

REQUEST FOR COUNCIL ACTION

Date: 07/20/2009
Item No.: 13.d

Department Approval

City Manager Approval



Item Description: **Discussion regarding appraisals for property purchased from Roseville Acquisitions for Twin Lakes Phase I infrastructure**

BACKGROUND

At the June 29, 2009 City Council meeting, Councilmember Ihlan requested that information regarding the purchase of portions of property located at 2690 Cleveland Ave. and 1947 County Rd. C be discussed at the July 13, 2009 City Council meeting. The property, owned by Roseville Acquisitions LLC, was needed to construct Phase I of the Twin Lakes infrastructure project. The City Council approved the purchase of the property and the acquisition of temporary construction and demolition easements on June 15, 2009 in the amount of \$2,107,700.00. The City closed on the property on June 30th.

For the Phase I Twin Lakes infrastructure project, the City purchased portions of two properties, 2690 Cleveland Ave. (Parcel 2) and 1947 Cleveland Ave. (Parcel 8). In March of 2009, the City received appraisals for the needed property purchases. The portions of Parcel 2 needed for the project was appraised at \$1,031,200 for the purchase of 62,245 square feet plus nearly 44,000 square feet needed for temporary construction and demolition easements. The portions of Parcel 8 needed for the project was appraised at \$1,051,500 for the purchase of 105,725 square feet plus 50,000 square feet needed for temporary construction and demolition easements. The appraised value of both properties needed for the Phase I Twin Lakes infrastructure project included temporary construction and building demolition easements was \$2,082,700.00.

Parcel	Value of purchased land	Value of building	Value of misc. improvements	Value of temp. construction easement	Value of temp. demolition easement	Total
Parcel 2	\$802,600	\$165,000	\$52,400	\$7,400	\$3,800	\$1,031,200
Parcel 8	\$1,037,500	\$0	\$10,200	\$3,300	\$500	\$1,051,500

Total

\$2,082,700

It should be noted that as part of the transaction, the City purchased two buildings since they were within the right-of-way needed for the project. Parcel 2 contained the Cummings Diesel building valued at \$1,113,300 for 2009 tax purposes (the City paid \$165,000 for the building as part of the recent transaction). On Parcel 8, the City needed to purchase the Indianhead accessory building located on the northside of the property. The building was determined to have no value as part of the appraisal and the City did not pay anything to acquire it.

24 Both properties were discounted \$2.50 per square foot due to the environmental issues contained on site. For Parcel
25 2, the purchase of the parcel was discounted \$155,612 due to environmental concerns. Parcel 8 was discounted
26 \$264,312 due to environmental concerns. Therefore, a the overall property purchase was discounted a total of
27 \$419,924 due to existing environmental conditions.

28 The final agreed upon settlement for the purchase of both properties was \$2,107,700 or \$25,000 more than the
29 combined appraisals.

30 Staff and the City Attorney has estimated that if the City did not settle with Roseville Acquisitions and received the
31 property thru the eminent domain action begun in March, it would have cost the City anywhere from \$50,000 up to
32 \$142,000 plus the final settlement amount determined by the court appointed commissioners. The breakdown is as
33 follows:

34
35 Attorneys fees....\$7,500-30,000 (assumes two day hearing and possible appeal);
36 Appraiser costs...\$3,000-7,000(prepare/testimony);
37 Commissioner comp./landowner appraisal...\$3,000-5,000;
38 Interest due on award...\$40,000-100,000(assumes 4% from date of taking to final resolution)
39

40 Staff has not attempted to quantify the amount of an actual award by the commissioners as it would be
41 speculative. However, staff's and the City Attorney's experience has shown that the final settlement is usually
42 somewhere between the City's appraisal and the landowner's appraisal.
43

44 Staff has included several documents related to the purchase of the properties including an executive summary of
45 the appraisals as well as the pertinent section regarding the environmental contamination adjustment to the price.
46

47 **POLICY OBJECTIVE**

48 The purchase of the property allows for the construction of infrastructure in the Twin Lakes redevelopment area.
49 Twin Lakes has long been identified in the Roseville Comprehensive Plan as an important redevelopment area
50 for the City.

51 **BUDGET IMPLICATIONS**

52 The costs for the acquisition of 2690 Cleveland Ave. and 1947 County Road C is initially funded from the
53 existing balances of Twin Lakes TIF District #17. As the property within Twin Lakes redevelops, property
54 owners will pay their prorated share of the infrastructure costs as outlined in the Twin Lakes Infrastructure
55 Study.

56 **STAFF RECOMMENDATION**

57 This item is being brought for discussion purposes at this time.

58 **REQUESTED COUNCIL ACTION**

59
60 None requested

Prepared by: Patrick Trudgeon, Community Development Director (651) 792-7071

Attachments: A: Executed Purchase Agreement between City and Roseville Acquisitions
B: Letters between the City of Roseville and Roseville Acquisitions regarding transaction
C: Executive Summary of Appraisal for 2690 Cleveland Ave. (Parcel 2) &
1947 County Road C (Parcel 8)
D: Page from Parcel 2 appraisal regarding environmental contamination adjustment to value
E: Page from Parcel 8 appraisal regarding environmental contamination adjustment to value
F: Memo from City Attorney regarding issues related to the purchase
G: Staff Memo to City Council dated June 3, 2009

SETTLEMENT AGREEMENT IN LIEU OF CONDEMNATION

THIS AGREEMENT is made as of June 23, 2009 between Roseville Acquisitions, LLC, ("Seller"), and the City of Roseville, a Minnesota municipal corporation ("Buyer").

RECITALS:

A. Seller is the fee owner of property located in Roseville, Ramsey County, Minnesota ("Property"), the legal description of which is depicted on Exhibit A, attached hereto.

B. Seller wishes to convey, and Buyer wishes to purchase the Property, together with all rights, privileges, easements, and appurtenances belonging thereto.

C. Seller also wishes to convey, and Buyer wishes to purchase a Temporary Construction Easement ("Construction Easement"), as set forth in Exhibit B, and a Building Demolition Easement ("Demolition Easement"), as set forth in Exhibit C.

AGREEMENT:

In consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Purchase of Property in Lieu of Condemnation. This Agreement is entered into in lieu of condemnation by Buyer. Seller hereby agrees to sell and Buyer hereby agrees to purchase the Property including all easements and rights of every kind and nature benefiting or appurtenant to the Property, subject to the Permitted Encumbrances as provided herein.

2. Purchase Price and Manner of Payment. The total purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property, Construction Easement, and Demolition Easement shall be \$2,107,700, and shall be paid to Seller on the Closing Date in a City draft or other immediately available funds.

3. Temporary Easements. As further consideration for the Purchase Price, Seller agrees to grant Buyer a temporary Construction Easement for the construction of roadway improvements and a temporary building Demolition Easement for purposes of demolishing buildings. Seller agrees to grant the Easements, attached hereto as Exhibit B and Exhibit C, to the Buyer at the Closing. Buyer agrees to demolish the buildings

located on the property that is the subject of the Demolition Easement. The Buyer shall pay for all costs for the demolition and removal of the buildings.

4. Vacation of Mount Ridge Road. City staff has determined that from a transportation and traffic circulation perspective, the Mount Ridge right-of-way as it goes through Seller's property south of future Twin Lakes Parkway is not needed. City staff shall recommend that Mount Ridge Road be vacated and upon such vacation, ownership of the Mount Ridge Road shall be in the name of the Seller. Buyer makes no representation that the City Council will approve the vacation of Mount Ridge Road.

5. Government Grant Funds. Buyer will continue to pursue government grant funding to assist in the construction of the infrastructure and remediation of environmental issues within the Twin Lakes Area. Buyer anticipates that it will, on an annual basis, adjust the Twin Lakes Infrastructure Improvement Study to reflect any grants that it receives to reduce the cost of constructing the infrastructure and any inflationary or construction cost increases. Costs to a property owner/developer are locked in at the time of the approval of the development. Any later adjustments made to the allocation will not be charged to or rebated back to the property owner/developer. Any such adjustments have no impact on this Agreement.

6. Buyer Contingencies. The obligations of Buyer under this Agreement are contingent upon each of the following:

- a. Representation and Warranties.** The representations and warranties of Seller contained in this Agreement must be accurate in all material respects now and on the Closing Date as if made on the Closing Date.
- b. Title.** Title shall have been found marketable, or been made marketable, in accordance with the requirements and terms of Section 9 below.
- c. Performance of Seller's Obligations.** Seller shall have performed all of the obligations required to be performed by Seller under this Agreement as and when required by this Agreement.

If any contingency set forth above has not been satisfied on or before the Closing Date, then this Agreement may be terminated, at Buyer's option, by written notice from Buyer to Seller. Upon such termination, neither party will have any further rights or obligations regarding this Agreement or the Property. All the contingencies set forth in this Section are for the sole and exclusive benefit of the Buyer and the Buyer shall have the right to waive any contingency by written notice to Seller.

7. Closing. The closing of the purchase and sale contemplated by this Agreement ("Closing") shall be held at such place as may be agreed upon by the parties, on or before

June 30, 2009, unless a different date is mutually agreed to by both parties ("Closing Date"). At the Closing, Buyer shall pay the Purchase Price to Seller and the following closing documents shall be executed and delivered.

- a. Seller shall deliver a warranty deed conveying the Property to Buyer, free and clear of all encumbrances, except the following "Permitted Encumbrances":
 - (1) Property taxes and special assessments to be paid in accordance with this Agreement; and
 - (2) Right-of-way easements of record in favor of Ramsey County and the State of Minnesota; and
 - (3) Building codes and laws and ordinances relating to zoning and land use.
- b. Executed Easements, as depicted in Exhibits B and C.
- c. Partial Release of Restrictive Covenant from Anchor Bank Saint Paul, N.A.
- d. A title insurance policy, or a suitably marked-up commitment for title insurance initialed by the Title Insurer, in the form required by this Agreement.
- e. A Corporation Affidavit by Seller on Miller-Davis Form 117-M indicating no adverse matters.
- f. A closing statement detailing the financial terms of the closing.
- g. All other documents necessary to transfer the Property to Buyer free and clear of all encumbrances except the Permitted Encumbrances.

