



500 West Big Beaver
Troy, MI 48084
troymi.gov



CITY COUNCIL AGENDA ITEM

Date: August 5, 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 an Unconditioned Offer to Purchase Property, Rochester Road, Barclay to Trinway, Project No. 02.206.5, Parcel #110, Flagstar Bank, FSB, Sidwell #88-20-10-477-038, and a Request to Institute Court Action if Necessary

History

The plans for the federally funded Rochester Road (Barclay to Trinway) project require the acquisition of some right of way of private property owned by Flagstar Bank, FSB, parcel #88-20-10-477-049. The Engineering department has hired an independent appraiser, who has valued the right of way and site improvements at \$128,303.00. The property owner was given a written purchase offer for this amount.

As with any federally funded road project, there are tight time frames. As a result, although there have been discussions with the property owner, this may be a situation where condemnation proceedings are necessary to acquire the right of way needed for the Rochester Road improvement.

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. 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 \$128,303.00, 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.

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY, a Michigan municipal corporation (the "Buyer"), agrees to purchase from Flagstar Bank, FSB, a federally chartered bank (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 Twenty-Eight Thousand, Three Hundred and Three and 00/100 dollars (\$128,303.00) 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:

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RIGHT OF WAY ACQUISITION AND UTILITY EASEMENT

EXHIBIT "A"

PARCEL 110

DESCRIPTION TAKEN FROM OAKLAND COUNTY RECORDS.

PARENT PROPERTY DESCRIPTION

PARCEL ID: 20-10-477-038

PART OF SOUTHEAST 1/4 OF SECTION 10, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN:

THE EAST 124 FEET OF LOT 1 EXCEPT THE SOUTH 27 FEET TAKEN FOR ROAD; ALSO THE EAST 124 FEET OF THE SOUTH 58 FEET OF LOT 2 EXCEPT THAT PART OF EACH TAKEN FOR HIGHWAY; ALL IN CRYSTAL SPRINGS SUB, AS RECORDED IN LIBER 28, PAGE 23, OAKLAND COUNTY RECORDS.

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

DESCRIPTION OF RIGHT OF WAY ACQUISITION

THE EAST 20.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

PART OF SOUTHEAST 1/4 OF SECTION 10, T.2N., R.11E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN:

THE EAST 124 FEET OF LOT 1 EXCEPT THE SOUTH 27 FEET TAKEN FOR ROAD; ALSO THE EAST 124 FEET OF THE SOUTH 58 FEET OF LOT 2 EXCEPT THAT PART OF EACH TAKEN FOR HIGHWAY; ALL IN CRYSTAL SPRINGS SUB, AS RECORDED IN LIBER 28, PAGE 23, OAKLAND COUNTY RECORDS.

SAID ACQUISITION CONTAINS 3,260 SQUARE FEET, OR 0.07 ACRES, MORE OR LESS.

JOB NO. 20160715	 HUBBELL, ROTH & CLARK, INC CONSULTING ENGINEERS SINCE 1915	555 HULET DRIVE BLOOMFIELD HILLS, MICH.	P.O. BOX 824 48303 - 0824	SHEET NO.
DATE 01/16/23		PHONE: (248) 454-6300 FAX (1st. Floor): (248) 454-6312 FAX (2nd. Floor): (248) 454-6359 WEB SITE: www.hrcenr.com	1	OF 2

