



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: Capital Projects

CM/ DCM/ ACM: Mario Canizares

DATE: January 8, 2018

SUBJECT

Consider recommending adoption of an ordinance of the City of Denton, a Texas home rule municipal corporation ("City"), approving a Real Estate Exchange and Abandonment Agreement ("Agreement") between the City and Marsam Enterprises, Inc., a Texas corporation ("Marsam"), for (I) the conveyance to Marsam of a 0.098 acre fee tract being part of a 0.107 acre tract conveyed to the City by special warranty deed recorded under Document Number: 2016-62253, May 31, 2016, in the Real Property Records of Denton County, Texas, and (II) a certain 0.016 acre tract described in an affidavit recorded under Document Number: 2017-141687, November 16, 2017, in the Real Property Records of Denton County, Texas, both tracts hereinafter collectively referred to as the "807 Myrtle Property" with a drainage and utility easement reserved by the City therein, (III) the abandonment and release by the City of (A) a 0.063 acre drainage easement, and (B) a 285 square feet drainage easement, and (III) the payment by the City to Marsam of \$5,000.00, all in exchange for the conveyance to the City of (I) a 0.031 acre fee tract, and (II) a 0.047 acre drainage easement, all cited tracts situated in the W. Loving Survey, Abstract No. 759, City of Denton, Denton County, Texas, generally located at the northeast corner of Myrtle Street and Eagle Drive; authorizing the City Manager in accordance with Local Government Code 272.001(B)(3) to execute the Agreement; authorizing the expenditure of funds therefore; and providing and effective date. (Eagle Drive Drainage project – Phase II – Marsam tract (Briscoe Tire))

BACKGROUND

The original overall Eagle Drive Drainage System project, early 2008, contemplated the construction of drainage improvements in a tributary of Tributary PEC-4, between Wainwright Street and Myrtle Street, in order to more effectively convey storm water from the Eagle Drive at Myrtle Street areas north and east, to the improved channel at Wainwright Street, south of Highland Avenue. The overall goal of the project is to contain the flows from a 100-year storm event within a modified channel (underground culvert system). Subsequently, that project was split into two phases. Phase I of the project, Elm Street to Wainwright Street, was completed in August 2012. The final phase of the drainage improvement project, Phase II, consists of underground storm water conveyance system improvements, along the west and north sides of the existing open drainage tributary, north side of Eagle Drive, between Myrtle Street and Elm Street.

Presently, the existing drainage channel is adjacent to the west and north portions of the Briscoe Tire Service building. The design of the proposed underground storm system improvements contemplates bypassing those portions of the existing drainage channel adjacent to the property owner's structure, relocating far enough away from the building structure to provide for satisfactory operation and maintenance of the new drainage improvements.

Over the course of the last several months, staff has worked closely with the subject property owner, Dwayne Waters, Marsam Enterprises, Inc. to develop an agreement equitable to the parties, in respect to

the land rights needed by the City to complete the Project. In May of 2016, the City acquired a 0.108 acre tract, north of Marsam's property tract, for Project purposes (the San Miguel tract). During the negotiations with Mr. Waters, discussions gave rise to the idea that an exchange of land rights might be favorable. The San Miguel tract was purchased by the City and the residential structure was removed, however, since the City's planned improvements are to be underground, the surface of the tract would be of use by Marsam.

The boundary survey of the San Miguel tract revealed a "margin" tract, a strip tract that dropped from ownership records over time. Marsam asked that the City also convey their interest in the margin tract (if any) to them, so as to consolidate title for the transaction at hand. Staff performed land title research back to patent and found that the margin tract was never a part of the existing Marsam tract, and should trade with the San Miguel tract. It is not unusual for a strip tract to drop out of the land records when occupied by an existing drainage tributary.

The Agreement proposes exchanging the San Miguel tract and Margin tract for the street right-of-way and drainage easement required by the Project, but reserving to the City drainage and utility easement in the tracts to be conveyed to Marsam. The City also agreeing to Abandon and Release those portions of the existing drainage easements being bypassed by the Project. Lastly, there are two (2) fixed storage trailers that will need to be removed so that the existing drainage swale can be taken out of service/filled in. If Marsam elects to salvage/remove the trailers, then a \$5,000 payment will be made by the City to Marsam. If not, the City will be granted a Right-of-Entry to remove/dispose of the trailers spanning the existing easement, as a component part of the Project.

OPTIONS

1. Recommend approval of the proposed Ordinance.
2. Decline to recommend approval of the proposed Ordinance.
3. Table for future consideration.

RECOMMENDATION

Staff recommends support of the Ordinance.

ESTIMATED SCHEDULE OF PROJECT

Project is slated to be advertised for bids 1st quarter, 2018.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

None

FISCAL INFORMATION

Project funding is provided by JDE account #650106459.

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: **Public Infrastructure**
Related Goal: **2.4 Proactively manage drainage infrastructure**

EXHIBITS

1. Agenda Information Sheet
2. Location Map
3. Site Map
4. Ordinance

Respectfully submitted:

Paul Williamson
Real Estate Manager

Prepared by:

Ed Cropp
Senior Real Estate Analyst