8. Costs and Prorations. Seller and Buyer agree to the following prorations and allocations of costs:

- a. **Title Insurance and Closing Fee.** Buyer will pay all costs of issuing the title insurance commitment. Buyer will pay all title insurance premiums and surcharges required for the issuance of any title insurance policy. Buyer will pay all reasonable and customary closing fees charged by the Title Insurer.

- b. **Documentary Taxes.** Buyer shall pay all state tax for the deed to be delivered by Seller under this Agreement.
- c. **Real Estate Taxes and Levied and Pending Assessments.** General real estate taxes due and payable in 2009 shall be prorated by Seller and Buyer to the Closing Date based upon a calendar fiscal year. Seller shall be responsible for any green acre charges due on the property as a result of the closing of this transaction. Seller shall pay all special assessments levied or pending against the Property as of the date of this Agreement.
- d. **Attorney's Fees.** Each party will pay its own attorney's fees.

9. **Title.**

- a. **Quality of Title.** Seller shall convey good and marketable fee title to the Property to Buyer, subject to no liens, easements, encumbrances, conditions, reservations or restrictions other than the Permitted Encumbrances.
- b. **Title Evidence.** Within ten days after the date of this Agreement, Buyer shall obtain a commitment ("Title Commitment") for the most current form of ALTA owner's policy of insurance in the amount of the Purchase Price insuring title to the Property subject only to the Permitted Encumbrances.
- c. **Buyer's objections.** Within ten days after receiving the last of the Title Evidence, Buyer shall make written objections ("Objections") to the form and or contents of the Title Commitment. Buyer's failure to make Objections within such time period will constitute waiver of Objections. Any matter shown on such Title Commitment and not objected to by Buyer shall be deemed an additional "Permitted Encumbrance" hereunder. Seller shall have twenty days after receipt of the Objections to cure the Objections, during which period the Closing will be postponed as necessary. Seller shall use its best efforts to correct any Objections. If the Objections are not cured within such 20-day period, Buyer will, in addition to any other remedy available at law or under this Agreement, have the option to do either of the following:
 - (1) Terminate this Agreement; or
 - (2) Waive the objections and proceed to close, in which case such matters shall be deemed Permitted Encumbrances hereunder.

- d. **Title Policy.** The Title Insurer shall deliver to Buyer at the closing a title policy issued pursuant to the commitment, or a suitably marked-up commitment initialed by the Title Insurer undertaking to issue such a title policy in the form required by the commitment as approved by Buyer.

10. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

- a. **Authority.** Seller has the requisite power and authority to enter into and perform this Agreement.
- b. **Title to Property.** Seller owns the Property free and clear of all encumbrances except the Permitted Encumbrances.
- c. **Rights of Others to Purchase Property.** Seller has not entered into any other contracts for the sale of the Property.
- d. **FIRPTA.** Seller is not a “foreign person,” “foreign partnership,” “foreign trust” or “foreign state” as those terms are defined in § 1445 of the Internal Revenue Code.
- e. **Proceedings.** To the best knowledge of Seller, there is no action, litigation, investigation, condemnation or proceeding of any kind pending or threatened against Seller or the Property.
- f. **Labor or Material Liens.** Seller warrants that there has been no labor or material furnished to the Property for which payment has not been made.
- g. **Wells and Septic Systems.** Seller shall provide Buyer with a well disclosure statement and a septic system disclosure statement, which disclosure statements are incorporated in this Section by reference.

Seller will defend, indemnify and hold harmless Buyer from and against any expenses or damages, including reasonable attorney’s fees, that Buyer incurs because of the breach of any of the above representations and warranties. Each of the representations and warranties contained herein shall survive the Closing.

11. Representations and Warranties by Buyer. Buyer has the requisite power and authority to enter into and perform this Agreement.

12. Condition of Property. The Property is being sold “as is.” Seller makes no representations concerning the condition of the Property, environmental matters, or the suitability of the Property for Buyer’s intended uses. Until the Date of Closing, Seller

shall have full responsibility and the entire liability for any and all damages or injuries of any kind whatsoever to the Property, to any and all persons, whether employees or otherwise, and to any other property from and connected to the Property, except liability arising from the negligence or willful acts of Buyer, its agents, contractors, or employees.

13. Broker's Commission. Seller and Buyer represent and warrant to each other that they have dealt with no broker, finder or other person entitled to a commission, finder's fee or similar fee in connection with this transaction.

14. Survival. All of the terms of this Agreement will survive and be enforceable after the Closing.

15. Notices. Any notice required or permitted to be given by any party to the other shall be given in writing, and shall be (i) hand delivered to the specified addressee, or (ii) mailed in a sealed wrapper by United States registered or certified mail, return receipt requested, postage prepaid, or (iii) properly deposited with a nationally recognized, reputable overnight courier, properly addressed as follows:

If to Seller:	Roseville Acquisitions, LLC Chief Manager Daniel P. Commers 2575 Fairview Avenue North Suite 250 Roseville, MN 55113
With copy to:	Leonard, O'Brien, Spencer, Gale & Sayre, Ltd. Attention: Grover C. Sayre, III 100 South Fifth Street, Suite 2500 Minneapolis, MN 55402
If to Buyer:	City of Roseville Attention: Community Development Director 2660 Civic Center Drive Roseville, MN 55113
With copy to:	Ratwik, Roszak & Maloney, P.A. Attention: Eric J. Quiring 300 U.S. Trust Building 730 Second Avenue South Minneapolis, MN 55402

Notices shall be deemed effective on the earlier of the date of receipt, or in the case of such deposit in the mail or with an overnight courier, on the first business day following

such deposit. Any party may change its address for the service of notice by giving written notice of such change to the other party.

16. Captions. The captions appearing in this Agreement are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.

17. Entire Agreement. This written Agreement constitutes the complete agreement between the parties and supersedes any and all other oral or written agreements, negotiations, understandings and representations between the parties regarding the Property.

18. Amendment; Waiver. No amendment of this Agreement, and no waiver of any provision of this Agreement, shall be effective unless set forth in a writing expressing the intent to so amend or waive, and the exact nature of such amendment or waiver, and signed by both parties (in the case of amendment) or the waiving party (in the case of waiver). No waiver of a right in any one instance shall operate as a waiver of any other right, nor as a waiver of such right in a later or separate instance.

19. Governing Law. This Agreement is made and executed under and in all respects is to be governed and construed under the laws of the State of Minnesota.

20. Binding Effect. This Agreement binds and benefits the parties and their respective successors and assigns.

21. Specific Performance. This Agreement may be specifically enforced by the parties, provided that any action for specific enforcement is brought within six months after the date of the alleged breach. This paragraph is not intended to create an exclusive remedy for breach of this agreement; the parties reserve all other remedies available at law or in equity.

[Signatures begin on next page]

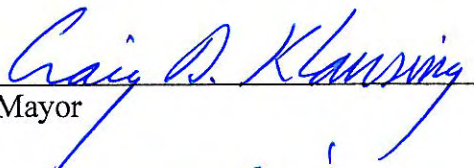
IN WITNESS WHEREOF, the parties have executed this Agreement as of the above date.

SELLER: ROSEVILLE ACQUISITIONS, LLC

By: 
Its: _____

Date: 6/10/09

BUYER: CITY OF ROSEVILLE

By: 
Mayor

Date: 6/15/09

By: 
City Manager

Date: 6/23/09

EXHIBITS:

- A Legal Description
- B Construction Easement
- C Demolition Easement

RRM: 131955
403065

EXHIBIT A

Legal Description of Property

That part of the following described tract of land in the City of Roseville:

Parcel 2

Lots 6, 7, 14 and 15 and the North Half of Lot 13 and the North Half of Lot 8, Block B, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota. Except that part deeded to the City of Roseville per Document No. 1511814, dated June 7, 1960, and also except that part of the Final Certificate, per Document No. 1698540, dated May 17, 1967.

Which lies within the following fee acquisition areas:

That part of Parcel 2 which lies northerly and westerly of the following described line: Commencing at the intersection of a line drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, Block B, Twin View, according to said plat on file and of record in the office of the County Recorder, Ramsey County, Minnesota, and the north line of said Lot 6; thence South 01 degrees 12 minutes 09 seconds East, assumed bearing along said lines drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, 84.35 feet, to the point of beginning of said line to be hereinafter described; thence westerly, 114.74 feet, along a non tangential curve, concave to the north, having a radius of 388.16 feet and a central angle of 16 degrees 56 minutes 12 seconds, the chord of said curve bears South 80 degrees 56 minutes 57 seconds West; thence South 89 degrees 25 minutes 03 seconds West, tangent to the last described curve, 419.04 feet; thence South 36 degrees 22 minutes 37 seconds West, 22.00 feet; thence South 01 degrees 32 minutes 34 seconds East, 193.22 feet; thence South 05 degrees 25 minutes 16 seconds West, 4.05 feet, to the south line of the North Half of Lot 13, said Block B, and said line there terminating.

AND

That part of the following described tract of land in the City of Roseville:

Parcel 8

Lots 1, 2, 3, 4 and 5, Block C, Twin View, except the West 10 feet thereof, and all that part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, lying East and North of the above described lots, and East of the northerly extension of the East line of said West 10 feet of said lots, and North of County Road "C", except the East 30 feet of the aforescribed part

of the Southwest 1/4 and except property conveyed by Deed Document No. 1604588, situate in Ramsey County, Minnesota.