RIGHT OF WAY ACQUISITION AND TEMPORARY EASEMENT

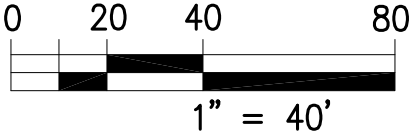
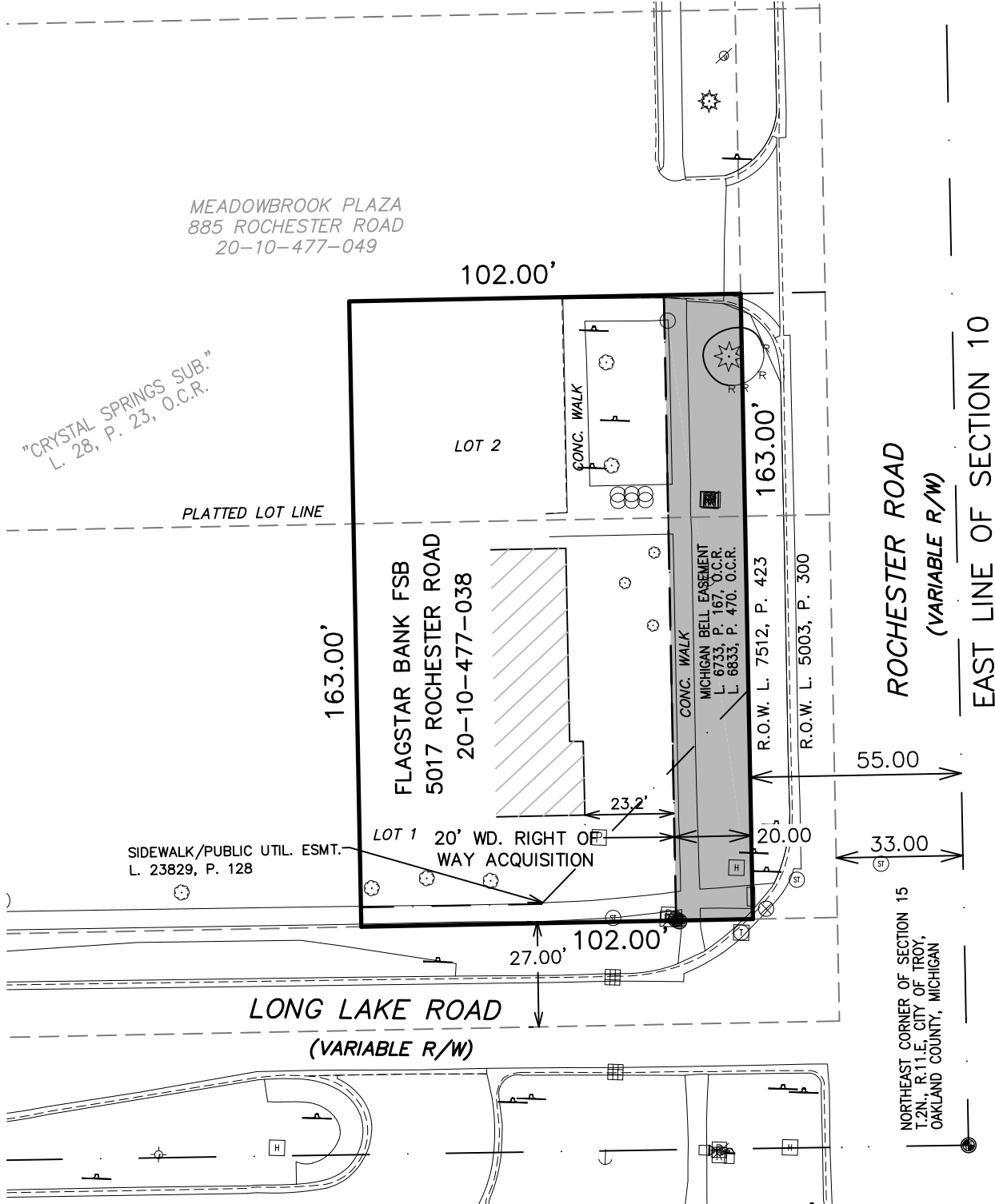
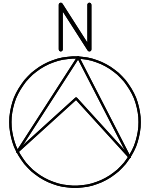


EXHIBIT "B" PARCEL 110



TOTAL PROPERTY = 16,626 SQ. FT.
RIGHT OF WAY ACQUISITION = 3,260 SQ. FT.
REMAINDER = 13,366 SQ. FT.

LEGEND:
RIGHT OF WAY ACQUISITION

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