

City Council Agenda Memo

From: Steve Britzman, City Attorney

Council Meeting: August 24, 2021

Subject: Acquisition of Real Property from John H. Mills by the City of Brookings for the I-29 Exit 130 Interchange Project

Person Responsible: Steve Britzman, City Attorney

Summary:

Request approval of Resolution Authorizing the acquisition of real property for the I-29 Exit 130 Interchange Project (hereafter “the Project”).

Background:

This Agenda item for the City Council is a proposed Resolution authorizing the acquisition of real property, temporary and permanent easement(s) from John H. Mills for a total compensation of \$68,217.00. The Resolution authorizes the City to sign documents with John H. Mills to acquire right of way, temporary and permanent easement(s) for the Project. We are pleased the City of Brookings has been able to acquire land from John Mills, subject to Council approval, for construction of the Project through negotiations rather than condemnation. Negotiations with three other landowners for acquisition of real property and easements are continuing.

Discussion:

HDR consultants, Paul Briseno, attorney James Moore, and Steve Britzman met with John Mills and successfully negotiated an offer to purchase necessary real property and acquisition of a temporary and permanent easement(s) for the Project, subject to City Council approval. We addressed a significant concern of John Mills about the possibility that during the time John develops his property south of 20th Street South the Edgebrook Golf Course could be converted to some commercial or other economic development use which would negatively impact prospective development of his property. As a longtime resident of Brookings and given the value of the golf course to the community, I did not believe it was at all likely this would ever occur in the next 10 years, but John Mills’ concerns were certainly worthy of consideration. We determined that we could contractually provide that assurance, again, subject to Council approval. We included a provision on page 2 of the Right of Way Agreement to that effect. While this would be a binding contractual provision for a period of 10 years, we determined that this provision would be one that the City could reasonably make to address John’s concern.

Legal Considerations:

This Resolution will authorize the execution of DOTRW-90 Right of Way Agreement, which will serve to authorize the acquisition of real property from John Mills as described in the Resolution and above, including the acquisition of property for temporary and permanent easement(s) for the project.

Financial Consideration:

Acquisition of the right of way, temporary and permanent easement(s) described in the Resolution will be funded through the budget for the Project. In addition, the City and County of Brookings adopted a Memorandum of Understanding for reimbursement of Project expenditures.

Options and Recommendation:

The City Council has the following options:

1. Discuss and take no action;
2. Discuss and by motion authorize the Resolution. A majority vote of all members of the City Council is required to approve the Resolution to be effective.

City Attorney Steve Britzman recommends approval of the Resolution in order for the City to acquire real property, temporary and permanent easement(s) from John H. Mills for the Project.

Supporting Documentation:

Resolution
Agreement