MEMORANDUM

To: City Commissioners

From: Paul Kritz, City Attorney

Re: MOA with M/M George regarding Cline Road Improvement Project

Date: January 31, 2013

Over the past several weeks, City staff has endeavored to work out terms of an administrative settlement with Curtiss and Linda George regarding the City's need to acquire permanent and temporary construction easements for the Cline Road improvement project. Mr. and Mrs. George were receptive to proposals that would improve the appearance of the project area in lieu of a cash settlement.

The MOA submitted for the Commission's approval obligates the City to:

1) Construct the Cline Road improvements in accordance with the engineering plans;
2) Make reasonable efforts to preserve the trees and shrubs from being damaged or destroyed during construction;
3) Construct a new chain link fence, with uniform slats, along Cline Road;
4) Widen and improve the 8th Street driveway servicing the property;
5) Install a chain link fence along the alley way, using existing fence material; and
6) Install a temporary fence while the improvements are made.

Staff believes the terms of the MOA are reasonable and beneficial to both parties and recommends approval of the same.

RESOLUTION NO. R-13-09

A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE A MEMORANDUM OF AGREEMENT BY AND BETWEEN THE CITY OF COFFEYVILLE, KANSAS AND CURTIS W. GEORGE AND LINDA C. GEORGE, RELATING TO THE CLINE ROAD IMPROVEMENT PROJECT.

BE IT RESOLVED by the Board of Commissioners of the City of Coffeyville, Kansas, that the Mayor and City Clerk be and are hereby authorized and directed to execute a Memorandum of Agreement by and between the City of Coffeyville, Kansas and Curtis W. George and Linda C. George, relating to the Cline Road Improvement project.

Adopted this 12th day of February 2013.

_____
David George, Mayor

ATTEST:

_____
Cindy Price, City Clerk

Approved as to Form:

_____
Paul Kritz, City Attorney

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT made and entered into as of this ___ day of January, 2013, by and between the City of Coffeyville, Kansas, P.O. Box 1629, Coffeyville, Kansas (hereinafter referred to as "City"), and Curtiss W. George and Linda C. George, husband and wife, 1826 W. 8th Street, Coffeyville, Kansas (hereinafter referred to as "Owners").

WHEREAS, Owners are the equitable owners of the property located on the northeast corner of 8th and Cline, commonly referred to as 1826 W. 8th Street, Coffeyville, Kansas, pursuant to a real estate contract dated August 10, 1994, between Darrell D. Stephens and Sue E. Stephens, as seller, and Curtiss W. George and Linda C. George, as purchasers, as recorded on April 4, 2005 in Book 547, Page 368, at the Register of Deeds office in Montgomery County, Kansas;

WHEREAS, the City is preparing to make certain improvements to Cline Road;

WHEREAS, in order to make the improvements, it will be necessary for the City to acquire certain right-of-way and temporary construction easements from Owners, as indicated in the engineering plans regarding the project;

WHEREAS, the City has made an offer to Owners to acquire the right-of-way;

WHEREAS, the parties desire to reduce the offer to a written instrument; and

WHEREAS, the parties have agreed to be bound by the terms of this Memorandum of Agreement.

THEREFORE, in consideration of the conditions, mutual agreements and covenants herein contained, it is understood and agreed by the parties hereto as follows:

1. City will construct or have constructed the Cline Road improvements in accordance with the engineering plans for the project.

2. During construction of the improvements, City will make reasonable efforts to preserve or have preserved the trees and shrubs as marked on the drawing attached hereto.

3. In lieu of any other compensation to be paid to Owners for acquisition of the permanent street right-of-way and temporary construction easements, the City agrees to:

    a. Construct a new chain link fence, with uniform slats, along Cline Road, at an exact location to be determined and agreed to by the parties.

b. Widen and improve the 8th Street driveway servicing the property, to include the installation of a new drainage pipe. Owners acknowledge that the driveway entrance from Cline will be eliminated in connection with the project.

c. Install a chain link fence along the alley behind the property using Owners existing fence material.

d. Install a temporary fence while construction of the Cline Road improvements are underway at Owners' property.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the day and year first written above.

CITY OF COFFEYVILLE, KANSAS

_____

David George, Mayor

Attest:

_____

Cindy Price, City Clerk

OWNERS

Curtiss W. George

Linda C. George

Linda C. George

North

Scale: 1"= 50'

Legend

- Section Corner
- Iron Rod Recovered
- Iron Rod Set
- Proposed Subject Property Right of Way Line
- Section Line
- Block Line
- Easement Line

Legal Description–Tract 1

A tract of land to be used as a permanent street right of way located in a portion of the West 125 feet of Lot 20, Block 2, West End Place Addition to the City of Coffeyville, Montgomery County, Kansas, said tract of land being more particularly described as follows:

Beginning at the Southwest corner of said Lot 20;

Thence N.01°36'44"W along the East right of way line of Cline Road, a distance of 193.52 feet;

Thence N.88°26'12"E. a distance of 5.00 feet;

Thence S.01°36'44"E. a distance of 193.56 feet;

Thence S.88°48'09"W. a distance of 5.00 feet to the Point of Beginning and containing 968 square feet or 0.022 acres.

Surveyors Certification

I, JOHN S. MASSMAN, A DULY LICENSED SURVEYOR IN THE STATE OF KANSAS, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM THE NOTES OF AN ACTUAL FIELD SURVEY DONE BY ME OR UNDER MY DIRECT SUPERVISION AND THAT THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF KNOWLEDGE AND BELIEF.

JOHN S. MASSMAN, L.S.#1082

CITY OF Coffeyville Engineering Department			
FIELD BY: TKO, BW & JSM	TITLE: Cline Road Right of Way Acquisition and Tree Removal		
DRAWN BY: JSM			
CHECKED BY: PK	SCALE: 1"= 50'	SHEET REFERENCE NUMBER:	CONTRACT NO.
APPROVED BY:	DATE: January 25, 2013		SHEET 1 of 1
	DWG. Scott/KDOT PROJECTS/Cline Road\rw_taking _Cline.dwg		