



500 West Big Beaver  
Troy, MI 48084  
troymi.gov



## CITY COUNCIL AGENDA ITEM

Date: June 12, 2024

To: Troy City Council

From: Robert Bruner, Acting City Manager  
Lori Grigg Bluhm, City Attorney  
Megan E. Schubert, Assistant City Manager  
Robert Maleszyk, Chief Financial Officer  
Dee Anne Irby, Controller  
G. Scott Finlay, City Engineer  
Larysa Figol, Sr. Right-of-Way Representative

Subject: Request for Authorization to make Unconditioned Offer to Purchase Property, Rochester Road, Barclay to Trinway, Project No. 02.206.5, Parcel #118, Rocky and Noor Denha, Sidwell #88-20-10-427-047, and a Request to Institute Court Action if Necessary

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### **History**

The plans for the federally funded Rochester Road (Barclay to Trinway) project require the acquisition of right of way, a permanent utility easement and temporary permit from Rocky and Noor Denha, owner of the property identifies by Sidwell #88-20-10-427-047. The Engineering department hired an independent appraiser, who has valued the right of way and needed property rights at \$190,000.00. The property owner was given a written purchase offer for this amount, which includes an amount for damages to the property caused by the acquisition.

Discussions with the property owners have not resulted in an agreement thus far. As with any federally funded road project, there are tight time frames. Staff is requesting these authorizations to ensure the project can be kept on schedule. In the event that an agreement cannot be reached it may be necessary to acquire the property rights by exercising our power of eminent domain.

### **Financial**

An appraisal report was prepared by Michael Kurschat, ASA, M.S.F., MAI, a State of Michigan Certified General Real Estate Appraiser. The report was reviewed by Andrew Boettcher, MBA, a State of Michigan Certified General Real Estate Appraiser. Staff believes the amount of \$190,000 is a justifiable compensation amount for the needed right of way, easement and permit.

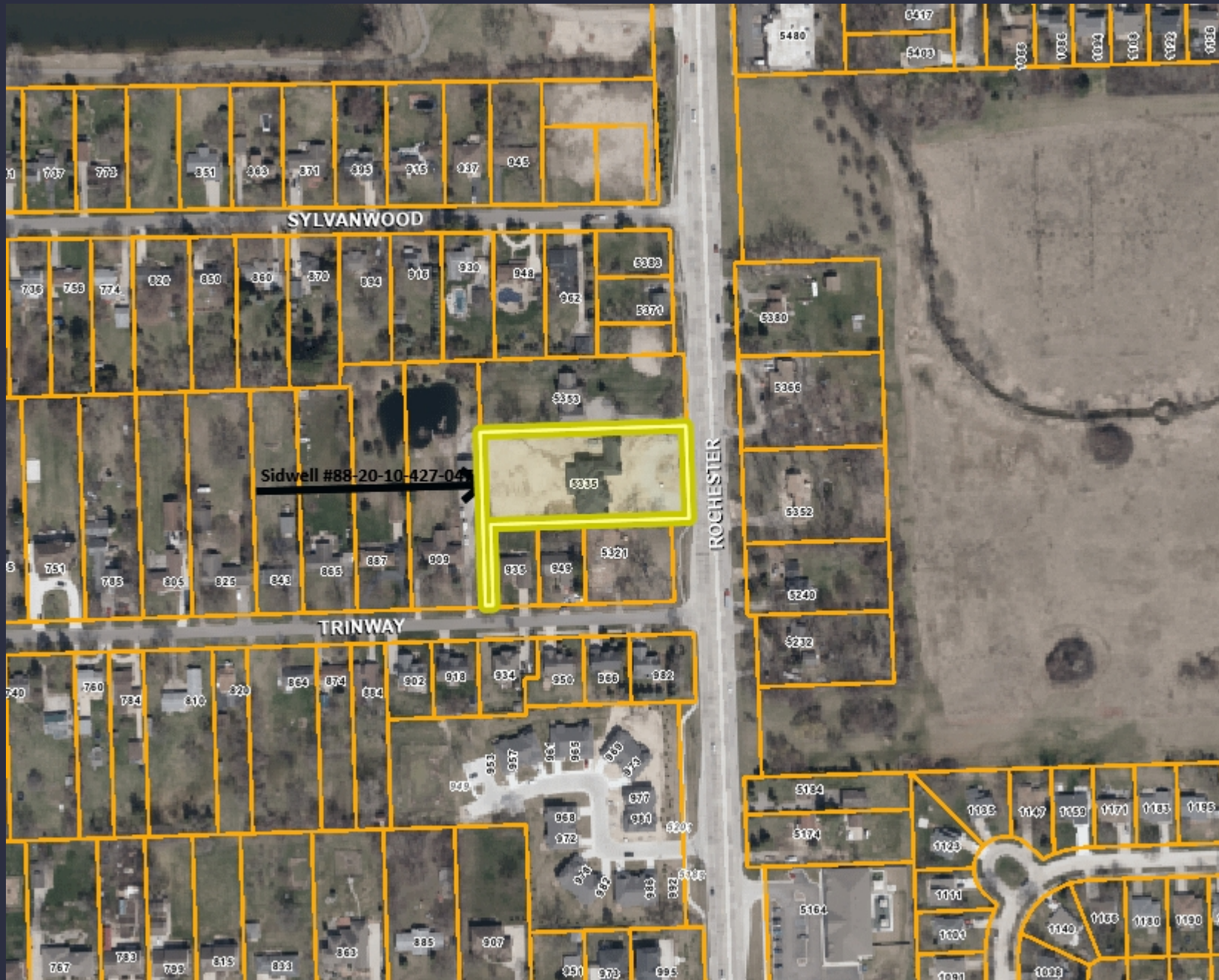
Eighty percent of this cost will be reimbursed from federal funds. The City of Troy share is available in the 2024 Capital Projects Fund, Project Code 2022CG0002, Account #401.449.202.989.022065-Public Works Construction Rochester from Barclay to Trinway.

