

Request For City Council Action

Date: September 1, 2015

Agenda Section: Consent Agenda No. 5	Originating Department: City Clerk's Office
Item: Acceptance of a Temporary Construction and Permanent Maintenance Easement for the Development of a Public Parking Lot along South Illinois Avenue No. 5.4	Approved:

Background:

A contract for the construction of the South Illinois Avenue Parking Lot Project (PK0701) was awarded at the City Council meeting of August 11, 2015. Temporary and permanent easements from Dr. Pradeep Reddy, Jeffrey Ashil (Trustee), Emma Sunga, and Henry Fisher were accepted by the Council earlier this year.

Attached is a temporary construction and permanent maintenance easement from Mark Garwin, which is necessary for the construction and maintenance of the South Illinois Avenue parking lot project.

Recommended Action:

The Council is requested to accept the temporary and permanent easement from Mark Garwin for the construction and maintenance of parking improvements and to authorize the City Clerk to have the easement recorded by the Jackson County Clerk and Recorder's Office.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by _____ 2nd by _____ to _____

EASEMENT

THIS INDENTURE MADE THIS

24 day of August 2015, by and

between Mark Garwin, President of M.R.

Beans, Inc., of Cobden, Illinois, hereinafter

called Property Owner, and the City of

Carbondale, Illinois, hereinafter called City,

WITNESSETH:

That for and in consideration of the benefits to be gained by the construction, maintenance and repair of the improvements to be made to the land described herein, and the sum of \$1.00, cash in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration including the right to utilize two (2) parking spaces as agreed to by the parties, said parking spaces to be designated by the City along the west edge of the parking lot as constructed on a part of the permanent easement as granted below and along the northern portion of the east edge of Parcel 1 as described below; the parties hereto agree as follows:

A. LAND AFFECTED:

That the land affected by this agreement is located in the County of Jackson, State of Illinois and is more particularly described as follows:

General Description: Parcel 1 - Lot 324 and four (4) feet off the south side of Lot 323 in Henry Sander's Addition to the City of Carbondale, Illinois as shown by the recorded plat thereof in Book J of Deeds on Page 10 in the Recorder's Office of Jackson County, Illinois.

B. PERMANENT EASEMENT:

On such land affected, City shall have, and Property Owner hereby bargains, sells, transfers and delivers as hereinafter described, a Permanent Easement to construct, maintain, repair and utilize a public parking lot and curbing together with all appurtenances, connections and public utilities. City shall have the right to excavate and refill ditches and/or trenches, and do necessary site grading for blending the existing and proposed surfaces for the location of the facilities described herein, and shall have the further right to do all other necessary things, including removal of trees, bushes, undergrowth and other obstructions interfering with the location, construction and maintenance of said facilities. This easement is more particularly described as follows:

The east 12.0' of Parcel 1.

to have and to hold said Permanent Easement and Right of Way unto City, and unto its successors and assigns forever. Property Owner does hereby covenant with City that lawfully seized and possessed of the strip of land above described, that they have a good and lawful right to convey it, or any part thereof, and it is free from all encumbrances, and that they do and will forever warrant and defend the title thereto against the claim of all persons or parties whomsoever.

C. TEMPORARY EASEMENT:

1. On such land affected, City shall have, and Property Owner further grants unto City, a Temporary Easement and Right-of-way to enter upon and have the right to excavate and refill ditches and/or trenches, and do necessary site grading for blending the existing and proposed surfaces for the location of the facilities described herein, and shall have the further right to do all other necessary things, including removal of trees, bushes, undergrowth, pavements, and other obstructions interfering with the location of said facilities. This Easement is more particularly described as follows:

Beginning at the southwest corner of Parcel 1, also being the southwest corner of Lot 324 in Sander's Addition to the City of Carbondale, thence northerly along the west line of Parcel 1 a distance of 15.0 feet to a point; thence easterly along a line parallel to the south line of Parcel 1 a distance of 80.0 feet to a point; thence northeasterly with a deflection angle of 45 degrees to the north a distance of 9.90 feet to a point lying 12.0 feet from the east line of Parcel 1; thence southerly along a line parallel to the east line of Parcel 1 a distance of 22.00' to point on the south line Parcel 1; thence westerly 77.0 feet along the south line of Parcel 1 to the southwest corner of Parcel 1 and the point of beginning.

2. This Temporary Easement shall cease and terminate within six (6) years or upon the completion of construction of all project phases (including future phase II construction to East College Street) whichever may occur sooner.

D. RIGHTS OF ENTRY AND EGRESS:

City shall have such permanent rights of entry upon, passage over and storage of equipment and material on the land herein described as being affected by such Permanent Easement and Right of Way, as may be necessary or useful for future construction, maintenance and repair.

E. DAMAGE TO PROPERTY:

Premises of the Property Owner shall be left neat and clean, with all rubbish and excess earth removed and with holes filled and leveled. Existing fences and driveways shall be

restored. City shall pay reasonable damages for damage to crops, trees and shrubbery that cannot be restored except in the area described herein as Permanent and/or Temporary Easement.

F. RIGHT TO ASSIGN TO A THIRD PARTY

The City shall have the right to assign, grant or convey all or a portion of its interest in this easement, whether temporary or permanent, to a third party for the purpose and use stated herein.

Subject to the above provisions, the Property Owner hereby waives all claims for damages of every name and nature that may accrue to him or to his property because of the exercise of the rights granted herein, it being understood and agreed that this waiver does not apply to acts of negligence by the City or by its contractors.

This indenture shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Mark Garwin

Mark Garwin, President M.R. Beans, Inc., Grantor

STATE OF ILLINOIS)
) SS
COUNTY OF JACKSON)

I, Kevin Baity, a Notary Public in and for the County and State aforesaid, do hereby certify that Mark Garwin, President M.R. Beans Inc., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notary Seal this 24 day of AUGUST 2015.

[Signature]

My commission expires: 5/2/18



ACCEPTANCE

Accepted pursuant to authority contained in a certain motion passed by the City Council of
Carbondale, Illinois, on the ____ day of _____, 2015.

APPROVED: _____
John M. Henry, Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

PREPARED BY:
City of Carbondale
200 South Illinois Avenue
P.O Box 2047
Carbondale, Illinois 62902-2047