

CITY COUNCIL ACTION REPORT

February 10, 2009

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 *PAP*

SUBJECT: Request for Approval of Purchase Agreement and
 Acceptance of Permanent Public Utility Easement
 Rochester Road Improvements, Torpey to Barclay
 Project No. 99.203.5 – Parcel 12 – Sidwell #88-20-23-100-047
 Harold and Carolyn Gronow

Background:

- In connection with the proposed improvements to Rochester Road, from Torpey to Barclay, the Real Estate & Development Department received a Purchase Agreement and Permanent Public Utility Easement from Harold and Carolyn Gronow. This parcel is located on the east side of Rochester Road, between Bishop and Wattles in the northwest ¼ of Section 23.

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 \$77,400, plus closing costs for the acquisition of the property described in the purchase agreement and \$2,200 for the Permanent Public Utility Easement 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 and easement 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 from Harold and Carolyn Gronow so that the City can proceed with the acquisition of this right-of-way.

PAP\G\MEMOS TO MAYOR & CC\Gronow Purchase Agreement & PUE

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Howard Gronow and Carolyn M. Gronow, husband and wife (the "Sellers"), the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

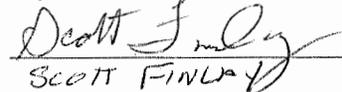
for a public project within the City of Troy and to pay the sum of Seventy-Seven Thousand, Four Hundred and no/100 Dollars (\$77,400) under the following terms and conditions:

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. Buyer shall pay all county and state transfer taxes payable in connection with this transaction.
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 known encumbrances against the property other than those identified in the commitment for title insurance issued by Chicago Title Insurance Company (Commitment No. 63-569711).
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 use commercially reasonable efforts 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. Buyer acknowledges and agrees that, except as expressly set forth in this agreement, Seller is not making any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, with respect to (a) the condition of the property, including, without limitation, the water, soil and/or geology; (b) the compliance of the property with any applicable laws, rules, ordinances or regulations; (c) the habitability, merchantability or fitness for a particular purpose of the property; or (d) any other matter with respect to the property. Seller specifically disclaims any representations regarding hazardous waste or materials.
8. Additional conditions, if any: Buyer acknowledges the Seller's continued right to utilize the paved apron and access drive serving Seller's property so that Seller has pedestrian and vehicular ingress to and egress from Seller's building from and to Rochester Road. Buyer agrees to repair and restore, at Buyer's sole cost and expense, existing utility connections, at the time of construction, lying within the right-of-way or easements in connection with Buyer's construction, maintenance, use and/or improvements of the right-of-way and any improvements therein.

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

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 10TH day of FEBRUARY, 2009.

In presence of:


SCOTT FINLAY

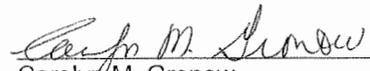
MICHAEL BASTIEN

CITY OF TROY (BUYER)


PATRICIA A. PETITTO

SELLERS:

HOWARD GRONOW AND
CAROLYN M. GRONOW, HUSBAND
AND WIFE


Howard Gronow

Carolyn M. Gronow

11-08-07
19990476
20-23-100-047

EXHIBIT 'A'

DESCRIPTION OF RIGHT OF WAY ACQUISITION

Part of the Northwest $\frac{1}{4}$ of Section 23, T2N, R11E, City of Troy, Oakland County, Michigan, described as follows: Beginning at a point distant S00°12'22"E 1,069.20 feet and N89°44'32"E 43.00 feet from the Northwest corner of said section 23 to the Point Of Beginning; thence N89°44'32"E 32.00 feet; thence S00°12'22"E 166.00 feet; thence S89°44'31"W 32.00 feet; thence N00°12'22"W 166.00 feet to the Point Of Beginning.

Said acquisition contains 5,312 square feet, or 0.122 acres, more or less.

PERMANENT UTILITY EASEMENT

Sidwell #88-20-23-100-047
Parcel #12

Howard Gronow and Carolyn M. Gronow, husband and wife, Grantors, whose address is: 15714 Millar Road, Clinton Township, MI 48036, for and in consideration of the sum of: Two Thousand, Two Hundred and no/100 Dollars (\$2,200) 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:

SEE ATTACHED EXHIBIT "A"

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.

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 THEIR signature(s) this 10TH day of FEBRUARY, 2009.