## **Recommendation**

City staff recommends that City Council authorize an unconditioned offer in the amount of \$190,000.00, plus closing costs not to exceed \$10,000.

Staff also requests that City Council authorize the City Attorney to institute a condemnation lawsuit if necessary and to expend any needed funds to acquire the right of way. In order to proceed with the process of condemnation, City Council will need to pass a resolution that declares that the eminent domain or condemnation action is for the Rochester Road Improvement project (Barclay to Trinway), which is a public purpose, and within the scope of the City's powers.

Proposed resolutions are attached for your consideration.



Notes:  
#88-20-10-427-047  
RR Parcel #118  
Denha, Rocky & Noor



CITY OF TROY  
AGREEMENT TO PURCHASE REALTY  
FOR PUBLIC PURPOSES

The CITY OF TROY, a Michigan municipal corporation (the "Buyer"), agrees to purchase from Rocky Denha and Noor Denha, husband and wife (the "Sellers"), the following described premises (the "Property"):

SEE DESCRIPTIONS OF RIGHT OF WAY ACQUISITION ON ATTACHED EXHIBITS "A" AND "B"

for a public project within the City of Troy and to pay the sum of One Hundred and Eighty Thousand, Nine Hundred and 00/100 dollars (\$180,900.00) 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 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.
9. 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 \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2024.

In presence of:

CITY OF TROY, a Michigan municipal corporation (BUYER)

\_\_\_\_\_  
  
\_\_\_\_\_

\_\_\_\_\_  
\*Patricia A. Petitto  
Right of Way Consultant

SELLERS:

\_\_\_\_\_  
\*Rocky Denha

\_\_\_\_\_  
\*Noor Denha

# RIGHT OF WAY ACQUISITION AND UTILITY EASEMENT

## EXHIBIT "A" PARCEL 118

### PARENT PROPERTY DESCRIPTION

PARCEL ID: 20-10-427-047

PART OF THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 10, T2N, R11E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEGINNING AT A POINT DISTANT EAST 633.60 FEET FROM THE SOUTHEAST CORNER OF LOT 88 OF "CRYSTAL SPRINGS SUB No. 1" (LIBER 29, PAGE 32, OAKLAND COUNTY RECORDS); THENCE N00°12'00"W 317.00 FEET; THENCE EAST 422.40 FEET; THENCE S00°12'00"E 170.00 FEET; THENCE WEST 408.08 FEET; THENCE S00°12'00"E 147.00 FEET; THENCE WEST 14.32 FEET TO THE POINT OF BEGINNING, EXCEPTING THE EAST 43 FEET TAKEN FOR ROCHESTER ROAD.

