

TO: Michael C. VanMilligan

FROM: Gus Psihoyos, City Engineer

SUBJECT: Bee Branch Creek Restoration Project, Property Acquisition, Morrison Brothers on Washington Street between E. 24th Street and E. 25th Street CIP 7201654 & 3401654

DATE: March 16, 2016

INTRODUCTION

The purpose of this memorandum is to request City Council approval to acquire property on Washington Street between E. 24th Street and E. 25th Street from Morrison Brothers as required for the Bee Branch Creek Restoration Project.

BACKGROUND

In December of 2001, the City Council formally adopted the Drainage Basin Master Plan (DBMP) prepared by HDR Engineering (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 established the alignment for the Bee Branch Creek Restoration Project, from 15th and Sycamore Street to 24th and Washington Street, establishing the properties to be acquired for the Bee Branch Creek Restoration Project.

In May of 2011 the City Council authorized the purchase of four additional properties at the confluence of Comiskey Park, the Heritage Trail, and the Bee Branch Project. It was important to address the safety of pedestrians that will travel between the three attractions. The additional property was required to create a safer, attractive connection between Comiskey Park, the Heritage Trail, and the linear park that is the Bee Branch Creek Restoration Project.

In August of 2015, the City Council adopted Resolution 291-15 authorizing the acquisition of 2442-2446 Washington Street and 2450 Washington Street for the Bee Branch Creek Restoration Project.

In December of 2015, the City Council adopted Resolution 440-15 establishing the fair market value of the property owned by Morrison Brothers on Washington Street between E. 24th Street and E. 25th Street at the appraised value of \$98,000.00 and

authorized the City Manager to begin negotiations to acquire the property required for the Bee Branch Creek Restoration Project.

DISCUSSION

When discussing the City's interest in their residential property in the 2400 block of Washington Street, Morrison Brothers' representatives communicated to the City that they were interested in exploring the possibility of swapping both their residential lots sought by the City, and their adjacent industrial property on Elm Street for City industrial site property. The attached Exhibit A shows the subject Morrison Brothers' residential and industrial property.

Attached is a signed Offer to Buy Real Estate and Acceptance (the Offer) for the Morrison Brothers' residential property. The Offer outlines that:

1. Morrison Brothers will, immediately, deed the residential lots to the City, as is, with no cash outlay by the City. Morrison Brothers and the City will attempt to negotiate a larger deal involving Morrison Brothers' industrial property on 24th Street and City industrial site property.
2. A larger purchase agreement document will govern the property swap, including terms such as utilizing 1031 exchange for the industrial 24th Street property, environmental indemnification, historic building considerations, etc.
3. If the City and Morrison Brothers are unable to come to terms on a property swap by September 1, 2016, then either party may terminate the deal, but then the City would pay \$120,000.00 to Morrison Brothers, which would be considered the compensation for the Washington Street residential lots.

Agreeing to the terms would afford the City immediate possession and a ceiling on the price of the residential property and the flexibility to work through a potential, mutually beneficial land swap deal without cash payment.

RECOMMENDATION

I recommend that the City acquire the Morrison Brothers' residential property per the terms of the attached Offer and continue negotiating a possible larger deal involving their industrial property on 24th Street and City industrial site property.

BUDGET IMPACT

The purchase will be funded from the FY2016 appropriation of \$2,723,388 for property acquisitions for the Bee Branch Creek Restoration Project (CIP# 7201654 & 3401654).

ACTION TO BE TAKEN

I respectfully request adoption of the attached resolution approving the Offer and authorizing acceptance of the Warranty Deed and any other related steps necessary to carry out the terms of the Offer.

Attach.

Prepared by Deron Muehring

cc: Barry Lindahl, City Attorney
Jenny Larson, Budget Director
Maurice Jones, Economic Development Director
Steve Sampson-Brown, Project Manager
Deron Muehring, Civil Engineer