. Pomponi and Barbara L. Pomponi, husband and wife, of Pomponi's Real Estate Investments, a Partnership.

David J. Watts
David J. Watts
Notary Public, Huron County, Michigan
Acting in Huron County, Michigan

My Commission Expires 03/02/2011

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

11-26-07
19990476
20-22-226-080
rev. 01-03-08

EXHIBIT 'A'

DESCRIPTION OF REGRADING AND TEMPORARY CONSTRUCTION PERMIT

The West 4.00 feet of the East 31.00 feet of the North 29.00 feet of the South 70.53 feet of Lot 60 of "Northgate Subdivision" a subdivision of part of the Northeast $\frac{1}{4}$ of Section 22, T2N, R11E, Troy Township (now City of Troy), Oakland County, Michigan as recorded in Liber 44 of plats, Page 55, Oakland County Records. Said easement contains 116 square feet, or 0.003 acres, more or less.

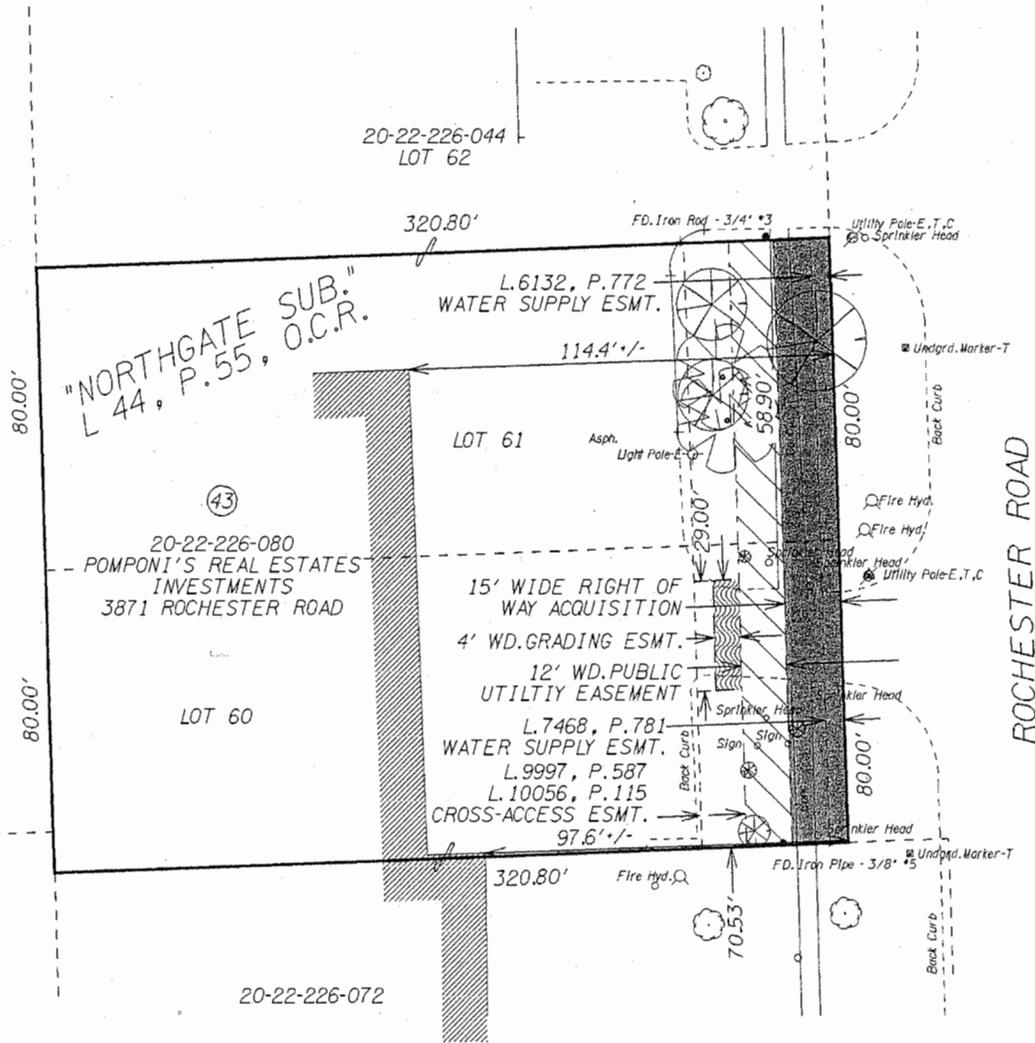
RIGHT OF WAY ACQUISITION

EXHIBIT 'B'
PARCEL 43



SCALE: 1" = 40'

NOTE: DESCRIPTION TAKEN FROM RECORD.



20-22-226-080
POMPONI'S REAL ESTATES INVESTMENTS
TOTAL AREA • 51,328 S.F.
R.O.W. ACQUISITION • 2,400 S.F.
REMAINDER • 48,928 S.F.
UTILITY EASEMENT • 1,920 S.F.
GRADING EASEMENT • 116 S.F.

- R.O.W. ACQUISITION - [Solid Grey Box]
- PUBLIC UTILITY EASEMENT - [Diagonal Line Box]
- GRADING EASEMENT - [Wavy Line Box]

USER NAME • dhsbert
 DESIGN FILE • F:\1999\19990476\2000\19990476.dwg
 DVIEW • Vpansv\CP\MTIFF
 CLP. TBL • J:\stator\as\Map\g\planning\black\redline\PRIME - 01-JAN-2008 14:54

REV. 01-03-08

JOB NO. 19990476	HUBBELL, ROTH & CLARK, INC. CONSULTING ENGINEERS 555 HULET DRIVE BLOOMFIELD HILLS, MICH.	SHEET NO.
DATE 11-26-07		2 OF 2