



Board of Works
Andy Cook
Randy Graham
Kate Snedecker

Clerk Treasurer
Cindy J. Gossard

Public Works Department

(317) 804-3150 office
(317) 804-3181 fax

2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

Memorandum

To: Westfield Board of Public Works & Safety

Date: March 27, 2014

Re: Consent Agenda - Utility, Trail & Drainage Easement Offer Acceptance

The Indiana Department of Transportation (INDOT) has requested a perpetual utility, trail and drainage easement on property owned by the City of Westfield around Custom Commerce Park. This ground was purchased by the Parks Department as part of their intent to expand and connect our trail system within Westfield. As part of the compensation for damages arising from the US 31 reconstruction project, the State of Indiana needs to purchase a perpetual easement to allow for the installation and maintenance of storm water utility infrastructure to be installed supporting improvements associated with the reconstruction project.

We request that the Board of Public Works & Safety consent to the Mayor's acceptance of this appraisal and the fair compensation of this easement. The offer for this easement was based on appraisals prepared by Rita Anne Gabriel & Associates and is valued at \$15,550. The Department of Public Works agrees with the value stated and supported this acceptance.



INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

100 North Senate Avenue
Room N642
Indianapolis, Indiana 46204

PHONE: (317) 234-1901
FAX: (317) 233-3055

MICHAEL R. PENCE, GOVERNOR
KARL B. BROWNING, COMMISSIONER

Date: February 24, 2014

Name(s): City of Westfield
Address: 130 Penn St.
City/State: Westfield, IN
Zip Code: 46074

PROJECT: 0900265
PARCEL: 486
CODE: 5310
COUNTY: Hamilton

Dear City of Westfield, Indiana,

The Indiana Department of Transportation (INDOT) is undertaking a highway improvement project in Hamilton County known as project #0900265. The project is located in Hamilton County, Indiana between I-465 and S.R. 38, a distance of approximately 13.1 miles. The project traverses the city of Carmel, Clay Township, the city of Westfield and Washington Township.

The proposed action is an upgrade of the existing U.S. 31 corridor to an access-controlled, six lane freeway in Hamilton County, Indiana between I-465 North leg and S.R. 38 with the southern terminus of the project extending to 96th Street. Traffic patterns and volumes on U.S. 31 along with land use and roadway characteristics change significantly beyond these termini.

Transportation improvements to U.S. 31 from I-465 to S.R. 38 are needed for traffic capacity and safety needs. Additional landscape planning within the right-of-way using grasses, hedges, wildflowers, shrubs and trees native to central Indiana will be considered for practical and consistent use, especially in areas where vegetation is limited. In areas where trees are being removed for additional right-of-way, irregular feather cut lines with selective tree root removal will be undertaken.

In order to accommodate the planned improvements, the State needs to purchase from you approximately 7,854 SF of Perpetual Easement. Please refer to pages 24 and 24 in the INDOT Appraisal/ Waiver Valuation (on green paper) for a description of the right of way to be purchased.

The State's hereby offers you \$ 15,550.00 for the property mentioned above. The Offer is comprised of \$ 15,550.00 consists of Perpetual Easement only. An appraiser arrived at the values for your property using standard appraisal methods and practices. In accordance with Indiana Code 32-24-1, **you have thirty (30) days from the date that you receive this offer to either accept or reject it.** Payment will be made within 90 days after acceptance.

If there are personal items located in the proposed right-of-way that need to be relocated and cost-to-cure damages are being paid, it is the responsibility of the property owner to have such items relocated within 30 days of receipt of payment. **(N/A for your purchase)**

(Retention: can be altered if total take) If there is an item in the area of the purchased right of way that the State is buying and that you consider valuable and would like to keep (plants or decorations for example), you may retain that item and its value will be subtracted from the amount offered to you. Please let me know if there are any such items before signing any of the enclosed documents. **(N/A for your purchase)**

It is the policy of the Indiana Department of Transportation, Office of Real Estate, to accept for review, any evidence of value submitted by the property owner for the purpose of determining fair market value. Any costs incurred from obtaining such evidence, however, is the responsibility of the owner. Acceptable forms of evidence of value include, but are not limited to, appraisals, comparable sales, and cost estimates. Evidence of value must be supported by factual data

and items of damage must be fully documented. Submitted written evidence based on these facts is acceptable for review.

I am available to assist you to discuss the project and help you complete the documents. The State requires original signatures and not copies of the completed documents. After you have had the opportunity to review the State's offer and have come to a decision, please contact me and I will answer any questions you may have. If you want to expedite your payment, you may return the necessary forms, notarized as required, in the enclosed envelope so that you may receive your funds on a timely basis. You can contact me at (317) 234-1901, or email maloy@indot.in.gov. Thank you for your time and consideration.