Which lies within the following fee acquisition areas:

That part of Parcel 8 described as follows: Beginning at the intersection of a line drawn parallel with and distant 30.00 feet west of the east line of the Southwest Quarter of the Southwest Quarter of Section 4, Township 29, Range 23, Ramsey County, Minnesota, and the north line of the south 833.00 feet of said Southwest Quarter of the Southwest Quarter; thence South 01 degrees 10 minutes 50 seconds East, assumed bearing along said line drawn parallel with and distant 30.00 feet west of said east line of the Southwest Quarter of the Southwest Quarter, 401.36 feet; thence North 07 degrees 28 minutes 45 seconds West, along a line to be hereinafter referred to as reference line "A", 227.30 feet, and said reference line "A" there terminating; thence North 57 degrees 42 minutes 34 seconds West, along a line to be hereinafter referred to as reference line "B", 88.57 feet, and said reference line "B" there terminating; thence South 83 degrees 51 minutes 35 seconds West, along a line to be hereinafter referred to as reference line "C", 96.54 feet; thence North 89 degrees 06 minutes 18 seconds West, 136.85 feet; thence westerly and southwesterly, 171.52 feet, along a tangential curve, concave to the southeast, having a radius of 275.00 feet and a central angle of 35 degrees 44 minutes 09 seconds, and said reference line "C" there terminating; thence South 30 degrees 14 minutes 26 seconds West, not tangent to the last described line, along a line to be hereinafter referred to as reference line "D", 49.57 feet and said reference line "D" there terminating; thence South 01 degrees 03 minutes 53 seconds East, 121.67 feet; thence South 89 degrees 39 minutes 20 seconds West, 71.08 feet, to the east line of the west 10.00 feet of Lot 2, Block C, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota; thence North 01 degrees 12 minutes 09 seconds West, along the east lines of Lots 1 and 2 said Block C, and its northerly extension thereof, 355.60 feet, to said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter; thence North 89 degrees 24 minutes 36 seconds East, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 17.62 feet; thence South 25 degrees 40 minutes 30 seconds East, along a line to be hereinafter referred to as reference line "E", 75.96 feet, and said reference line "E" there terminating; thence South 81 degrees 44 minutes 22 seconds East, along a line to be hereinafter referred to as reference line "F", 38.77 feet, and said reference line "F" there terminating; thence easterly, 159.47 feet, along a non-tangential curve, concave to the southeast, having a radius of 401.40 feet and a central angle of 22 degrees 45 minutes 46 seconds; thence North 89 degrees 13 minutes 50 seconds East, tangent to the last describe curve 269.18 feet; thence North 59 degrees 04 minutes 33 seconds

East, 83.49 feet, to said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter; thence North 89 degrees 24 minutes 36 seconds East, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 13.37 feet, to the point of beginning.

AND

That part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, Ramsey County, Minnesota, described as follows: Commencing at the intersection of the northerly extension of the east line of the west 10.00 feet of Lots 1 and 2, Block C, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota, and the north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, Section 4, Township 29, Range 23, Ramsey County, Minnesota; thence North 89 degrees 24 minutes 36 seconds East, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 17.62 feet, to the point of beginning; thence South 25 degrees 40 minutes 30 seconds East, 75.96 feet; thence South 81 degrees 44 minutes 22 seconds East, 38.77 feet; thence easterly, 159.47 feet, along a non-tangential curve, concave to the southeast, having a radius of 401.40 feet and a central angle of 22 degrees 45 minutes 46 seconds; thence North 89 degrees 13 minutes 50 seconds East, tangent to the last describe curve, 269.18 feet; thence North 59 degrees 04 minutes 33 seconds East, 83.49 feet, to said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter; thence South 89 degrees 24 minutes 36 seconds West, along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 555.18 feet, to the point of beginning.

EXHIBIT B

Temporary Construction Easement

THIS EASEMENT, made and entered into this 23rd day of June, 2009, by and between Roseville Acquisitions, LLC, ("Grantor"), and the City of Roseville, Minnesota, a Minnesota municipal corporation ("Grantee").

Terms of Easement

1. **Grant of Temporary Construction Easement.** Grantor hereby grants and conveys to Grantee a temporary construction easement ("Construction Easement") for construction purposes over, under, across and through the following:

That part of the following described tract of land in the City of Roseville:

(Parcel 2)

Lots 6, 7, 14 and 15 and the North Half of Lot 13 and the North Half of Lot 8, Block B, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota. Except that part deeded to the City of Roseville per Document No. 1511814, dated June 7, 1960, and also except that part of the Final Certificate, per Document No. 1698540, dated May 17, 1967.

Also which lies within the following temporary easement for construction purposes:

That part of (Parcel 2) which lies southerly and easterly of the above described fee acquisition for right of way purposes and northerly of the following described line: Commencing at the intersection of a line drawn parallel with and distant 10.00 feet west of said east lines of Lots 6 and 7, Block B, Twin View, and the north line of said Lot 6; thence South 01 degrees 12 minutes 09 seconds East, assumed bearing along said lines drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, 94.76 feet, to the point of beginning of said line to be hereinafter described; thence westerly, 114.80 feet, along a non tangential curve, concave to the north, having a radius of 398.16 feet and a central angle of 16 degrees 31 minutes 12 seconds, the chord of said curve bears South 81 degrees 09 minutes 26 seconds West; thence South 89 degrees 25 minutes 03 seconds West, tangent to the last described curve, 315.86 feet; thence South 00 degrees 25 minutes 26 seconds East, 8.00 feet; thence South 89 degrees 25 minutes 03 seconds West, 116.38 feet, to the easterly line of the above described permanent easement for right of way purposes, and said line there terminating.

AND

That part of the following described tract of land in the City of Roseville:

(Parcel 8)

Lots 1, 2, 3, 4 and 5, Block C, Twin View, except the West 10 feet thereof, and all that part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, lying East and North of the above described lots, and East of the northerly extension of the East line of said West 10 feet of said lots, and North of County Road "C", except the East 30 feet of the aforescribed part of the Southwest 1/4 and except property conveyed by Deed Document No. 1604588, situate in Ramsey County, Minnesota.

Also which lies within the following temporary easements for construction purposes:

A strip of land 5.00 feet in width over that part of (Parcel 8), the easterly line of which is contiguous with said line drawn parallel with and distant 30.00 feet west of the east line of the Southwest Quarter of the Southwest Quarter.

Said strip of land is to extend by its full width from the northerly right of way line of County Road C, to said above reference line "A".

And also a strip of land 5.00 feet in width over that part of (Parcel 8), the northerly and northwesterly line of which are contiguous with said above reference line "C".

Said strip of land is to extend by its full width from said above reference line "B", to said above reference line "D".

And also a strip of land 10.00 feet in width over that part of (Parcel 8), the southwesterly line of which is contiguous with said above reference line "E".

Said strip of land is to extend by its full width from said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, to said above reference line "F".

2. Warranty of Title. Grantor covenants that it is the owner of the property underlying the Construction Easement and has the authority to grant this Construction Easement.

3. Duration. This Construction Easement and the rights granted hereunder shall commence on June 16, 2009 and expire on June 15, 2010 with no further rights to either party. Upon expiration of this Construction Easement, the Grantee shall remove any

temporary structures which were constructed during the term of this Construction Easement, and shall restore the property to the same condition as existed prior to the construction on the property.

4. Scope of Easement. The Construction Easement granted herein includes the right of the Grantee, its contractors, agents, and employees to enter the premises at all reasonable times for the purposes of construction, grading, sloping, and restoration purposes, and all purposes ancillary thereto, together with the right to remove trees, shrubs, or other vegetation in the easement area, as well as the right to deposit earthen materials within the Construction Easement area and to move, store, and remove equipment and supplies, and to perform any other work necessary and incident to the project.

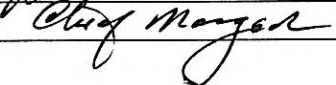
Grantee shall have the right to keep the Construction Easement area clear of all buildings, structures, fences, trees, shrubbery, undergrowth and other obstructions that may interfere with or endanger the right of construction access.

5. Rights of Public. Grantor does not intend that the public should have any interest in the above described land by virtue of this Construction Easement or otherwise, except as herein set forth. It is expressly agreed by and between the parties hereto that the Grantor retains ownership of the property and all incidents of ownership not specifically herein granted to the Grantee. Grantor does not intend that the public should have any interest in the land or right to trespass thereon by virtue of this Construction Easement or otherwise, except as herein set forth.

6. Binding Effect. All provisions herein shall run with the land and shall extend to and bind the heirs, successors, representatives, and assigns of Grantor. This Construction Easement may not be assigned by Grantee without the prior written consent of Grantor. The parties agree that this Construction Easement will not be recorded.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written.

**GRANTOR: ROSEVILLE
ACQUISITIONS, LLC**

By: 
Its: 

GRANTEE: CITY OF ROSEVILLE

By: 
Mayor
By: 
City Manager

EXHIBIT C

Temporary Building Demolition Easement

THIS EASEMENT, made and entered into this 23rd day of June, 2009, by and between Roseville Acquisitions, LLC, ("Grantor"), and the City of Roseville, Minnesota, a Minnesota municipal corporation ("Grantee").

Terms of Easement

1. Grant of Temporary Building Demolition Easement. Grantor hereby grants and conveys to Grantee a temporary easement for building demolition purposes ("Demolition Easement") over and across the following:

That part of the following described tract of land in the City of Roseville:

(Parcel 2)

Lots 6, 7, 14 and 15 and the North Half of Lot 13 and the North Half of Lot 8, Block B, Twin View, according to the recorded plat thereof, Ramsey County, Minnesota. Except that part deeded to the City of Roseville per Document No. 1511814, dated June 7, 1960, and also except that part of the Final Certificate, per Document No. 1698540, dated May 17, 1967.

