



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: January 28, 2010
SUBJECT: Troy v. Atto Construction Co.(Rochester Road Improvement Project)

As a part of the Rochester Road improvement project, the City needed right of way and a public utility easement from the property at 3846 Rochester Road, in the City of Troy (formerly occupied by Marshall Music Company). The City was not able to voluntarily purchase this right of way and easement, and was therefore required to file a condemnation lawsuit for the property. Through a Court order, the City has already been granted possession of the right of way and easement property.

The only remaining issue is the amount of just compensation to be paid for the property. We have negotiated a proposed consent judgment, which would finalize this case.

We recommend approval of the proposed consent judgment. 80% of the amount will be paid with federal funds, and the City is responsible for paying 20%, under the Rochester Road Improvement Project contract.

Please let us know if you have any questions about this matter.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

CITY OF TROY, a Michigan
Municipal corporation,

Plaintiff,

Case No. 09-098180-CC

Hon. Colleen A. O'Brien

vs

ATTO CONSTRUCTION, INC., a Michigan
Limited Liability Company; PEOPLE'S STATE BANK; FRANKLIN
BANK, N.A.; CONSUMERS POWER
COMPANY, n/k/a CONSUMERS ENERGY; and
DETROIT EDISON COMPANY,

Defendants.

CITY OF TROY – CITY ATTORNEY'S OFFICE

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Susan M. Lancaster (P33168)

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(248) 524-3320

Attorneys for Plaintiff

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(248) 851-3434

Attorneys for Defendant Atto Construction, Inc.

CONSENT JUDGMENT AS TO DEFENDANT, ATTO CONSTRUCTION, INC.

At a session of said Court held in the
Courthouse in the City of Pontiac,
Oakland County, Michigan

on _____

PRESENT: _____

Hon. Colleen A. O'Brien

This matter having come before the Court upon Stipulation of the parties hereto, being the City of Troy (“Plaintiff”) and Atto Construction, Inc. (“Defendant”), and

The Court being duly advised in the premises;

IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Title to the property described in the Declaration of Taking entered by this Court on March 12, 2009 has vested in Plaintiff by virtue of filing the Complaint and Declaration of Taking, depositing with an authorized statutory escrowee the estimated just compensation and recording a copy of said Declaration of Taking with the Register of Deeds of Oakland County.

2. Total and Final Just Compensation for the taking in this matter is determined to be \$116,300.00 (One Hundred Sixteen Thousand Three Hundred Dollars). Plaintiff is entitled to a credit in the amount of \$77,800.00, for the initial estimated just compensation which was previously paid in this matter, leaving a payment due in the amount of \$38,500.00 for additional just compensation. In addition to Just Compensation, Plaintiff shall pay to Defendant \$1,938.71 in statutory interest on the additional just compensation due pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq.

3. As set forth in paragraph 2, Plaintiff shall make a payment to Defendant in the amount of \$40,438.71 for additional just compensation and interest. This amount shall be paid in a check payable to Atto Construction, Inc., and People’s State Bank.

4. Plaintiff shall also pay to Defendant the amount of \$21,757.06 for statutory reimbursement of attorney fees, expert fees and costs pursuant to the Uniform Condemnation Procedures Act, MCL 213.51 et seq. This amount shall be paid in a check payable to Atto Construction, Inc., and Berry Reynolds & Rogowski PC.

5. The payments required pursuant to this Consent Judgment are made and accepted in compromise and settlement of any and all claims of Defendant against Plaintiff for just compensation for any of the property described in the Declaration of Taking or otherwise arising out of the taking for public purposes of the property described in the Declaration of Taking.

6. Subject to the enforcement of the terms herein, this Consent Judgment constitutes a final disposition of this case.

Circuit Court Judge

**STIPULATED TO AND APPROVED
AS TO FORM AND CONTENT**

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