



City of Broken Arrow

Request for Action

File #: 19-1183, Version: 1

**Broken Arrow City Council
Meeting of: 09-17-2019**

Title:

Consideration, discussion, and possible approval and authorization to execute Resolution No. 1262, a Resolution authorizing the City Attorney to enter into a Journal Entry of Judgment in the case of City of Broken Arrow, Oklahoma v. Mark F. Harper, et al., Tulsa County District Court Case No. CV-2019-614, regarding the condemnation of property located at the 13600 Block of South 177th East Avenue, Tulsa County, State of Oklahoma

Background:

On May 7, 2019, the Broken Arrow City Council determined and declared the public necessity of taking, appropriating, condemning and acquiring a temporary construction easement over 110,417 square feet or 2.535 acres, more or less, from Mark F. Harper, Personal Representative of the Estate of Josephine Layton a/k/a Josephine Layton Harper; Jeanette Layton a/k/a Jeanette Van Hoose; Lois Maxine Dark, Trustee of the Lois Maxine Dark Trust; and Martha Chapman Fowler (“the Landowners”) for the public purpose of completion of the County Line Trunk Sewer Replacement Project. The City already owns the necessary underlying sewer easement. The temporary construction easement is necessary to replace existing sewer line.

On May 9, 2019, the City filed suit against the Landowners to acquire this easement. On June 6, 2019, Mark Harper, a local attorney, filed an Entry of Appearance on behalf of each of the Landowners. The Commissioners filed a report on June 20, 2019, valuing the take at \$7,500. On July 11, 2019, the City tendered the commissioners’ award to the Court Clerk, taking title to the condemned temporary construction easement.

Pursuant to state law, any party seeking to contest the commissioners’ valuation of the property must file a jury demand within 60 days of the date of the filing of the commissioners’ report. Thus, all jury demands had to be filed on or before August 19, 2019. Only the City filed a jury demand.

All issues can be resolved by the City withdrawing its jury demand and agreeing to the commissioners’ valuation of the land. This is the recommendation of the City Attorney’s Office.

The attached resolution authorizes the City Attorney to enter into a Journal Entry of Judgment which orders payment of the \$7,500 currently held in the court registry to Mark Harper, attorney for the Landowners, and resolves all issues in the action.

Cost: \$7,500

Funding Source: BAMA-County Line Trunk Line Sewer Project No. S.1609

Requested By: Trevor A. Dennis, City Attorney

Approved By: City Manager’s Office

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Attachments: Resolution No. 1262
Journal Entry of Judgment

Recommendation:

Approve Resolution No. 1262 and authorize its execution.