



**TO:** Michael C. Van Milligen, City Manager  
**FROM:** Gus Psihoyos, City Engineer   
**SUBJECT:** Bee Branch Railroad Culverts Project, Purchase of Temporary Easement at 430 Garfield Avenue  
**DATE:** July 30, 2018

### **INTRODUCTION**

The purpose of this memo is to establish the fair market value of a temporary easement at 430 Garfield Avenue and seek authorization for the City Manager to begin negotiations to acquire the easement needed for the Bee Branch Railroad Culverts Project (Phase 7 of the Bee Branch Watershed Flood Mitigation Project). Further authorization is sought to acquire the easement through eminent domain proceedings should negotiations fail.

### **BACKGROUND**

In December of 2001, the City Council formally adopted the Drainage Basin Master Plan prepared by HDR Engineering, Inc. (Omaha, Nebraska). Based on the study, approximately 1,150 homes and businesses in the Bee Branch Watershed are at risk of flood damage.

In December of 2004, the City Council adopted the alignment of the Bee Branch Creek Restoration Project based on the work and recommendation of the Bee Branch Citizen Advisory Committee. The adopted alignment crossed the railroad yard at 506 Garfield Avenue now owned by Canadian Pacific.

In September of 2013, the City Council adopted Resolution 291-13 amending the alignment of the Bee Branch Creek Restoration Project in the vicinity of Garfield Avenue. The adopted alignment crosses 430 Garfield Avenue, 506 Garfield Avenue, and 525 E. 19<sup>th</sup> Street.

### **DISCUSSION**

The City commissioned an appraisal of a temporary easement (the Easement) at 430 Garfield Avenue, property owned by Robert F. Klauer. The Easement (see attached Temporary Easement Exhibit A) will provide access to the site of the proposed railroad culvert improvements from Garfield Avenue. It will also provide additional space

required during construction of the improvements for contractor staging and material storage. The value of the Easement was appraised at \$5,000.00.

### **RECOMMENDATION**

I recommend that the City establish the fair market value of the Easement through 430 Garfield Avenue at the appraised value and that the City Manager begin negotiations with the property owner. Should negotiations fail, I further recommend that the City acquire the Easement through eminent domain proceedings.

### **ACTION TO BE TAKEN**

I respectfully request that the City Council adopt the attached resolution:

- (1) Establishing the fair market value of the property described in Temporary Easement Exhibit A and authorizing the City Manager to commence negotiations to acquire the Easement; and
- (2) Authorizing the City Manager to acquire the Easement through eminent domain if negotiations fail.

Prepared by Deron Muehring, Civil Engineer  
cc: Crenna Brumwell, City Attorney  
Barry Lindahl, Senior Corporation Counsel  
Jenny Larson, Budget Director  
Steve Sampson Brown, Project Manager  
Deron Muehring, Civil Engineer

Attach.