Also which lies within the following temporary easement for building demolition purposes:

That part of (Parcel 2) described as follows: Commencing at the intersection of a line drawn parallel with and distant 10.00 feet west of the east lines of Lots 6 and 7, Block B, Twin View, according to said plat on file and of record in the office of the County Recorder, Ramsey County, Minnesota, and the north line of said Lot 6; thence South 89 degrees 23 minutes 00 seconds West, assumed bearing along said north line of Lot 6, 229.79 feet; thence South 00 degrees 13 minutes 48 seconds East, 77.95 feet, to the point of beginning; thence continuing South 00 degrees 13 minutes 48 seconds East, 161.22 feet; thence South 89 degrees 27 minutes 27 seconds West, 293.30 feet; thence North 00 degrees 13 minutes 48 seconds West, 161.22 feet; thence South 89 degrees 27 minutes 27 seconds West, 293.30 feet, to the point of beginning.

AND

That part of the following described tract of land in the City of Roseville:

(Parcel 8)

Lots 1, 2, 3, 4 and 5, Block C, Twin View, except the West 10 feet thereof, and all that part of the South 833 feet of the West 1/2 of the Southwest 1/4 of Section 4, Township 29, Range 23, lying East and North of the above described lots, and East of the northerly extension of the East line of said West 10 feet of said lots, and North of County Road "C", except the East 30 feet of the aforescribed part of the Southwest 1/4 and except property conveyed by Deed Document No. 1604588, situate in Ramsey County, Minnesota.

Also which lies within the following temporary easement for building demolition purposes:

That part of (Parcel 8) described as follows: Commencing at the intersection of said line drawn parallel with and distant 30.00 feet west of the east line of the Southwest Quarter of the Southwest Quarter, and the north line of the south 833.00 feet of said Southwest Quarter of the Southwest Quarter; thence South 89 degrees 24 minutes 36 seconds West, assumed bearing along said north line of the south 833.00 feet of the Southwest Quarter of the Southwest Quarter, 310.71 feet; thence South 01 degrees 40 minutes 09 seconds East, 10.46 feet, to the point of beginning; thence continuing South 01 degrees 40 minutes 09 seconds East, 210.00 feet, thence South 88 degrees 19 minutes 51 seconds West, 119.65 feet; thence North 01 degrees 40 minutes 09 seconds West, 210.00 feet; thence North 88 degrees 19 minutes 51 seconds East, 119.65 feet, to the point of beginning.

2. Warranty of Title. Grantor covenants that it is the owner of the property underlying the Demolition Easement and has the authority to grant this Demolition Easement.

3. Duration. This Demolition Easement and the rights granted hereunder shall commence on July 1, 2009 and expire on July 31, 2009 with no further rights to either party. Upon expiration of this Demolition Easement, the Grantee shall restore the property to the same condition as existed prior to the demolition on the property.

4. Scope of Easement. The Demolition Easement granted herein includes the right of the Grantee, its contractors, agents, and employees to enter the premises at all reasonable times for building demolition purposes, and all purposes ancillary thereto, together with the right to remove trees, shrubs, or other vegetation in the easement area, as well as the right to deposit earthen materials within the easement area and to move, store, and

remove equipment and supplies, and to perform any other work necessary and incident to the project.

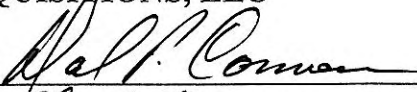
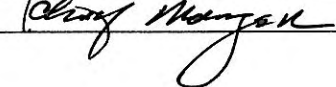
Grantee shall have the right to keep the Demolition Easement area clear of all buildings, structures, fences, trees, shrubbery, undergrowth and other obstructions that may interfere with or endanger the right of demolition access.

5. Rights of Public. Grantor does not intend that the public should have any interest in the above described land by virtue of this Demolition Easement or otherwise, except as herein set forth. It is expressly agreed by and between the parties hereto that the Grantor retains ownership of the property and all incidents of ownership not specifically herein granted to the Grantee. Grantor does not intend that the public should have any interest in the land or right to trespass thereon by virtue of this Demolition Easement or otherwise, except as herein set forth.

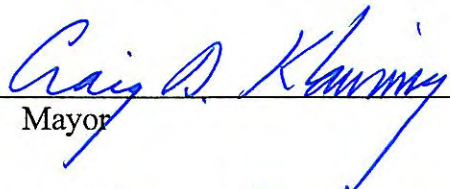
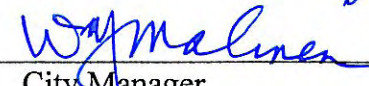
6. Binding Effect. All provisions herein shall run with the land and shall extend to and bind the heirs, successors, representatives, and assigns of Grantor. This Demolition Easement may not be assigned by Grantee without the prior written consent of Grantor. The parties agree that this Demolition Easement will not be recorded.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the day and year first above written.

**GRANTOR: ROSEVILLE
ACQUISITIONS, LLC**

By: 
Its: 

GRANTEE: CITY OF ROSEVILLE

By: 
Mayor
By: 
City Manager



April 8, 2009

Daniel P. Commers, Chief Manager
Roseville Acquisitions Three, LLC
2575 Fairview Ave. N., Suite 250
Roseville, MN 55113

Re: Offer of Just Compensation – Parcel 2
Twin Lakes Infrastructure Improvements – Phase I
WSB Project # 1814-00

Dear Mr. Commers:

The City of Roseville is planning to construct Phase I of the Twin Lakes Infrastructure Improvements this upcoming summer and fall. This letter constitutes the City of Roseville's formal Offer to Purchase the necessary and project specific land rights that you own or are claimed through your ownership. The City of Roseville hereby offers all parties who may have an interest in the real estate rights to be acquired the sum of **\$1,031,200.00**. This offer is based on an independent appraisal by Dahlen, Dwyer and Foley, Inc. and a copy of the complete appraisal accompanies this letter. The City's offer is summarized on the attached document and a parcel sketch has been enclosed for your reference. The City has hired WSB & Associates, Inc. to aid in the acquisition of right of way for this project which includes presenting this offer to you. Please contact our agent at WSB & Associates, Inc. with any questions you may have regarding this information.

You will have a reasonable length of time to consider the offer. To aid in your decision you may wish to secure your own appraisal. Minnesota law provides reimbursement in an amount not to exceed \$5,000.00 for the actual costs of an appraisal for your property. Reimbursement cannot be made without receipt of the information necessary for reimbursement, including a copy of the landowner's appraisal, at least five days before a condemnation commissioners' hearing. In all cases it is important to know that a *review* of the enclosed appraisal, provided by another appraiser, is not eligible for reimbursement.

If you accept the offer, the parcel will be acquired by direct purchase and you will be paid upon satisfactory evidence of marketable title. In the worst case scenario that a mutually acceptable agreement cannot be arrived at in a timely manner, the property may be acquired in an eminent domain proceeding. This offer is being extended to you by City staff. It is subject to City Council approval of the terms and conditions.

Your signature at the end of this document is only for the verification that such an offer has been given to you. You also acknowledge that you have received a copy of the appraisal and an "Acquisition Information for Property Owners" brochure. Your signature below does not affect your right to have the final amount determined through eminent domain proceedings in the event the direct purchase method of acquisition is unsuccessful.

On behalf of the City of Roseville, I wish to thank you for your cooperation and assistance and

we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

IF THIS OFFER TO PURCHASE IS ACCEPTABLE

PLEASE INDICATE BY SIGNING AND DATING THE ACCEPTANCE LINES BELOW

I certify that on _____, 2009, I accept the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above.

Signature: _____ the _____ of Roseville Acquisitions
Three, LLC

Printed name

**IF YOU WOULD LIKE MORE TIME TO CONSIDER THE OFFER OR MORE
INFORMATION BEFORE ACCEPTING THIS OFFER TO PURCHASE, PLEASE
INDICATE BY SIGNING AND DATING BELOW THAT YOU RECEIVED AN OFFER
TO PURCHASE WITH ATTACHMENTS.**

I certify that on _____, 2009, I received the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above. My signature below only indicates receipt of this offer and does not indicate acceptance of the offer at this time.

Signature: _____ the _____ of Roseville Acquisitions
Three, LLC

Printed name

Sincerely,



William J. Malinen
City Manager

Attachments: Appraisal and Parcel sketch
Acquisition Information for Property Owners
Acquisition and Appraisal Summary
Legal documents related to the acquisition
Copy of this letter for your records



April 8, 2009

Daniel P. Commers, Chief Manager
Roseville Acquisitions, LLC
2575 Fairview Ave. N., Suite 250
Roseville, MN 55113

Re: Offer of Just Compensation – Parcel 8
Twin Lakes Infrastructure Improvements – Phase I
WSB Project # 1814-00

Dear Mr. Commers:

The City of Roseville is planning to construct Phase I of the Twin Lakes Infrastructure Improvements this upcoming summer and fall. This letter constitutes the City of Roseville's formal Offer to Purchase the necessary and project specific land rights that you own or are claimed through your ownership. The City of Roseville hereby offers all parties who may have an interest in the real estate rights to be acquired the sum of **\$1,051,500.00**. This offer is based on an independent appraisal by Dahlen, Dwyer and Foley, Inc. and a copy of the complete appraisal accompanies this letter. The City's offer is summarized on the attached document and a parcel sketch has been enclosed for your reference. The City has hired WSB & Associates, Inc. to aid in the acquisition of right of way for this project which includes presenting this offer to you. Please contact our agent at WSB & Associates, Inc. with any questions you may have regarding this information.

You will have a reasonable length of time to consider the offer. To aid in your decision you may wish to secure your own appraisal. Minnesota law provides reimbursement in an amount not to exceed \$5,000.00 for the actual costs of an appraisal for your property. Reimbursement cannot be made without receipt of the information necessary for reimbursement, including a copy of the landowner's appraisal, at least five days before a condemnation commissioners' hearing. In all cases it is important to know that a *review* of the enclosed appraisal, provided by another appraiser, is not eligible for reimbursement.

If you accept the offer, the parcel will be acquired by direct purchase and you will be paid upon satisfactory evidence of marketable title. In the worst case scenario that a mutually acceptable agreement cannot be arrived at in a timely manner, the property may be acquired in an eminent domain proceeding. This offer is being extended to you by City staff. It is subject to City Council approval of the terms and conditions.