SUBJECT TO RESERVATIONS, RESTRICTIONS AND EASEMENTS OF RECORD, IF ANY.

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SAID ACQUISITION CONTAINS 5,440 SQUARE FEET, OR 0.12 ACRES, MORE OR LESS.

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SAID EASEMENT CONTAINS 2550 SQUARE FEET, OR 0.06 ACRES, MORE OR LESS.

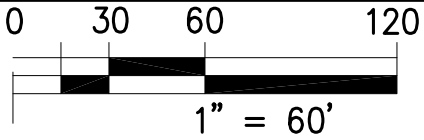
### DESCRIPTION OF REGRADING AND TEMPORARY CONSTRUCTION PERMIT

THE WEST 20.00 FEET OF THE EAST 67.00 FEET OF THE NORTH 5.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY: PART OF THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 10, T2N, R11E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, BEGINNING AT A POINT DISTANT EAST 633.60 FEET FROM THE SOUTHEAST CORNER OF LOT 88 OF "CRYSTAL SPRINGS SUB No. 1" (LIBER 29, PAGE 32, OAKLAND COUNTY RECORDS); THENCE N00°12'00"W 317.00 FEET; THENCE EAST 422.40 FEET; THENCE S00°12'00"E 170.00 FEET; THENCE WEST 408.08 FEET; THENCE S00°12'00"E 147.00 FEET; THENCE WEST 14.32 FEET TO THE POINT OF BEGINNING, EXCEPTING THE EAST 43 FEET TAKEN FOR ROCHESTER ROAD.