Sincerely,



Mary Loy
Right-of-Way Agent
Real Estate Division

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INDIANA DEPARTMENT OF TRANSPORTATION
Driving Indiana's Economic Growth

100 North Senate Avenue
Room N642
Indianapolis, Indiana 46204

PHONE: (317) 234-1901
FAX: (317) 233-3055

Michael R. Pence, Governor
Karl B. Browning, Commissioner

UNIFORM PROPERTY OR EASEMENT ACQUISITION OFFER

Date: 2/24/14

COPY

PROJECT: 0900265
PARCEL: 486 CODE: 5310
ROAD: US 31
COUNTY: Hamilton

TO: City of Westfield
130 Penn St.
Westfield, IN 46074

The State of Indiana, acting by and through the Indiana Department of Transportation is authorized by Indiana law to obtain your property or an easement across your property, for certain public purposes. The Indiana Department of Transportation needs an easement across your land for a public highway improvement known as 0900265 and needs to take the easement as described on the attached legal description.

It is our opinion that the fair market value of the easement we want to acquire from you is \$ 15,550.00, and, therefore, the Indiana Department of Transportation offers you \$ 15,550.00 for the above described easement. You have thirty (30) days from this date to accept or reject this offer. If you accept this offer, you may expect payment in full within ninety (90) days after signing the documents accepting this offer and executing the deed, grant or easement, and provided there are no difficulties in clearing liens or other problems with title to the land. Possession will be required thirty (30) days after you have received your payment in full.

As an inducement for the State to close this real estate transaction, the grantor(s) assume(s) and agree(s) to pay the 2013 payable 2014 real estate taxes and assessments on the above described real estate. This obligation to pay shall survive the said closing and shall be enforceable by the State in the event of any non-payment.

The undersigned represents and warrants that he is the Mayor of the Grantor, that pursuant to resolution of the City Council he has full authority to manage the affairs of said City and sign and execute documents on its behalf and that said authority has not been revoked, and that he is therefore, fully authorized and empowered to convey to the State of Indiana real estate of the City, and that on the date of execution of said conveyance instruments he had full authority to so act.

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED RIGHTS:

1. By law, the Indiana Department of Transportation is required to make a good faith effort to purchase an easement across your property.
2. You do not have to accept this offer and the Indiana Department of Transportation is not required to agree to your demands.
3. However, if you do not accept this offer, and we cannot come to an agreement on the acquisition of an easement, the Indiana Department of Transportation has the right to file suit to condemn, and acquire the easement in the county in which the real estate is located.
4. You have the right to seek advice of an attorney, real estate appraiser or any other person of your choice on this matter.
5. You may object to the public purpose and necessity of this project.
6. If the Indiana Department of Transportation files a suit to condemn and acquire an easement and the court grants its request to condemn, the court will then appoint three appraisers who will make an independent appraisal of the easement to be acquired.
7. If we both agree with the court appraisers' report, then the matter is settled. However, if either of us disagrees with the appraisers' report to the court, either of us has the right to ask for a trial to decide what should be paid to you for the easement condemned.
8. If the court appraisers' report is not accepted by either of us, then the Indiana Department of Transportation has the legal option of depositing the amount of the court appraisers' evaluation with the court. And if such a deposit is made with the court, the Indiana Department of Transportation is legally entitled to immediate possession of the easement. You may, subject to the approval of the court, make withdrawals from the amount deposited with court. Your withdrawal will in no way affect the proceedings of your case in court, except that, if the final judgment awarded you is less than the withdrawal you have made from the amount deposited, you will be required to pay back to the court the amount of the withdrawal in excess of the amount of the final judgment.

Project: 0900265 Parcel: 486

- 9. The trial will decide the full amount of damages you are to receive. Both of us will be entitled to present legal evidence supporting our opinions of the fair market value of the easement. The court's decision may be more or less than this offer. You may employ, at your cost, appraisers and attorneys to represent you at this time or at any time during the course of the proceeding described in the notice.
- 10. If you have any questions concerning this matter, you may contact us at:

The Indiana Department of Transportation
 Office of Real Estate
 Indiana Government Center North
 100 North Senate Avenue, Room N642
 Indianapolis, Indiana 46204-2216
 Attn: Office of Real Estate
 Phone: 317-234-1901

This offer was made to owner(s):

City of Westfield, Indiana of Hamilton County on _____ (Date)
 By: Andy Cook- Mayor of Hamilton County on _____ (Date)
 By: _____ of _____ on _____ (Date)
 By: _____ of _____ on _____ (Date)

BY: *Mary Loy*
 (Signature)

Mary Loy, Buyer
 (Printed Name and Title)

Agent of: The Indiana Department of Transportation

COPY