Your signature at the end of this document is only for the verification that such an offer has been given to you. You also acknowledge that you have received a copy of the appraisal and an "Acquisition Information for Property Owners" brochure. Your signature below does not affect your right to have the final amount determined through eminent domain proceedings in the event the direct purchase method of acquisition is unsuccessful.

On behalf of the City of Roseville, I wish to thank you for your cooperation and assistance and we look forward to working with you toward a mutually satisfactory completion of the acquisition process.

IF THIS OFFER TO PURCHASE IS ACCEPTABLE

PLEASE INDICATE BY SIGNING AND DATING THE ACCEPTANCE LINES BELOW

I certify that on _____, 2009, I accept the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above.

Signature: _____ the _____ of Roseville Acquisitions, LLC

Printed name

IF YOU WOULD LIKE MORE TIME TO CONSIDER THE OFFER OR MORE INFORMATION BEFORE ACCEPTING THIS OFFER TO PURCHASE, PLEASE INDICATE BY SIGNING AND DATING BELOW THAT YOU RECEIVED AN OFFER TO PURCHASE WITH ATTACHMENTS.

I certify that on _____, 2009, I received the Offer to Purchase above for the indicated amount. I also certify that I have received copies of the appraisal, a three page handout titled "Acquisition Information for Property Owners", Acquisition and Appraisal Summary and the parcel sketch mentioned above. My signature below only indicates receipt of this offer and does not indicate acceptance of the offer at this time.

Signature: _____ the _____ of Roseville Acquisitions, LLC

Printed name

Sincerely,



William J. Malinen
City Manager

Attachments: Appraisal
Acquisition Information for Property Owners
Acquisition and Appraisal Summary
Parcel sketch
Legal documents related to the acquisition
Copy of this letter for your records

Roseville Acquisitions Three, LLC
2575 Fairview Avenue North, Suite 250
Roseville, Minnesota 55113

April 24, 2009

City of Roseville
Attn: William J. Malinen, City Manager
2660 Civic Center Drive
Roseville, Minnesota 55113

Re: 2690 Cleveland Avenue N - Former Cummins Diesel Property
Offer of Just Compensation - Parcel 2
Twin Lakes Infrastructure Improvements - Phase I
WSB Project #1814-00

Dr. Mr. Malinen:

This letter will confirm that on April 22, 2009, Roseville Acquisitions Three, LLC received from the City of Roseville a letter dated April 8, 2009 together with an Offer to Purchase a portion of the property located at 2690 Cleveland Avenue N (Former Cummins Diesel Property) (the "Property"), a copy of an appraisal performed by Dahlen, Dwyer and Foley, Inc., a three page handout titled "Acquisition Information for Property Owners," Acquisition and Appraisal Summary showing a value of \$1,031,200 and a parcel sketch. We are pleased to accept your offer referenced in the April 8, 2009 letter, subject to the following clarifications and/or modifications:

1. Demolition. The City of Roseville agrees to pay all costs necessary to completely demolish and remove all buildings located immediately adjacent to the Property to be conveyed to the City (the "**Future Right of Way**") on or before June 1, 2009.
2. Mount Ridge Road. The City of Roseville agrees at its sole cost and expense to take all necessary action (including, without limitation, vacation proceedings, written conveyance, termination of rights) to, on or before June 1, 2009, (i) vacate the portion of Mount Ridge Road and any easements located therein which abut the Property and (ii) cause ownership of one half of such road to be vested in fee simple in the name of the adjacent property owners located to the east and west of the road. Fee simple ownership in Mount Ridge Road will be transferred to the adjacent property owners without any requirement of payment to the City of Roseville.
3. Condition of the Property. The City of Roseville agrees that it is acquiring the Future Right of Way "as is" and in its current condition without any representation whatsoever as to the condition of such property or its fitness for any intended use of such property by the City of Roseville.
4. Government Grant Funds. In the event the Property is to be assessed or has been assessed for the cost to construct roadways or for the cost to construct the infrastructure or remediate contaminated

soil for such roadways, and a city, state and/or federal government grant is received to pay for part or all of such costs, whether the grant is received before or after construction of such roadways, infrastructure or remediation of soil, the amount of the assessment against the Property will be reduced by a prorata portion of any such grant or grants.

Please acknowledge your acceptance of the foregoing changes and/or modifications.

Very truly yours,

Roseville Acquisitions Three, LLC
(A Minnesota limited liability company)

By: *David P. Comer*
Its: *Margaret Parker*

Acknowledged, Agreed and Accepted:

The City of Roseville

By: _____

Its: _____

And By: _____

Its: _____

400106.2

Roseville Acquisitions, LLC
2575 Fairview Avenue North, Suite 250
Roseville, Minnesota 55113

April 24, 2009

City of Roseville
Attn: William J. Malinen, City Manager
2660 Civic Center Drive
Roseville, Minnesota 55113

Re: 1947 County Road C W - Former Indianhead Trucking Property
Offer of Just Compensation - Parcel 8
Twin Lakes Infrastructure Improvements - Phase I
WSB Project #1814-00

Dr. Mr. Malinen:

This letter will confirm that on April 22, 2009, Roseville Acquisitions, LLC received from the City of Roseville a letter dated April 8, 2009 together with an Offer to Purchase a portion of the property located at 1947 County Road C W (Former Indianhead Trucking Property) (the "Property"), a copy of an appraisal performed by Dahlen, Dwyer and Foley, Inc., a three page handout titled "Acquisition Information for Property Owners," Acquisition and Appraisal Summary showing a value of \$1,051,500 and a parcel sketch. We are pleased to accept your offer referenced in the April 8, 2009 letter, subject to the following clarifications and/or modifications:

1. Demolition. The City of Roseville agrees to pay all costs necessary to completely demolish and remove the building located within the portion of the Property to be conveyed to the City (the "**Future Right of Way**") on or before June 1, 2009.
2. Mount Ridge Road. The City of Roseville agrees at its sole cost and expense to take all necessary action (including, without limitation, vacation proceedings, written conveyance, termination of rights) to, on or before June 1, 2009, vacate the portion of Mount Ridge Road and any easements located therein which abut the Property and (ii) cause ownership of one-half of such road to be vested in fee simple in the name of the adjacent property owners located to the east and west of the road. Fee simple ownership in Mount Ridge Road will be transferred to the adjacent property owners without any requirement of payment to the City of Roseville.
3. Pond. The City of Roseville agrees to grant and convey to the owner of the Property a perpetual easement for drainage of storm water from the portion of the Property that is designated to drain to Langton Lake into any retention pond or ponds constructed on the property located to the east of the Property by or at the direction of the City of Roseville. The pond easement shall be in recordable form and shall be in a form and content acceptable to the owner of the Property and

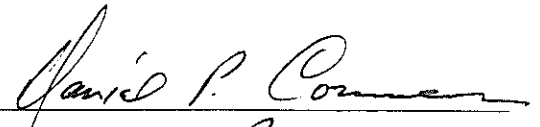
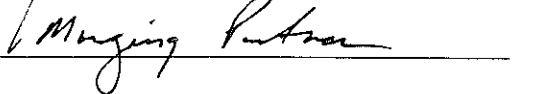
shall be granted at the City's sole cost and expense, and without any requirement of payment to the City of Roseville.

4. Roundabout. The City of Roseville agrees that it is open to discussions with Roseville Acquisitions regarding the final design of any "roundabout" roadways to be constructed in the area.
5. Condition of the Property. The City of Roseville agrees that it is acquiring the Future Right of Way "as is" and in its current condition without any representation whatsoever as to the condition of such property or its fitness for any intended use of such property by the City of Roseville.
6. Government Grant Funds. In the event the Property is to be assessed or has been assessed for the cost to construct roadways or for the cost to construct the infrastructure or remediate contaminated soil for such roadways, and a city, state and/or federal government grant is received to pay for part or all of such costs, whether the grant is received before or after construction of such roadways, infrastructure or remediation of soil, the amount of the assessment against the Property will be reduced by a prorata portion of any such grant or grants.

Please acknowledge your acceptance of the foregoing changes and/or modifications.

Very truly yours,

Roseville Acquisitions, LLC
(A Minnesota limited liability company)

By: 
Its: 

Acknowledged, Agreed and Accepted:

The City of Roseville

By: _____

Its: _____

And By: _____

Its: _____



May 1, 2009

Roseville Acquisitions, LLC
2575 Fairview Ave. N
Suite 250
Roseville, MN 55113

Dear Mr. Commers:

We are in receipt of your letters dated April 24, 2009 detailing your acceptance, with conditions, of the City's offer to purchase portions of your property for road purposes in the Twin Lakes redevelopment area. We appreciate your willingness to work with the City on this matter and are encouraged by the productive discussions that have taken place.

In direct response to the points raised in the April 24th letters, I offer the following comments:

1. Demolition: The City will agree to pay for all costs for the demolition and removal of the buildings (Cummins Diesel and the Indianhead accessory building) that need to be removed due to the construction of Twin Lakes Parkway. We have anticipated this cost as part of the road construction. It should be noted that the Twin Lakes Infrastructure Improvement Study, which requires property owners to pay for their proportionate share of infrastructure costs at the time of development, has demolition costs factored in as part of the overall road costs. The road costs (and thus the demolition costs) will be paid by all property owners/developers (including your properties) based on the number of networked trips each property generates.
2. Mount Ridge Road: Staff has reviewed your request for the vacation of the Mount Ridge right-of-way as it goes through your property south of future Twin Lakes Parkway and has determined that from a transportation and traffic circulation perspective, a public road is not needed. Staff has also determined that the majority of the road was originally dedicated as part of the Twin View plat in the 1920s and a small portion was obtained by a quit claim deed in 1959. Therefore, the City did not purchase the land for the right-of-way. Based on these facts, staff is supportive of vacating the right-of-way as you request. It should be noted that the vacation of right-of-way will need to follow a process ending with the City Council officially approving the vacation. As staff we cannot guarantee that the City Council will vacate the right-of-way, as that decision is ultimately theirs. However, as stated above,

staff will be recommending that the Mt. Ridge right-of-way be vacated as there is not a transportation reason for the City to keep it. If the Mount Ridge right-of-way is vacated, the property will revert to adjacent property owners pursuant to Minnesota State Statutes 462.358(7). Below is a proposed schedule for the vacation of the Mt. Ridge right-of-way:

- Public Hearing Notice in Official Newspaper – May 19, 2009
- Planning Comm. Pub. Hearing/Recommendation – June 3, 2009
- City Council Consideration – June 8, 2009

3. Condition of Property: The City agrees to take the property “as is” and will undertake the necessary environmental remediation and pay for those costs. At this point, environmental remediation costs for the road construction have not been factored into the Twin Lakes Infrastructure Improvement Study. The City may, in the future at their discretion, consider amending the Twin Lakes Infrastructure Improvement Study to include the environmental remediation costs for the right-of-way. If that occurs, the environmental remediation costs will be paid by all property owners/developers (including your properties) based on the number of networked trips each property generates.