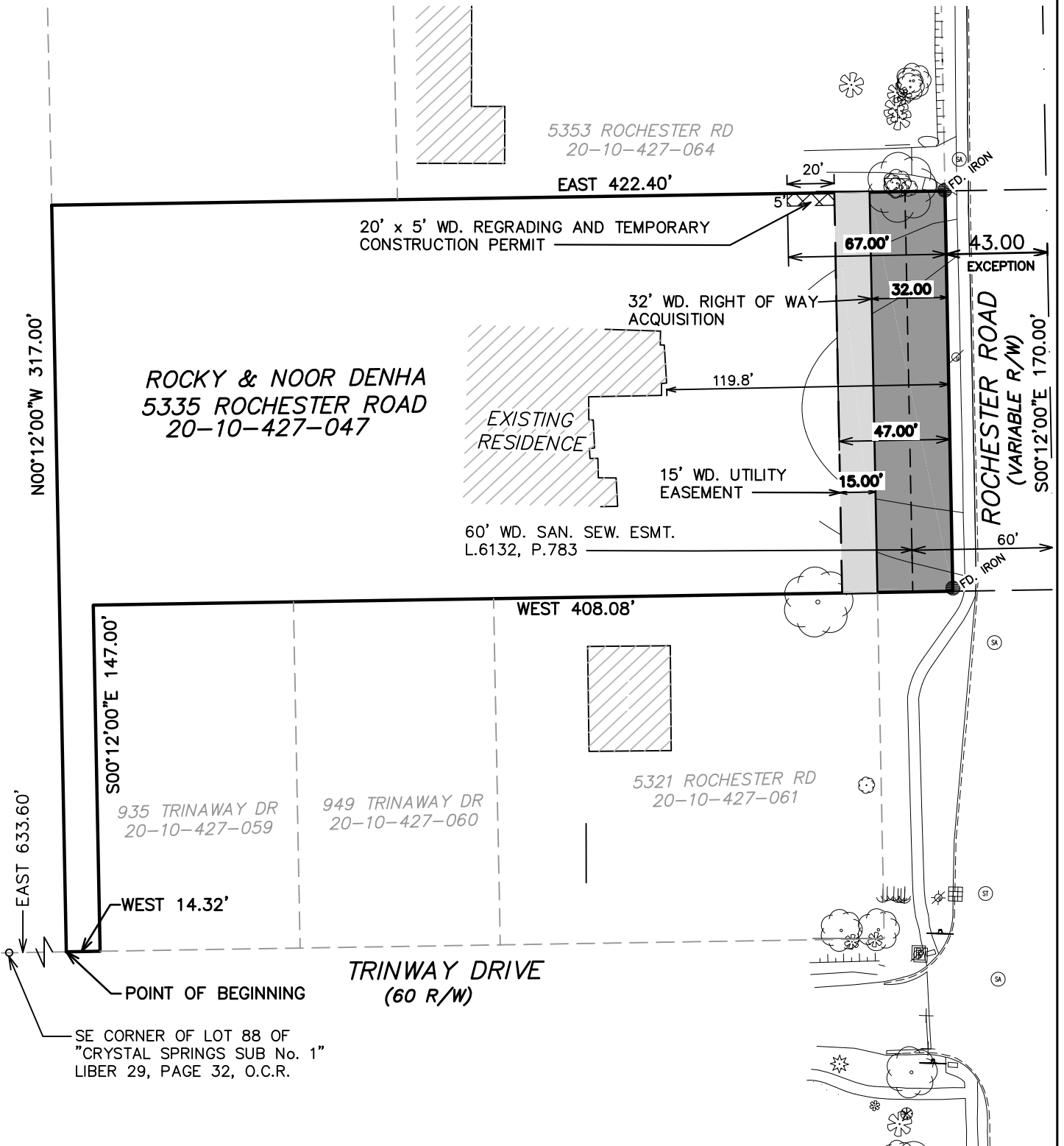
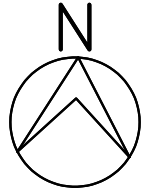
SAID PERMIT CONTAINS 100 SQUARE FEET, OR 0.002 ACRES, MORE OR LESS.

JOB NO. 20160715	 <b>HUBBELL, ROTH &amp; CLARK, INC</b> CONSULTING ENGINEERS SINCE 1915	555 HULET DRIVE BLOOMFIELD HILLS, MICH.	P.O. BOX 824 48303 - 0824	SHEET NO.
DATE 11/10/22		PHONE: (248) 454-6300 FAX (1st. Floor): (248) 454-6312 FAX (2nd. Floor): (248) 454-6359 WEB SITE: www.hrcengr.com	1	OF 2

# RIGHT OF WAY ACQUISITION AND UTILITY EASEMENT



## EXHIBIT "B" PARCEL 118



TOTAL PROPERTY = 66,602.6 SQ. FT.  
 RIGHT OF WAY ACQUISITION = 5,440 SQ. FT.  
 REMAINDER = 61,162.6 SQ. FT.  
 UTILITY EASEMENT = 2,550 SQ. FT.  
 REGRADING/TEMPORARY EASEMENT = 100 SQ. FT.

**LEGEND:**

- RIGHT OF WAY ACQUISITION
- UTILITY EASEMENT
- REGRADING AND TEMPORARY CONSTRUCTION PERMIT

JOB NO. 20160715
DATE 11/10/22



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SHEET NO. 2 OF 2
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**\*APPROVED\***

**AS NOTED:  
CITY OF TROY LAND SURVEYOR  
DATE: 12/13/2022**



**PERMANENT EASEMENT  
FOR PUBLIC UTILITIES &  
PUBLIC SERVICE FACILITIES**

Sidwell #88-20-10-427-047  
Resolution #

Rocky Denha and Noor Denha, husband and wife, whose address is 2102 Denise Drive, Sterling Heights, MI 48310 for and in consideration of the sum of: Nine Thousand, and 00/100 Dollar (\$9,000) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, grants to the Grantee the right to access, construct, reconstruct, modify, operate, maintain, repair, upgrade, improve, inspect, enlarge or remove and/or replace **public utilities and public service facilities**, said easement for land situated in the City of Troy, Oakland County, Michigan described as:

SEE UTILITY EASEMENT DESCRIPTIONS ON EXHIBITS "A" AND "B" ATTACHED HERETO  
AND BY REFERENCE MADE A PART HEREOF

and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair, grading 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 \_\_\_\_\_ signature(s)  
this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
\* **Rocky Denha** (L.S.)

