

AGREEMENT

| <u>POSITIVE</u> | <u>NEGATIVE</u> |
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| 1. Avoid Condemnation | 1. City will be required to waive all liability for Mellon for tank |
| 2. City gets public park with no/minimal cost of development of park | 2. City will have about \$5,000 to \$10,000 in engineering costs |
| 3. No court battle over immediate and certain acquisition | 3. City will be required to acquire property that is not necessary for completion of Green Circle Trail (Parcel X and Tax Parcels) and will have to pay “supplemental consideration” |
| 4. Any acquisition costs are spelled out and certain | 4. Mellon can pull plug at any time during the three year development period at his discretion and by doing so will require City to pay “supplemental consideration” equal to the higher of the appraised value of the properties or the amount that Mellon paid to purchase the properties. (purchase price Mellon payed is \$404,000.00 aggregate; current assessed value in aggregate is \$206,400) |
| | 5. City will have to pay maintenance costs for park which are currently estimated between \$10,000 and \$15,000 per year |
| | 6. Once conveyed to City, park land will not be taxable – currently generating \$1,878.24 in annual real property taxes |
| | 7. Mellon has almost complete discretion regarding what is developed |
| | 8. Mellon has agreed to “indemnify and hold harmless”, but has not made any attempts to confirm lawful authority to use “Patsy Cline” |
| | 9. City must maintain as Memorial Park to Patsy Cline and must maintain public right of way and associated easements in perpetuity. If ever ceases to be used as Patsy Cline Memorial Park, must pay Supplemental Consideration. |
| | 10. City must pay all recording costs (including Mellon’s costs) rough estimate of \$215.00 |

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| AGGREGATE PROPERTY WAS PURCHASED BY MELLON FOR | \$404,000.00 |
| AGGREGATE CURRENT ASSESSED VALUE | \$206,400.00 |
| CITY'S ESTIMATED ENGINEERING COSTS | \$5,000.00 to \$10,000.00 |
| CITY'S ESTIMATED MAINTENANCE COSTS | \$10,000.00 TO \$15,000.00 per year |
| CURRENT ANNUAL REAL PROPERTY TAXES | \$1,878.24 annually |
| ESTIMATED COSTS OF RECORDATION | \$215.00 |

CONDEMNATION

| <u>POSITIVE</u> | <u>NEGATIVE</u> |
|--|---|
| 1. City can limit acquisition to only area needed for Green Circle trail completion (but will likely have to include damages to residual (no roadway access, etc.) | 1. Negative public perception of condemnation generally |
| 2. Can obtain perpetual easement, so liability for tank would likely be shared at worst | 2. Will likely have a separate civil suit by Mellon for trespass and damage to his property (tank) |
| 3. Can obtain immediate defeasible title via "quick take" – so can proceed to complete trail | 3. Mellon may challenge "quick take" saying it isn't a roadway, etc. |
| 4. Once condemnation is concluded, no ongoing monetary costs, no need to continue efforts to appease property owner for development of remaining property, etc. | 4. Claim of damage to residual may result in higher costs in addition to expenses associated with litigation. |
| 5. Remaining ancillary property remains taxable | 5. Costs of condemnation are less certain. City will need to have appraisal which will be challenged by landowner's appraisal, etc. |