Government Grant Funds: The City will continue to pursue county, state, and federal grant dollars to assist in the construction of infrastructure and the remediation of environmental issues within the Twin Lakes area. It is anticipated that, on an annual basis, as the City receives grants that reduce to the cost of constructing the infrastructure as defined by the Twin Lakes Infrastructure Improvement Study and expends those grant dollars, the Twin Lakes Infrastructure Improvement Study would be adjusted to reflect the outside funding. In the same manner, the city will annually review the cost assumptions contained in the Twin Lakes Infrastructure Improvement Study to determine if they need to be increased due to inflationary or construction cost increases. Therefore, as the Twin Lakes Infrastructure Improvement Study is annually adjusted, the actual amount owed by a developer/property owner will change based on the above mentioned variables. It should be noted that a property owner/developer is effectively “locked into” a cost based on their development at the time of the approval of that development. Any adjustments made to the allocation agreement after the payment amount is agreed to between the City and property owner will not be rebated back (in the case the project costs go down) nor will additional funds be collected from the developer (in the case the project costs go up). However, in the spirit of leveraging other funds in order to make the project more financially feasible, the City, as individual property owners come forward with specific development proposals, will continue to work with the property owner/developer and address in a mutually agreeable manner any expected or pending grant funds as part of the specific development agreement.

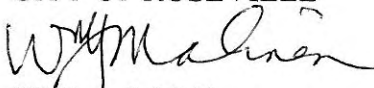
4. Pond: The City does not plan on using the remnant parcel for drainage purposes. The City explored that option and found it to be too cost prohibitive due to the environmental contamination. If you would like to utilize the remnant parcel for your property's storm water or for future development, we would be willing to not purchase it.
5. Roundabout: The City is willing to discuss the layout and final design of the roundabouts proposed in Twin Lakes. The Phase I Improvements are near ready for bid. Any concerns with the design of the first roundabout should be discussed with the City by May 8, 2009.

As you know, the City has aggressively committed to this project and has established a very tight timeline in order to get the project completed this year. You have requested that the conditions contained in your April 24th letters would need to be part of a stipulation to allow us early access to the property. As I indicated above, there is general agreement to the requests that you made, but several of them will need to be approved by the City Council at the appropriate time. The City Council approvals are not obtainable prior to advertising the project for bids. It is anticipated that the best bids will be submitted by contractors if access to your property is assured prior to advertising for bids. A signed stipulation will provide guaranteed access to the contractor for the roadway construction and demolition of the buildings. It is my hope that the above responses have provided you the level of comfort required for you to agree to sign the stipulation. Additionally, waiting to sign the actual conveyance documents until after the City Council approval of the vacation of Mount Ridge Road may provide you with additional peace of mind..

I look forward to continuing our discussions on this matter and am confident that we will be able to reach a mutually agreeable resolution and settlement.

Respectfully,

CITY OF ROSEVILLE



William J. Malinen
City Manager

C: Patrick Trudgeon, Community Development Director
Duane Schwartz, Public Works Director
Chris Miller, Finance Director

ROSEVILLE PROPERTIES

MANAGEMENT BROKERAGE DEVELOPMENT

May 20, 2009

Sonya Henning, P.E.
Right of Way Services Manager
WSB & ASSOCIATES
701 Xenia Avenue South, Suite 300
Minneapolis, MN 55416

Re: Agreement to Terms of Purchase – Roseville Acquisitions Properties

Sonya:

Please accept this letter as confirmation of our agreement to sell our land as described in the Stipulation Agreement dated May 5, 2009, under the terms and considerations listed in the Stipulation and letter from William Malinen, Roseville City Manager, dated May 1, 2009, for an amount of \$2,107,700.

This counter offer reflects the understanding reached at our City Hall meeting on May 1, 2009, and considerations offered by the City in the May 1, 2009 letter, and for our administrative, legal and professional services costs associated with this transaction.

Please forward the appropriate purchase documents.

Very truly yours,



Daniel P. Commers, Chief Manager
ROSEVILLE ACQUISITIONS, LLC

Cc: Pat Trudgeon, City of Roseville

**A "BEFORE" AND "AFTER"
SUMMARY APPRAISAL REPORT
OF**

**The Former Cummins Diesel Property
2690 Cleveland Avenue N
Roseville, MN**

**A "BEFORE" AND "AFTER"
SUMMARY APPRAISAL REPORT**

OF

**The Former Cummins Diesel Property
A Truck Sales, Rental and Service Facility**

LOCATED AT

**2690 Cleveland Avenue N
Roseville, Minnesota**

FOR

**Mr. Patrick Trudgeon, AICP
Community Development Director
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113**

AS OF

March 3, 2009

BY

**Daniel E. Dwyer
Certified General Real Property Appraiser
MN License #4001170**

**DAHLEN, DWYER & FOLEY, INC.
55 East 5th Street; Suite 1350
St. Paul, MN 55101**

Dahlen, Dwyer & Foley, Inc.

55 EAST 5TH STREET • SUITE 1350 • ST. PAUL, MINNESOTA 55101 • (651) 224-1381 • FAX (651) 223-5736

DWIGHT W. DAHLEN, MAI, SREA
DANIEL E. DWYER
SEAN M. FOLEY
JEFFREY A. DAHLEN
JANE E. HAMMES
MICHAEL T. TINKER

March 9, 2009

Mr. Patrick Trudgeon, AICP
Community Development Director
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

RE: Former Cummins Diesel Property
A Truck Sales, Rental and Service Facility
2690 Cleveland Avenue N
Roseville, MN 55113

Dear Mr. Trudgeon:

In accordance with your request, I have prepared a ***"Complete Summary Appraisal"*** on the property located at 2690 Cleveland Avenue N in Roseville, Minnesota. The property is the former Cummins Diesel facility which, on the date of appraisal, was vacant and in the state of disrepair. The building has a GBA of 38,730 SF and is located on a 4.082 acre site zoned I2 or General Industrial District. The Roseville Comprehensive Plan has the subject property guided BP or Business Park.

The purpose of this appraisal is to determine the loss in market value to the property due to the City of Roseville's Twin Lakes Roadway Project. This project includes taking of road right-of-way and temporary easements. Additionally, in the opinion of your appraiser, the improvements will have to be razed as in the "after" situation as the functional utility is greatly diminished.

This appraisal has been prepared in conformance with ***MnDOT's "Right-of-Way Manual"*** dated September 2007 and ***US DOT's 49 CFR Part 24***. Based upon my inspection of the property, and in consideration of the City of Roseville's takings for the Twin Lakes Roadway Project, I have developed the following opinions of value for the property as of March 3, 2009:

VALUE "BEFORE" THE TAKING:	\$2,650,000
VALUE "AFTER" THE TAKING:	<u>\$1,630,000</u>
DAMAGES DUE TO TAKING:	\$1,020,000
VALUE OF TEMPORARY EASEMENTS:	<u>\$11,200</u>
TOTAL DAMAGES DUE PROPERTY OWNER:	\$1,031,200

The damages are allocated as follows:

VALUE OF UNENCUMBERED ROAD RIGHT-OF-WAY:	\$787,000
VALUE OF ROAD RIGHT-OF-WAY ENCUMBERED BY WATERMAIN:	\$13,900
VALUE OF ROAD RIGHT-OF-WAY ENCUMBERED BY HIGHWAY:	\$1,700
VALUE OF BUILDING TO BE RAZED:	\$165,000
VALUE OF SITE IMPROVEMENTS:	\$52,400
VALUE OF TEMPORARY CONSTRUCTION EASEMENT:	\$7,400
VALUE OF TEMPORARY BUILDING REMOVAL EASEMENT:	<u>\$3,800</u>
TOTAL DAMAGES DUE PROPERTY OWNER:	\$1,031,200

The preferred way to determine damages accruing to a property due to a taking is the "before" and "after" method. Under this method, which is usually the simplest approach, the value of the property is estimated "before" and "after" the taking(s), the difference between the two being the damages accruing to the property as a result of the taking including damages to the remainder, if any. The measure of damages to the subject property is the comparative market values of the property "before" and "after" the taking by the City of Roseville for road right-of-way, temporary easements, and the razing of the improvements.

This appraisal report has been made in conformity with the following:

- The "Uniform Standards of Professional Appraisal Practice" of the Appraisal Foundation as mandated by the Financial Institution's Reform, Recovery and Enforcement Act of 1989 (FIRREA).

- The "Standards of Professional Practice and Conduct" of the Appraisal Institute.
- All terms specified in conversations with Mr. Patrick Trudgeon of the City of Roseville.
- This appraisal assignment has not been based on a requested minimum valuation, specific valuation or the approval of a loan. The estimate of market value contained herein was developed independent of any undue influence.
- No part of the appraiser's compensation was, is, or will be directly or indirectly related to the opinions of market value reported herein.
- MnDOT's Right-of-Way Manual dated September 2007, Section 5-491.202.
- US DOT's **49 CFR Part 24.**

This appraisal has been made subject to certain limiting conditions and assumptions as hereinafter expressed. Such facts and information as contained herein were obtained from sources that I considered reliable and are true to the best of my knowledge and belief.

