



## Legislation Text

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### Agenda Information Sheet

**DEPARTMENT:** Engineering Services

**CM/ ACM:** Jon Fortune

**Date:** September 20, 2016

#### **SUBJECT**

Consider adoption of an ordinance authorizing the settlement of litigation styled City of Denton, Texas v. 551 Mayhill Joint Venture and American National Bank, Cause No. PR-2014-00309, currently pending in the Probate Court of Denton County, Texas, regarding the acquisition of a 2.115 acre fee tract and a 0.202 acre slope easement tract for the Mayhill Widening and Improvements project in settlement amount of Four Hundred and Forty Thousand Dollars and No Cents (\$440,000.00), authorizing the City Attorney to effectuate an Agreed Final Judgment in Condemnation and any such documents as necessary and appropriate for settlement, authorizing the expenditure of funds therefor; providing a savings clause; and providing an effective date. (Mayhill Road Widening and Improvements project - Parcel M070 - 551 Mayhill Joint Venture)

#### **BACKGROUND**

In March 2014, staff requested City Council authorize acquisition of the captioned tracts by eminent domain, since negotiations for purchase had reached an outright impasse. That authorization was granted via Ordinance 2014-071.

A Special Commissioner's Hearing was conducted on February 5, 2015. The landowner did not appear and an Award of the Special Commissioners on that date was determined to be \$175,607, based on the expert witness testimony of the City's land appraisal consultant. Thereafter, the landowner filed an Objection to the Award of the Special Commissioners within the statutory time period allowed, on February 13, 2015, praying for a civil trial to be set for determination of damages, which the Court granted.

Since that time, the parties have been preparing for trial in due course for such matters, including a recent mediation event, as routinely prescribed by the Court to foster candid communications between the parties, possibly hasten settlements and eliminate the need for a court trial.

The parties met for a structured mediation session for most of the day on Monday, September 12, 2016, and from that session a prospective settlement resulted.

Approval of the subject ordinance authorizes staff to settle the lawsuit.

#### **OPTIONS**

1. Approve the proposed Ordinance.
2. Decline to approve the proposed Ordinance.

## **RECOMMENDATION**

Staff recommends approval of the Ordinance.

## **ESTIMATED SCHEDULE OF PROJECT**

Road construction is anticipated to begin after the first of the year in 2017.

## **PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

1. City Council - Ordinance No. 2012-230, Offer to Purchase (9-11-12).
2. City Council - Ordinance No. 2013- 036, Final Offer to Purchase (2-05-13).
3. City Council - Ordinance No. 2014-071, Eminent Domain Authorization (3-04-14)

## **FISCAL INFORMATION**

The overall Mayhill Road Widening and Improvements project is being funded with a combination of Regional Toll Revenue (RTR) funds, Denton County Transportation Road Improvement Program (TRIP '08) funds and City of Denton local match funds. The overall costs for the subject Property Interests are to be funded through a combination of these funding sources.

## **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: 2.2 Seek solutions to mobility demands and enhance connectivity**

## **EXHIBITS**

Exhibit 1- Location Map

Exhibit 2- Ordinance

Respectfully submitted:

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