



**TO:** Michael C. Van Milligen, City Manager

**FROM:** Gus Psihoyos, City Engineer

**SUBJECT:** Bee Branch Railroad Culverts Project, Purchase of Permanent and Temporary Easements at 525 E. 19<sup>th</sup> Street

**DATE:** July 30, 2018

### **INTRODUCTION**

The purpose of this memo is to establish the fair market value of a permanent easement and a temporary easement at 525 E. 19<sup>th</sup> Street and seek authorization for the City Manager to begin negotiations to acquire the easements 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 easements 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 permanent easement and two temporary easements at 525 E. 19<sup>th</sup> Street, property owned by B&M Properties & Storage, LLC. The permanent easement (see attached Permanent Easement Exhibit A) is for the purpose of constructing and maintaining underground storm sewer facilities. The first

temporary easement (see attached Temporary Easement Exhibit B) is for access through the property during construction of the improvements. The second temporary easement (see attached Permanent Easement Exhibit C) is to allow for the use of an underground tie-back system to support trench excavation. The value of the easements was appraised at \$35,000.00.

### **RECOMMENDATION**

I recommend that the City establish the fair market value of the permanent easement described in Permanent Easement Exhibit A and the two temporary easements described in Temporary Easement Exhibit B and Temporary Easement Exhibit C at the appraised value and that the City Manager begin negotiations with the property owner. Should negotiations fail, I recommend that the City acquire the easements 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 Permanent Easement Exhibit A and the two temporary easements described in Temporary Easement Exhibit B and Temporary Easement Exhibit C and authorizing the City Manager to commence negotiations to acquire the property; and
- (2) Authorizing the City Manager to acquire the property 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.