\_\_\_\_\_  
\* **Noor Denha** (L.S.)

STATE OF MICHIGAN        )  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024,  
by Rocky Denha and Noor Denha, husband and wife.

\_\_\_\_\_  
\*  
Notary Public, \_\_\_\_\_ County, Michigan  
My Commission Expires \_\_\_\_\_  
Acting in \_\_\_\_\_ County, Michigan

Prepared by: Patricia Petitto, SR/WA, RW-RAC  
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**

# RIGHT OF WAY ACQUISITION AND UTILITY EASEMENT

## EXHIBIT "A" PARCEL 118

### PARENT PROPERTY DESCRIPTION

PARCEL ID: 20-10-427-047

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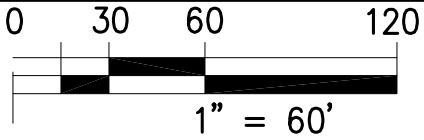
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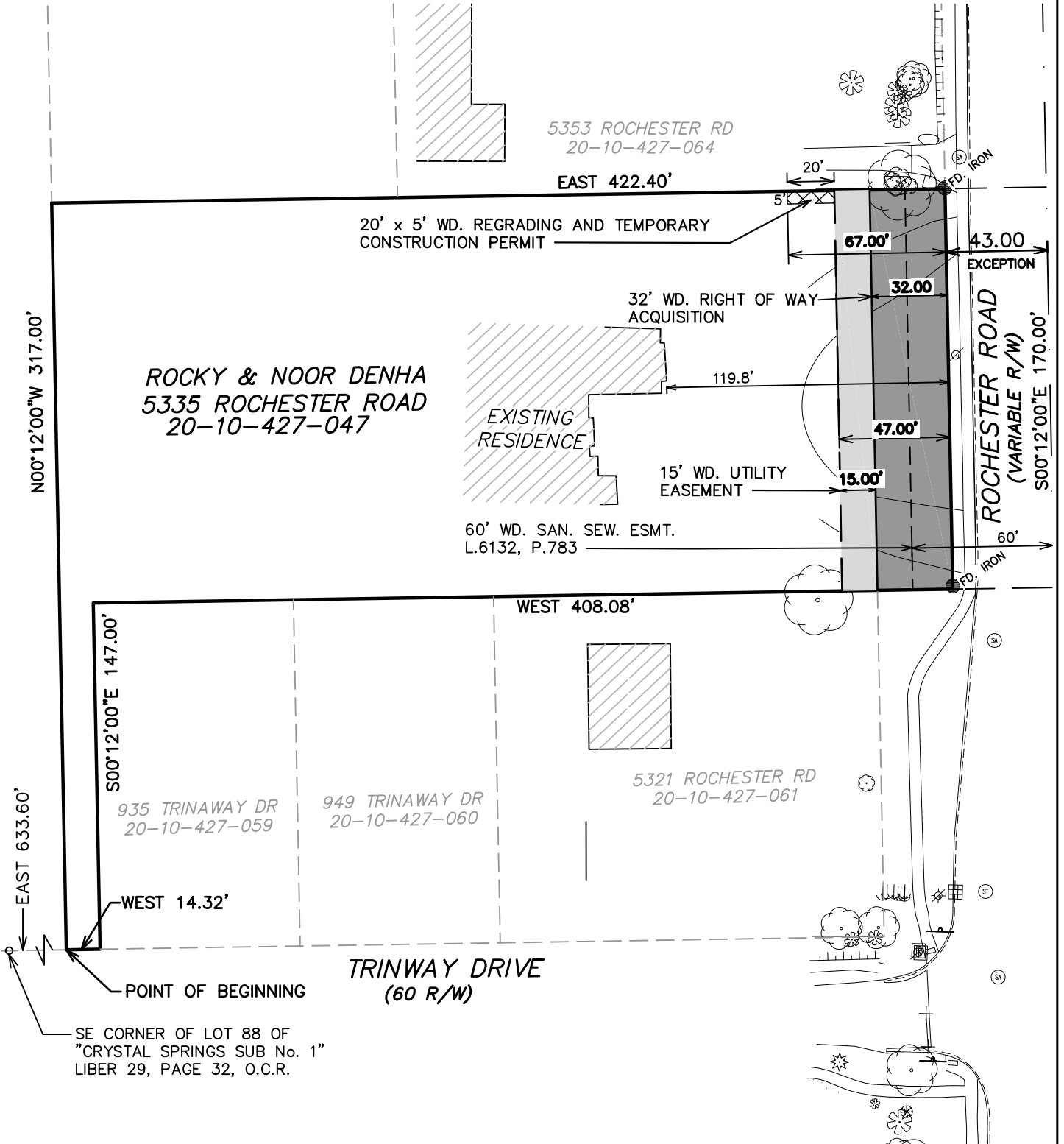
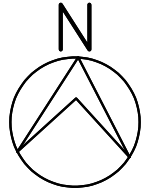
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# RIGHT OF WAY ACQUISITION AND UTILITY EASEMENT



