

City Council Agenda Items
and
Contracts, Leases or Agreements

7/17/2012

City Council Meeting Date
Agenda Items Only

Chris Brown
Submitted By

Engineering
Division

Development Services
Department

Action Required:

Approval of a Resolution authorizing the settlement of the Hanna Condemnation Case for a total of \$1,600.

\$ 900.00

Cost of this request

\$ 118,274.00

Category / Project Budget

Transportation Bond Program

Program Category / Project Name

4470.9470.5810.00

Account Number

\$ 101,374.00

Funds Used to Date

Land Acquisition

Program / Project Category Name

06035.2250

Project Number

\$ 16,900.00

Remaining Balance

Sales Tax Capital Improvements

Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director

07-02-2012
Date

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

7-2-12
Date

Original Contract Number:

Paul a. Baker
Finance and Internal Services Director

7-2-2012
Date

Received in City Clerk's Office 7-02-12 P04:15 RCVD

King

[Signature]
Chief of Staff

7-3-12
Date

Received in Mayor's Office

ENTERED
7/3/12
#11

[Signature]
Mayor


7/3/12
Date


Comments:

CITY COUNCIL AGENDA MEMO

City Council Meeting of May 15, 2012

To: Mayor Jordan and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Director of Development Services 

From: Chris Brown 

Date: July 2, 2012

Subject: Approval of a Resolution authorizing the settlement of the Hanna Condemnation Case for a total of \$1,600.

PROPOSAL:

Improvements to Garland Avenue (Highway 112) are planned as part of a City of Fayetteville and Arkansas State Highway and Transportation Department (AHTD) partnering project. Our agreement with AHTD provides that the City is responsible for 50% of the construction cost, up to \$1.5 million, and all of the cost of right of way acquisition and relocation of utility facilities.

Prior to construction work by AHTD, the City and local public utilities must relocate existing utility lines out of the widening area. In order to accomplish this work, it was necessary to acquire utility easements adjacent to the right of way. City was not able to negotiate a compensation agreement with the Hanna, therefore, the City Council authorized acquisition by condemnation at its March 6, 2012 meeting, and the City Attorney subsequently filed a complaint with the Circuit Court to acquire the necessary easement. The order of possession was received on this property after the complaint was filed and the City deposited \$700 with the Court as just compensation.

After much discussion between City staff and the Hanna's attorney, a settlement offer in the amount of \$1,600 was agreed upon contingent on City Council approval.

RECOMMENDATION:

Staff recommends approval of a Resolution authorizing settlement of the Hanna condemnation case and authorizing an additional payment of \$900 to Caren E. and L. Richard Hanna II. This is a fair and equitable settlement to both the City and the property owners, and avoids further staff time and litigation expense on this case.

BUDGET IMPACT:

Payment of the additional amount to the Hannas will be made from the Garland Avenue Water and Sewer Relocations project of the Transportation Bond Program. There are adequate funds available for this payment.

RESOLUTION NO. _____

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH RICHARD AND CAREN HANNA, CONCERNING CONDEMNATION LITIGATION FILED AS PART OF THE N. GARLAND AVENUE IMPROVEMENT PROJECT, IN THE TOTAL AMOUNT OF \$1,600.00

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with Richard and Caren Hanna, in a total amount of \$1,600.00, as full and final settlement of condemnation litigation (City of Fayetteville v. Hanna, Washington County Circuit Court Case No. CV 2012-655-7) filed as part of the N. Garland Avenue Improvement Project.

Section 2: That the City Council of the City of Fayetteville, Arkansas, in furtherance of the settlement, hereby approves payment of an additional \$900.00 over and above the \$700.00 placed on deposit with the court.

PASSED and APPROVED this 17th day of July, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

P.O.C.
NE Corner
SEC. 8
T-16-N, R-30-W

Not to Scale

LYNAIRE HARTSELL;
MROSANNE BROWN
765-08108-000
Bk. 1148, Pg. 38

NE, NE
8-16-30

CAREN & RICHARD HANNA
765-06277-001
Inst. No. 2005-28926

ELITE EQUITY GROUP
OF ARKANSAS LLC
765-06278-001
Inst. No. 2010-1552



PROP. UTILITY
EASEMENT—426 Sq. Ft.

N 00°55'22" E
34.21'

24.04'

S 01°30'10" W

S 87°23'03" E
51.43'

S 53°14'22" E
18.15'

N 87°16'39" W
14.47'

678.61'

S 02°36'57" W

Section Line

GARLAND AVENUE

6'

EXHIBIT
SEP. 2011

UTILITY EASEMENT
CAREN E. &
RICHARD HANNA II

MOFFITT & PHILLIPS, PLLC
ATTORNEYS AT LAW

300 Spring St., Suite 500
Little Rock, AR 72201

Tel: (501) 255-7406
Fax: (866) 557-3052

Brandon K. Moffitt, Attorney*
bmoffitt@moffittandphillips.com

Michael B. Phillips, Attorney
mphillips@moffittandphillips.com

*Licensed in AR and TN

TRANSMITTED VIA EMAIL
July 3, 2012

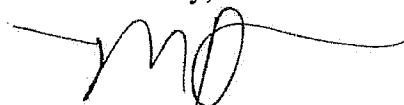
Mr. Jason B. Kelley
City of Fayetteville
113 W. Mountain St., Ste 302
Fayetteville, AR 72701
jkelly@ci.fayetteville.ar.us

RE: City of Fayetteville v. Hanna (CV-12-655-7)
Circuit Court of Washington Co.

Mr. Kelley:

Please accept this letter as my formal offer to settle the above referenced matter for a total sum of \$1,600. I understand your mayor and council must approve all settlement offers. As my client is interested in getting this settled ASAP, I expect settlement approval to be discussed at the upcoming 07/17/12 city council meeting. Please notify me promptly of your council's decision.

Sincerely,



Michael B. Phillips

cc: client