Neither my engagement to make this appraisal (or any future appraisals for this particular client), nor any compensation therefore, are contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of subsequent event.

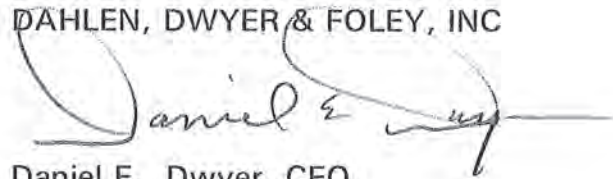
Dahlen, Dwyer, & Foley, Inc. does not have a business or personal relationship with the property's owner(s); is not an owner or lessee in the property; and has no management, leasing or sales responsibility for the property.

Information in this report was gathered from sources believed to be reliable but it is not guaranteed. Possession of this report, or copy thereof, does not carry with it the right of publication nor may it be used for any purpose, except that for which it was requested without the previous written consent of the appraiser and, in any event, only with proper qualification.

The following report describes my method of approach, contains data gathered in my investigation, and demonstrates my analysis in arriving at the estimate of market value for the subject property.

Respectfully submitted,

DAHLEN, DWYER & FOLEY, INC

A handwritten signature in black ink, appearing to read "Daniel E. Dwyer", with a long horizontal flourish extending to the right.

Daniel E. Dwyer, CEO
Certified General Real Property Appraiser
MN License # 4001170

DED/jh
DD&F File #:9073

**A "BEFORE" AND "AFTER"
SUMMARY APPRAISAL REPORT
OF**

**The Former Indianhead Trucking Property
1947 County Road C W
Roseville, MN**

**A "BEFORE" AND "AFTER"
SUMMARY APPRAISAL REPORT**

OF

The Former Indianhead Trucking Property

LOCATED AT

**1947 County Road C W
Roseville, Minnesota**

FOR

**Mr. Patrick Trudgeon, AICP
Community Development Director
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113**

AS OF

March 17, 2009

BY

**Daniel E. Dwyer
Certified General Real Property Appraiser
MN License #4001170**

**DAHLEN, DWYER & FOLEY, INC.
55 East 5th Street; Suite 1350
St. Paul, MN 55101**

Dahlen, Dwyer & Foley, Inc.

55 EAST 5TH STREET • SUITE 1350 • ST. PAUL, MINNESOTA 55101 • (651) 224-1381 • FAX (651) 223-5736

DWIGHT W. DAHLEN, MAI, SREA
DANIEL E. DWYER
SEAN M. FOLEY
JEFFREY A. DAHLEN
JANE E. HAMMES
MICHAEL T. TINKER

April 6, 2009

Mr. Patrick Trudgeon, AICP
Community Development Director
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113

RE: Former Indianhead Trucking Property
1947 County Road C W
Roseville, MN 55113

Dear Mr. Trudgeon:

In accordance with your request, I have prepared a ***"Complete Summary Appraisal"*** on the property located at 1947 County Road C W in Roseville, Minnesota. The property is the former Indianhead Trucking property which, on the date of appraisal, was vacant with the buildings in the state of disrepair. The main building, constructed in 1954, has a total GBA of 35,520 SF while the smaller building located in the NWC has a total GBA of 13,760 SF. The site contains a total of 9.77 acres and is slightly irregular in shape. Zoning is B-4 or Retail Office Service according to the January 12, 2009 Roseville Zoning Map.

The purpose of this appraisal is to determine the loss in market value to the subject property due to the City of Roseville's Twin Lakes Roadway Project. This project includes taking of road right-of-way along with temporary easements. As a result of the taking a remnant parcel will be created which the City of Roseville will acquire as it will be severed from the remainder parcel and have no value. The taking for road right-of-way will run through the truck distribution building located in the NWC of the property and this building will have to be razed. The building basically has no value and therefore there is no compensation due the property owner.

This appraisal has been prepared in conformance with ***MnDOT's "Right-of-Way Manual"*** dated September 2007 and ***US DOT's 49 CFR Part 24***. Based upon my inspection of the property, and in consideration of the City of Roseville's takings for the Twin Lakes Roadway Project, I have developed the following opinions of value for the property as of March 17, 2009:

VALUE "BEFORE" THE TAKING:	\$4,255,000
VALUE "AFTER" THE TAKING:	<u>\$3,217,500</u>
DAMAGES DUE TO TAKING:	\$1,037,500
VALUE OF ALL TEMPORARY EASEMENTS:	\$3,800
VALUE OF SITE IMPROVEMENTS:	<u>\$10,200</u>
TOTAL DAMAGES DUE PROPERTY OWNER:	\$1,051,500

The damages are allocated as follows:

VALUE OF UNENCUMBERED ROAD RIGHT-OF-WAY:	\$725,000
VALUE OF ENCUMBERED (DRAINTILE ESMT) RD RIGHT-OF-WAY: .	\$61,000
VALUE OF REMNANT PARCEL:	\$251,500
VALUE OF TEMPORARY CONSTRUCTION EASEMENTS:	\$3,300
VALUE OF TEMPORARY BUILDING REMOVAL EASEMENT:	\$500
VALUE OF SITE IMPROVEMENTS:	<u>\$10,200</u>
TOTAL DAMAGES DUE PROPERTY OWNER:	\$1,051,500

The preferred way to determine damages accruing to a property due to a taking is the "before" and "after" method. Under this method, which is usually the simplest approach, the value of the property is estimated "before" and "after" the taking(s), the difference between the two being the damages accruing to the property as a result of the taking including damages to the remainder, if any. The measure of damages to the subject property is the comparative market values of the property "before" and "after" the taking by the City of Roseville for road right-of-way, temporary easements, the taking of a remnant parcel, and the taking of site improvements.

This appraisal report has been made in conformity with the following:

- The "Uniform Standards of Professional Appraisal Practice" of the Appraisal Foundation as mandated by the Financial Institution's Reform, Recovery and Enforcement Act of 1989 (FIRREA).

- The "Standards of Professional Practice and Conduct" of the Appraisal Institute.
- All terms specified in conversations with Mr. Patrick Trudgeon of the City of Roseville.
- This appraisal assignment has not been based on a requested minimum valuation, specific valuation or the approval of a loan. The estimate of market value contained herein was developed independent of any undue influence.
- No part of the appraiser's compensation was, is, or will be directly or indirectly related to the opinions of market value reported herein.
- MnDOT's Right-of-Way Manual dated September 2007, Section 5-491.202.
- US DOT's 49 CFR Part 24.

This appraisal has been made subject to certain limiting conditions and assumptions as hereinafter expressed. Such facts and information as contained herein were obtained from sources that I considered reliable and are true to the best of my knowledge and belief.

Neither my engagement to make this appraisal (or any future appraisals for this particular client), nor any compensation therefore, are contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of subsequent event.

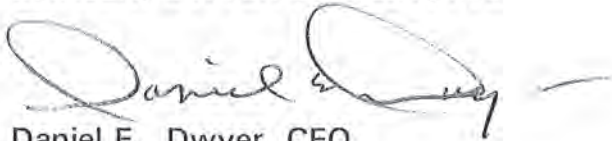
Dahlen, Dwyer, & Foley, Inc. does not have a business or personal relationship with the property's owner(s); is not an owner or lessee in the property; and has no management, leasing or sales responsibility for the property.

Information in this report was gathered from sources believed to be reliable but it is not guaranteed. Possession of this report, or copy thereof, does not carry with it the right of publication nor may it be used for any purpose, except that for which it was requested without the previous written consent of the appraiser and, in any event, only with proper qualification.

The following report describes my method of approach, contains data gathered in my investigation, and demonstrates my analysis in arriving at the estimate of market value for the subject property.

Respectfully submitted,

DAHLEN, DWYER & FOLEY, INC

A handwritten signature in dark ink, appearing to read "Daniel E. Dwyer", followed by a horizontal line.

Daniel E. Dwyer, CEO
Certified General Real Property Appraiser
MN License # 4001170

DED/jh
DD&F File #:9096

Size/Utility

Adjustments for size have been made on the basis that a smaller parcel will sell for a higher value/SF than a larger parcel and conversely a larger parcel will sell for a lower value/SF than a smaller parcel. Adjustments for utility were made on the basis that a parcel which is very irregular in shape or is long and narrow has below average functional utility and less demand in the marketplace than a parcel which is more rectangular in shape. This also takes into consideration topography and development costs.

Zoning

Zoning considerations are weighted when making adjustments. Zoning determines uses to which a property can be put and contributes to its value. All of the sales with the exception of Sale #4 had similar zonings to that of the subject. Sale #4, located in Roseville, was zoned B-1 necessitating a slight downward adjustment.

Utilities

This adjustment considers the availability of city water, sanitary sewer, storm sewer, gas, electricity, etc. All sales, similar to the subject, had all services and utilities available.

Other

The adjustment for "other" is a catch-all for relevant adjustments that cannot be categorized in the previous adjustments. The major adjustment made under this line item reflects environmental remediation costs for the subject property of approximately \$2.50/SF based on American Engineering Testing, Inc. report dated February 16, 2005. This clean-up would be performed in accordance with a risk-based approach based on proposed property use in the Twin Lakes area. Clean-up for commercial/industrial development would be less expensive than clean-up for any type of residential development. Soil remediation would likely include excavation and disposal of the more impacted soils at an appropriate off-site disposal facility. The less impacted soils in the area could be re-used on the site below structure and pavement surfaces. This assumes that the maximum site coverage allowable would be 30% or approximately 53,350 SF for the subject property.

Size/Utility

Adjustments for size have been made on the basis that a smaller parcel will sell for a higher value/SF than a larger parcel and conversely a larger parcel will sell for a lower value/SF than a smaller parcel. Adjustments for utility were made on the basis that a parcel which is very irregular in shape or is long and narrow has below average functional utility and less demand in the marketplace than a parcel which is more rectangular in shape. This also takes into consideration topography and development costs.

