



# City of Olathe

## COUNCIL AGENDA ITEM

---

**MEETING DATE:** 6/4/2019

---

**DEPARTMENT:** Public Works & Legal

**STAFF CONTACT:** Mary Jaeger / Beth Wright / Ron Shaver

**SUBJECT:** Authorizing payment of an eminent domain award and court appointed appraisers' fees in case of *The City of Olathe, Kansas vs. Sutherland Lumber Company of Kansas City, L.P., et al.*, Case No. 19CV00597.

---

**ITEM DESCRIPTION:**

Consideration of Ordinance No. 19-20 authorizing payment by the City Treasurer of an eminent domain award and court appointed appraisers' fees in the eminent domain case of *The City of Olathe, Kansas vs. Sutherland Lumber Company of Kansas City, L.P., et al.*, Case No. 19CV00597, for the Santa Fe and Ridgeview Road Geometrics Improvements Project, PN 3-C-083-15

---

**SUMMARY:**

Project No. 3-C-083-15 was created by Resolution No. 16-1027 on March 15, 2016 and includes the construction of a designated right turn lane and an additional thru lane for southbound traffic, an additional left turn lane, an additional thru lane and a designated right turn lane for eastbound traffic, an additional left turn lane, an additional thru lane and a designated right turn lane for northbound traffic along with an additional southbound lane on the south leg, an additional left turn lane and a third traveling lane on the east leg of the intersection. Also included will be median modifications to allow for increased storage in the left turn lanes on all legs of the intersection. Attachment A is a map of the project area.

On November 7, 2017, the City Council approved Resolution No. 17-1078 which authorized an engineering survey of land needed for the project. The City Council adopted Ordinance No. 18-47 on October 16, 2018, which approved the survey and authorized the filing of a petition for eminent domain. The acquisition of the property for this project was conducted in 3 stages and this is the last stage.

On February 1, 2019, Orrick & Erskine, L.L.P. filed the petition for eminent domain in the Johnson County, Kansas District Court on behalf of the City. On March 6, 2019, the Johnson County District Court appointed Al Donoho, Larry Witt and Jim Shetlar as court appointed appraisers. The appraisers' hearing was held on April 23, 2019. Two tracts were discussed at the appraisers' hearing - Kicius TB Olathe, LLC and Robert Ramm Trust. The appraisers delayed their decision so the City and Kicius TB Olathe, LLC could continue negotiations. Subsequently, the City and Kicius TB Olathe, LLC reached a settlement agreement and it is in the process of being finalized. The remaining tract in the eminent domain petition for the appraisers' award is the Robert Ramm Trust property.

On the Ramm Trust property, the following easements are being acquired:

Right-of-Way	535.63 sq. ft.
Permanent Drainage	56.39 sq. ft.

---

**MEETING DATE:** 6/4/2019

---

Temporary Construction    2,700.87 sq. ft.

The City's offer was \$31,000. On May 23, 2019, the court appointed appraisers awarded \$46,000 in total taking damages and \$9,000 as appraisers' fees.

Staff recommends accepting the award and approving the ordinance (Attachment B).

---

**FINANCIAL IMPACT:**

The appraisers award equals \$46,000 and Court costs (appraisers' fees) equal \$9,000, for a total of \$55,000. The project is being funded by General Obligation Bonds and CARS funding. There are adequate funds in the project account to pay the appraisers' award and appraisers' fees.

---

**ACTION NEEDED:**

Adopt Ordinance No. 19-20 authorizing payment by the City Treasurer of an eminent domain award and court appointed appraisers' fees in the eminent domain case of *The City of Olathe, Kansas vs. Sutherland Lumber Company of Kansas City, L.P., et al.*, Case No. 19CV00597 for the Santa Fe and Ridgeview Road Geometrics Improvements Project, PN 3-C-083-15.

---

**ATTACHMENT(S):**

A: Project Location Map  
B: Ordinance No. 19-20