## EXHIBIT "B" PARCEL 118



TOTAL PROPERTY = 66,602.6 SQ. FT.  
 RIGHT OF WAY ACQUISITION = 5,440 SQ. FT.  
 REMAINDER = 61,162.6 SQ. FT.  
 UTILITY EASEMENT = 2,550 SQ. FT.  
 REGRADING/TEMPORARY EASEMENT = 100 SQ. FT.

**LEGEND:**

- RIGHT OF WAY ACQUISITION
- UTILITY EASEMENT
- REGRADING AND TEMPORARY CONSTRUCTION PERMIT

JOB NO. 20160715
DATE 11/10/22



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SHEET NO. 2 OF 2
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**REGRADING AND TEMPORARY CONSTRUCTION PERMIT**

Sidwell # 88-20-10-427-047  
Project # 02.206.5  
Parcel #118

Rocky Denha and Noor Denha, husband and wife, Grantor(s), whose address is:5353 Rochester Road, Troy, MI 48085, for and in consideration of the sum of One Hundred and no/100 Dollars (\$100.00) 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 Project #02.206.5, 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 DESCRIPTION OF REGRADING AND TEMPORARY CONSTRUCTION PERMIT ON ATTACHED EXHIBIT "A" AND EXHIBIT "B"

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 \_\_\_\_\_ signatures(s) this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
\*Rocky Denha

\_\_\_\_\_  
\*Noor Denha (L.S.)

STATE OF MICHIGAN  
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2024, by Rocky Denha and Noor Denha, husband and wife.

\_\_\_\_\_  
Notary Public, \_\_\_\_\_, County, Michigan  
Acting in \_\_\_\_\_ County, Michigan