Howard Gronow (L.S.)
*Howard Gronow

Carolyn M. Gronow (L.S.)
*Carolyn M. Gronow

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 10TH day of FEBRUARY, 2009, by Howard Gronow and Carolyn M. Gronow, husband and wife.

Patricia A. Petitto
*PATRICIA A. PETITTO
Notary Public, OAKLAND County, Michigan
Acting in OAKLAND County, Michigan
My Commission Expires 12-31-11

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

PLEASE SIGN IN BLUE INK AND PRINT OR TYPE NAMES IN BLACK INK UNDER SIGNATURES

11-08-07
19990476
20-23-100-047

EXHIBIT 'A'

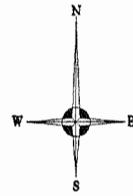
DESCRIPTION OF PUBLIC UTILITY EASEMENT

Part of the Northwest $\frac{1}{4}$ of Section 23, T2N, R11E, City of Troy, Oakland County, Michigan, described as follows: Beginning at a point distant South 1,069.20 feet from the Northwest corner of said Section 23 and N89°44'32"E 75.00 feet from the Northwest corner of said Section 23 to the Point Of Beginning; thence N89°44'32"E 4.00 feet ; thence S00°12'22"E 45.00 feet; thence S89°48'47"W 4.00 feet to Point 'A'; thence N00°12'22"W 45.00 feet to the Point Of Beginning , Also Beginning at a point distant S00°12'22"E 9.00 feet from said Point 'A'; thence N89°48'47"E 19.50 feet; thence S00°12'22"E 15.00 feet; thence S89°48'47"W 15.50 feet; thence S00°12'22"E 97.00 feet; thence S89°44'31"W 4.00 feet; thence N00°12'22"W 112.00 feet to the Point Of Beginning.

Said easement contains 861 square feet, or 0.020 acres, more or less.