Zoning

Zoning considerations are weighted when making adjustments. Zoning determines uses to which a property can be put and contributes to its value. All of the sales had similar zonings to that of the subject.

Utilities

This adjustment considers the availability of city water, sanitary sewer, storm sewer, gas, electricity, etc. All sales, similar to the subject, had all services and utilities available.

Other

The adjustment for "other" is a catch-all for relevant adjustments that cannot be categorized in the previous adjustments. The major adjustment made under this line item reflects environmental remediation costs for the subject property of approximately \$2.50/SF based on American Engineering Testing, Inc. report dated February 16, 2005. This clean-up would be performed in accordance with a risk-based approach based on proposed property use in the Twin Lakes area. Clean-up for commercial/industrial development would be less expensive than clean-up for any type of residential development. Soil remediation would likely include excavation and disposal of the more impacted soils at an appropriate off-site disposal facility. The less impacted soils in the area could be re-used on the site below structure and pavement surfaces. This assumes that the maximum site coverage allowable would be 30% or approximately 127,600 SF for the subject property. Indicated remediation costs would then be a little over \$300,000.

Eric J. Quiring
ejq@ratwiklaw.com



Ratwik, Roszak & Maloney, P.A.

June 11, 2009

Mr. Bill Malinen
City Manager
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113-1899

Mr. Pat Trudgeon
Community Development Director
City of Roseville
2660 Civic Center Drive
Roseville, MN 55113-1899

RE: Non-Retainer/Twin Lakes Pkwy. and Mt. Ridge Road Condemnation
Our File No. 4002(2)-0050

Dear Mr. Malinen and Mr. Trudgeon:

This letter is in response to a number of questions that were raised by the Council during its discussion of the proposed settlement with Roseville Acquisitions. We provide the following information in response to those questions.

1. How does the acquisition of the Roseville Acquisitions properties on an "as is" basis affect the City's interests?

Purchasing the property in "as is" condition rather than taking the property through eminent domain results in no difference in the City's interest in the property. Minnesota law authorizes cities to take property by eminent domain. Minn. Stat. § 412.211. When taking property for public use, the right, interest, or estate in the property proposed to be taken must be specifically described in the proceedings. Minn. Stat. § 117.215. Cities may take an easement in the property or fee simple absolute. Id. However, once an interest in property is taken by eminent domain, the city possesses that exact interest in the property. When taking property in fee simple, which allows a city to control, use, and transfer the property at will, the previous property owner's interests are completely extinguished. Most significantly, the previous property owner is no longer responsible for the condition of the property.

730 Second Avenue South, Suite 300, Minneapolis, MN 55402 • p (612) 339-0060 • f (612) 339-0038 • www.ratwiklaw.com

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Jay T. Squires*†
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Sonya J. Guggemos
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Andrea N. Amidon
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Matthew J. Bialick

* Also admitted in WI
** Civil Trial Specialist
Certified by the MN
State Bar Association
† Real Property Specialist
Certified by the MN
State Bar Association

Minnesota law does not provide a condemning authority with any ongoing environmental protections once it has acquired property. See Minn. Statutes Chapter 117. In essence, if a city wants to take fee title to private property, it must take the property "as is." As a result, the City's acceptance of the Roseville Acquisitions property on an "as is" basis is no different than if the City were to proceed through eminent domain proceedings to acquire the property, which would also be on an "as is" basis.

The legislature has acknowledged the risk of taking property "as is" by providing cities with authority to enter property that may need to be acquired by eminent domain for the purposes of investigation, monitoring, testing, surveying, boring, or other similar activities necessary or appropriate to identify the existence or threat of release of a hazardous substance, pollutant, or contaminant. Minn. Stat. § 117.041, subd. 2. Cities are granted the authority to investigate the condition of the property before committing to the eminent domain process to acquire the property because once the property is taken, the city is stuck with the property regardless of its condition. There are no refunds. It is important to note that the City is aware of the environmental condition of the Roseville Acquisitions property, but the condition does not prevent the City's proposed use of the property. In fact, the environmental condition of the property was factored into the City's appraisal to determine the value of the property.

While we would generally recommend securing warranties and representations regarding the environmental condition of property to be acquired by the City through direct purchase, those protections are not available when acquiring property through eminent domain. Accepting the property on an "as is" basis through a direct purchase in lieu of condemnation results in no difference in the City's environmental protections or authority to address environmental remediation as part of the infrastructure project.

2. Who is responsible for demolition costs?

As discussed above, a city acquiring fee title to property through eminent domain acquires the property as it exists. That includes any buildings or other improvements located on the property. Minnesota law does not impose the obligation on property owners to demolish buildings or remove all improvements from their property if it is being taken by eminent domain. The condemning authority takes the property with all improvements. If it desires to demolish any buildings, it must do so at its own cost.

A city and private property owner can certainly agree to apportion the value of the property and any necessary demolition costs as they see fit. However, if the property is acquired through eminent domain, the property owner will have no obligation to pay for any demolition costs. Again, by agreeing to pay for the cost of building demolition, the City is no worse off than it would be if it acquired the property through eminent domain.

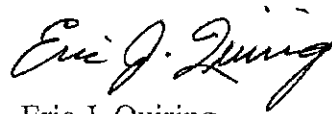
3. Can the City charge a property owner for the vacation of a right-of-way?

As a general rule, a city has no proprietary interest in a public right-of-way, but rather holds the right-of-way in trust for the public. See City of St. Paul v. Chicago, M. & St. F. Ry. Co., 63 N.W. 267 (Minn. 1895). By statute, cities are authorized to vacate "any street, alley, public grounds, public way, or any part thereof." Minn. Stat. § 412.851. No vacation shall be made unless it "appears in the interest of the public to do so" after published notice and a public hearing. Id. Pursuant to the statute, the authority of a city to vacate a street arises only by reason of the council's motion or a petition of a majority of the owners of land abutting the street. Id.

Upon vacation, title to the property reverts to the owner of the fee underlying the street. Steenerson v. Fontaine, 119 N.W. 400 (Minn. 1908). Because title automatically reverts, the vacating city possesses no interest to convey. The City does not have authority to require payment of consideration when it acts to vacate a public right-of-way. See Minn. Op. Atty. Gen. 396g-16 (September 9, 1965). In addition, the Minnesota Attorney General has also opined that a city cannot condition a vacation upon the payment of special assessments to be subsequently levied. Id. As a result, the City cannot charge Roseville Acquisitions for the vacation of Mount Ridge Road.

If you have any questions or concerns, please do not hesitate to contact our office.

Very truly yours,


Eric J. Quiring



Community Development Department

Memo

To: Mayor, City Council
cc: Bill Malinen, City Manager
From: Patrick Trudgeon, Community Development Director
Date: June 3, 2009
Re: Consideration of purchasing property for the Twin Lakes Infrastructure Project and proposed settlement of eminent domain action for properties located at 2690 Cleveland Ave. and 1947 County Road C.

The purpose of the closed executive session is to discuss the purchase of portions of property located at 2690 Cleveland Ave. and 1947 County Road C, City of Roseville for road and construction purposes as part of the Twin Lakes Phase I Infrastructure Project. The properties are owned by Roseville Acquisitions LLC (Roseville Properties).

On April 8, 2008, City staff sent out offer letters to property owners within the Twin Lakes redevelopment area for the purchase of land and temporary construction easements for the Twin Lakes Phase I infrastructure project based on City Council action taken at the March 23, 2009 City Council meeting.

The City sent two offer letters to Daniel Commers of Roseville Acquisitions, LLC. The offer amounts, which were based on appraisals, were \$1,031,200.00 for 2690 Cleveland Ave. and \$1,051,500.00 for 1947 County Road C. The grand total that was offered to Roseville Acquisitions, LLC was \$2,082,700.00.

In response to the City's offer, Roseville Acquisitions LLC sent a letter dated April 24, 2009 to the City with their comments on the offer. City staff and Roseville Acquisitions met on May 1st to discuss the offer and review their comments. As a result of the meeting, City Manager Malinen sent Roseville Acquisitions, LLC a letter dated May 1, 2009 responding to Roseville Acquisitions letter of April 24, 2009.

On May 20, 2009, the City received a letter from Roseville Acquisitions LLC stating that they would agree to settle on the terms for purchasing the needed property with the understandings discussed in the May 1, 2009 letter from City Manager Bill Malinen and in the settlement amount of \$2,107,700.00

The proposed settlement amount is \$25,000.00 more than the appraised value. Staff has reviewed the proposed settlement and recommends that the City Council authorize staff to enter into a settlement agreement with Roseville Acquisitions based on the terms identified in the May 1, 2009 letter from the City and in the amount of \$2,107,700.00.

Staff feels that this action would lead to a fair settlement for the purchase of needed right-of-way for the Phase I Twin Lakes infrastructure project and would allow the City to acquire a significant piece of property needed for the Phase I Twin Lakes infrastructure project.

If the City Council does not find this offer acceptable, the next step would be to continue with the eminent domain action and set a hearing with the commissioners for a final determination on the compensation owed to the property owners. Moving to this process will raise the costs for the City thru additional legal and professional services costs as well as paying for commissioner and staff time. In addition, interest will be accruing on the proposed settlement from the date of the taking (June 15th). This amount alone could quickly exceed \$25,000. Of course, if the commissioners award the property owner a higher settlement amount for the property (which the City would be obligated to pay) the costs would increase as well.

The City Council is aware that the costs for acquisition of the property was factored into the Twin Lakes Infrastructure study and will be paid by the developers of the property as development occurs. In the short term, the amount paid to Roseville Acquisitions will be paid from TIF #17 (Twin Lakes).

Staff has prepared a case for consideration at the regular meeting of June 8, 2009 for the City Council to take official action on this matter.

In the meantime, if you have any questions, please feel free to contact me at (651) 792-7071.