My Commission Expires

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

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

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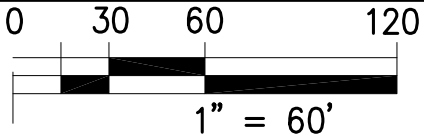
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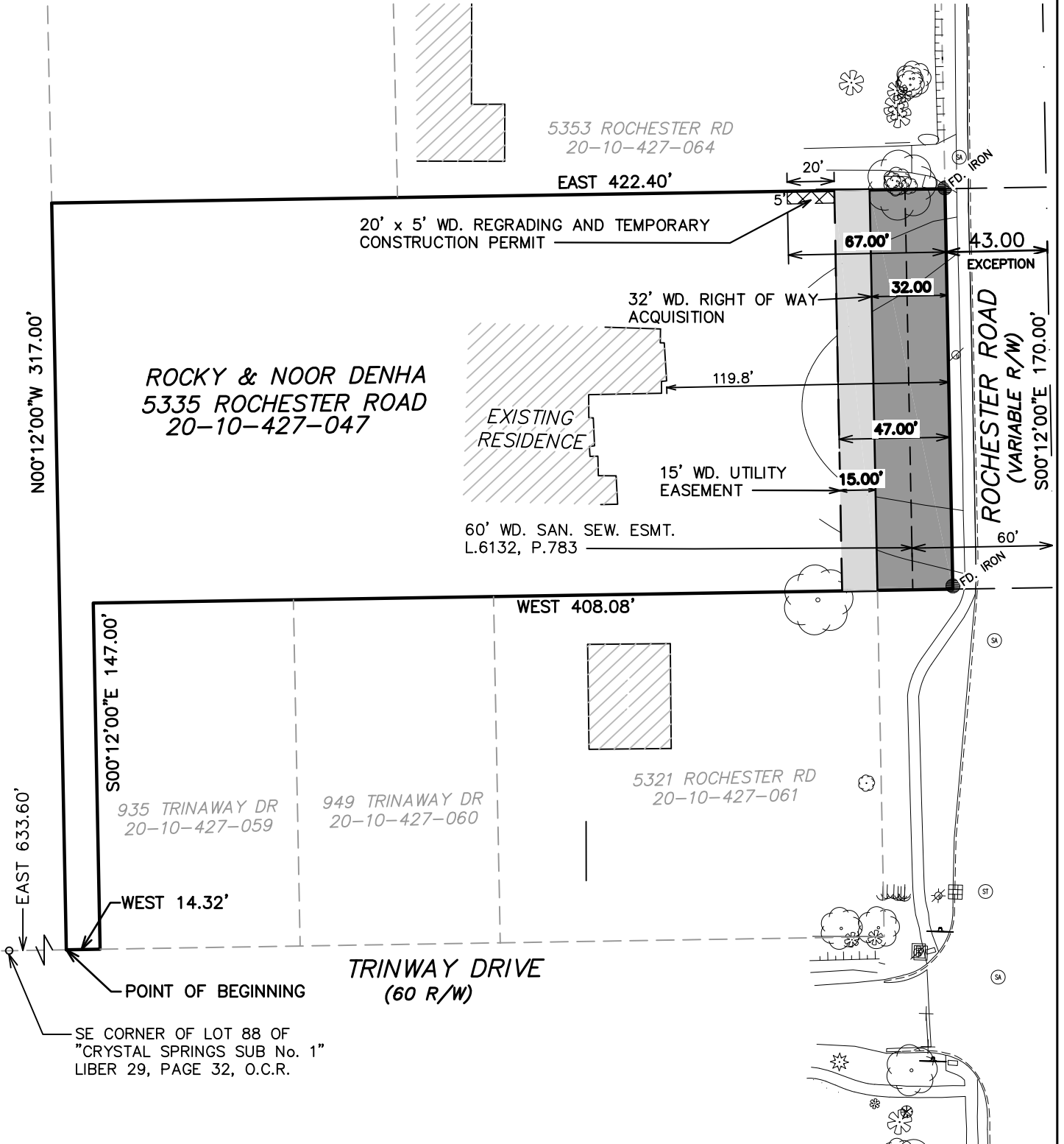
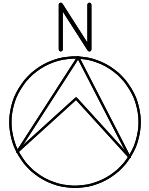
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# RIGHT OF WAY ACQUISITION AND UTILITY EASEMENT



## EXHIBIT "B" PARCEL 118



TOTAL PROPERTY = 66,602.6 SQ. FT.  
 RIGHT OF WAY ACQUISITION = 5,440 SQ. FT.  
 REMAINDER = 61,162.6 SQ. FT.  
 UTILITY EASEMENT = 2,550 SQ. FT.  
 REGRADING/TEMPORARY EASEMENT = 100 SQ. FT.

### LEGEND:

- RIGHT OF WAY ACQUISITION
- UTILITY EASEMENT
- REGRADING AND TEMPORARY CONSTRUCTION PERMIT

JOB NO. 20160715
DATE 11/10/22



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SHEET NO. 2 OF 2
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