



CITY OF HARRISONBURG
**OFFICE OF THE
CITY ATTORNEY**

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801
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TO: Ande Banks, City Manager

FROM: Chris Brown, city Attorney

DATE: June 22, 2023

RE: Resolution Authorizing the City to enter upon and take certain real property interest of Truist Bank located at 3150 South Main Street in the City of Harrisonburg to secure necessary fee simple interests and easements needed for street improvements to South Main Street and Kaylor Park Drive

Summary: The City needs to secure certain property interests from the Truist Bank property located at 3150 South Main Street. Negotiations to acquire the needed property interests have been unsuccessful thus far. While City staff will continue to negotiate with Truist representatives, the construction schedule for the road improvements requires the City to move forward with condemnation proceedings to secure the needed property interests. This resolution authorizes the City to pay into Court the estimated value of the property interests needed and to file a certificate of take with the Circuit Court. This will allow the City and its contractors and agents to enter upon the property and perform the needed improvements. Again, City staff will continue to work towards an agreement with Truist. If an agreement cannot be reached the issue of the value of the property interests taken will be determined by the Rockingham County Circuit Court.

Background: City staff has for some time been working to secure the property interests, including fee simple interests and easements, necessary for street improvements to South Main Street and Kaylor Park Drive. These improvements will provide secure ingress and egress to the new Rocktown High School and improve traffic flow and congestion on South Main Street. Staff has secured all necessary property interests except for those located on property owned by Truist Bank (formerly Massanutten Bank & Trust and BB&T Bank) at 3150 South Main Street at Main Street's intersection with east Kaylor Park Drive. Despite significant time and effort, staff has been unable to reach an agreement with Truist.

In accordance with Virginia law, staff secured an appraisal of the property interests needed and provided that appraisal, along with the plat of the property, and title search, to Truist.

The property interest needed from Truist for the necessary street improvements include a fee simple interest of 1,139 square feet, a permanent utility easement of 5,590 square feet, and two temporary construction easements. Improvements will include traffic signalization and utility relocation. The fee simple interest and easements are shown on the plat attached to this agenda item. Staff has offered to pay the appraised value for these interests and agreed to pay \$18,662.36 to move the sign of Truist's current tenant. City staff also offered other consideration in the nature of an entrance onto Kaylor park Drive. Truist rejected the City's offer and countered with a demand that the City could not accept.

The attached resolution recites the need for the property interests and the street improvements, the efforts made by staff to secure an agreement to purchase the interests, and authorizes City staff to pay into Court



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the estimated value of the needed property interests and file a certificate of take for those interests. Upon filing of the certificate of take the City will own the needed interests and can move forward with the street improvements. Staff will continue to work towards an agreement with Truist for the needed property interests. If an agreement can't be reached, the matter will be submitted to Circuit Court for legal proceedings to determine the value of the interests taken.

Key Issues: Approval of resolution authorizing staff to pay into Circuit Court the estimated value of the property interest needed from Truist, to file a certificate of take to enter upon the property and construct the needed street improvements, and to take all other necessary steps to secure the property.

Environmental Impact: N/A

Fiscal Impact: Unknown.

Prior Actions: Mailing of all required documentation to Truist negotiations with its representatives.

Alternatives: (a) Approve the resolution

Community Engagement: Public hearing scheduled on the resolution as required by Virginia law.

Recommendation: Staff recommends approval of the resolution.

Attachments: Public hearing notice, draft resolution, and plat.

Review:

The initiating Department Director will place in Legistar, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.