RIGHT OF WAY ACQUISITION

EXHIBIT 'B'
PARCEL 12

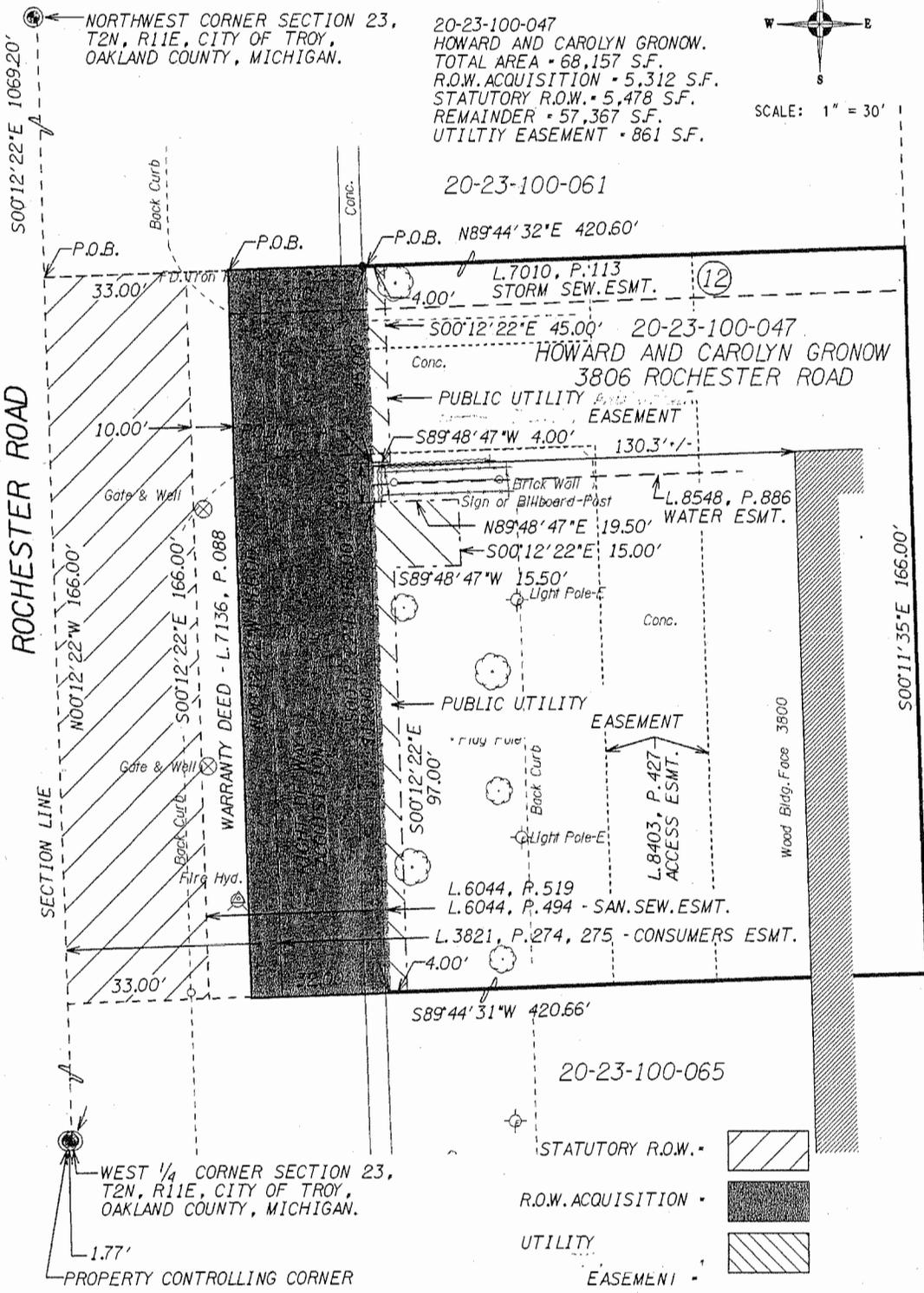


SCALE: 1" = 30'

TIME - 15-FEB-2008 08:29

DESIGN FILE - F:\1999\19990476\cont\1\19990476.as12.dgn

USER NAME - dthbert



SECTION LINE
S00°12'22"E 1069.20'

ROCHESTER ROAD

SECTION LINE
N00°12'22"W 166.00'

SECTION LINE
S00°12'22"E 166.00'

SECTION LINE
S00°11'35"E 166.00'

NORTHWEST CORNER SECTION 23,
 T2N, R11E, CITY OF TROY,
 OAKLAND COUNTY, MICHIGAN.

20-23-100-047
 HOWARD AND CAROLYN GRONOW.
 TOTAL AREA - 68,157 S.F.
 R.O.W. ACQUISITION - 5,312 S.F.
 STATUTORY R.O.W. - 5,478 S.F.
 REMAINDER - 57,367 S.F.
 UTILITY EASEMENT - 861 S.F.

20-23-100-061

P.O.B. N89°44'32"E 420.60'
 L.7010, P.113
 STORM SEW. ESMT.

500°12'22"E 45.00' 20-23-100-047
 HOWARD AND CAROLYN GRONOW
 3806 ROCHESTER ROAD

PUBLIC UTILITY EASEMENT
 S89°48'47"W 4.00' 130.3'/-

BRICK WALL
 SIGN OF BILLBOARD-POST
 N89°48'47"E 19.50'
 L.8548, P.886
 WATER ESMT.

S00°12'22"E 15.00'
 S89°48'47"W 15.50'
 LIGHT POLE-E

PUBLIC UTILITY EASEMENT
 S00°12'22"E 97.00'
 RUG CURB
 BACK CURB
 LIGHT POLE-E

L.8403, P.427
 ACCESS ESMT.

WOOD BLDG. FACE 3800

WARRANTY DEED - L.7136, P.088

L.6044, P.519
 L.6044, P.494 - SAN. SEW. ESMT.
 L.3821, P.274, 275 - CONSUMERS ESMT.

S89°44'31"W 420.66'

20-23-100-065

WEST 1/4 CORNER SECTION 23,
 T2N, R11E, CITY OF TROY,
 OAKLAND COUNTY, MICHIGAN.

1.77'
 PROPERTY CONTROLLING CORNER

- STATUTORY R.O.W. - [diagonal lines]
- R.O.W. ACQUISITION - [stippled]
- UTILITY EASEMENT - [diagonal lines]

NOTE: DESCRIPTION TAKEN FROM RECORD.

JOB NO. 19990476	HUBBELL, ROTH & CLARK, INC. CONSULTING ENGINEERS 555 HULET DRIVE BLOOMFIELD HILLS, MICH. P.O. BOX 824 48303-0824	SHEET NO. 2
DATE 01-29-08		OF 2