



# City of Olathe

## COUNCIL AGENDA ITEM

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**MEETING DATE:** 8/20/2019

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**DEPARTMENT:** Public Works & Legal

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

**SUBJECT:** Authorizing payment of eminent domain award and court appointed appraisers' fees in case of *The City of Olathe, Kansas vs. Village Centre Annex, L.L.C., et al.*, Case No. 19CV00150.

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**ITEM DESCRIPTION:**

Consideration of Ordinance No. 19-49 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. Village Centre Annex, L.L.C., et al.*, Case No. 19CV00150 for the 151<sup>st</sup> and Ridgeview Geometric Improvements Project, PN 3-C-112-17.

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**SUMMARY:**

Project No. 3-C-112-17 was created by Resolution No. 17-1076 on November 7, 2017. This project involves construction of an additional left turn lane for southbound traffic; extending the right turn lane and modifying the school entrance for westbound traffic; constructing an additional thru lane, increasing the left turn lane storage and adding a right turn lane for northbound traffic, and adding a right turn lane for northbound traffic, and adding a designated right turn lane for eastbound traffic.

The City Council approved Resolution No. 18-1100 on November 6, 2018, which authorized an engineer's survey of the property to be taken. The City Council adopted Ordinance No. 18-55 on November 20, 2018, which approved the survey and authorized the filing of a petition for eminent domain.

On January 8, 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 February 14, 2019, the Johnson County District Court appointed Bernie Shaner, Larry Witt, and former District Court Judge Larry McClain, as court appointed appraisers. Prior to the hearing being scheduled, Judge McClain had to withdraw as the attorney representative on the panel and Robin Lewis was appointed by the court. The appraisers' hearing was held on July 29, 2019.

On August 15, 2019, the court appointed appraisers awarded \$22,260 in total taking damages and \$9,225 as appraisers' fees (\$31,485 total).

Staff recommends accepting the awards and approving the ordinance ([Attachment A](#)).

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**FINANCIAL IMPACT:**

Total awards equal \$22,260, Court costs (appraisers' fees) equal \$9,225, for a total of \$31,485. The project is being funded by General Obligation Bonds and a development agreement with Garmin.

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There are adequate funds in the project account.

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**ACTION NEEDED:**

Adopt Ordinance No. 19-49 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. Village Centre Annex, LLC, et al.*, Case No. 19CV00150, for the 151<sup>st</sup> and Ridgeview Road Geometric Improvements Project, PN 3-C-112-17.

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**ATTACHMENT(S):**

A: 3-C-112-17 Appraiser's Award Ordinance