

City of Fayetteville Staff Review Form

2018-0728

Legistar File ID

12/18/2018

City Council Meeting Date - Agenda Item Only

N/A for Non-Agenda Item

Assistant City Attorney Blake Pennington

11/20/2018

CITY ATTORNEY (021)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution to authorize the purchase of a water/sewer easement from Halsell Holdings, LLC on property located at 1521 West Halsell Road in the amount of \$25,000.00 for the Graham Waterline Improvements Project

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	NA	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	
Budget Adjustment Attached?	NA	Budget Adjustment	
		Remaining Budget	\$ -

V20180321

Purchase Order Number: _____

Previous Ordinance or Resolution # Res 239-18

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Rhonda Lynch
Paralegal

TO: **Mayor Jordan
City Council**

FROM: **Blake Pennington, Assistant City Attorney**

DATE: **December 4, 2018**

RE: **Settlement of Halsell Holdings Condemnation Matter**

Based on a July 23, 2018, appraisal done by Reed & Associates, Inc., the City offered \$21,900.00 to Halsell Holdings for a water/sewer easement on property located at 1521 West Halsell Road. We were unable to reach an agreement at that time so the City Council authorized our office to proceed with condemnation.

The representative of Halsell Holdings, LLC has made a counter-offer of \$25,000.00. It is likely that the City would incur at least \$3,100.00 in additional court costs, expert witness fees and other costs if we file a lawsuit. It probably makes more sense to pay that additional amount to a company that intends to develop the property. Our office recommends accepting this offer and paying \$25,000.00 to Halsell Holdings, LLC.

Pennington, Blake

From: John Davidson <johnhouston77@hotmail.com>
Sent: Thursday, November 29, 2018 6:29 PM
To: Pennington, Blake
Subject: Re: 239-18 Halsell Holdings, LLC

As a follow up to our meeting this morning, If the City will pay \$25,000.00 for the easement, Halsell Holdings will sign the easement.

Regards
John.

Sent from my iPhone

On Nov 28, 2018, at 8:12 AM, Pennington, Blake <bpennington@fayetteville-ar.gov> wrote:

Either sounds good to me. I'll be in the office all morning. We usually head to our Rotary Club meeting around 11:45.

--

Blake E. Pennington
Assistant City Attorney
Tele: (479) 575-8313
bpennington@fayetteville-ar.gov

From: John Davidson <johnhouston77@hotmail.com>
Sent: Tuesday, November 27, 2018 6:34 PM
To: Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: Re: 239-18 Halsell Holdings, LLC

Blake

Thanks for reaching out. I plan to be in town and can stop by the City or get on a call with you Thursday morning before 11AM if that works for you?

John

From: Pennington, Blake <bpennington@fayetteville-ar.gov>
Sent: Tuesday, November 27, 2018 4:50 PM
To: John Davidson
Subject: FW: 239-18 Halsell Holdings, LLC

John,

Kit told me you called last week before the City Council meeting. He wants to see if we can work it out without filing suit. What is your client thinking at this point? I'd like to sit down with you if possible or chat on the phone if you have a minute.

Thanks,

Blake

--

Blake E. Pennington

Assistant City Attorney

Tele: (479) 575-8313

bpennington@fayetteville-ar.gov

From: CityClerk

Sent: Tuesday, November 27, 2018 3:18 PM

To: Pennington, Blake <bpennington@fayetteville-ar.gov>

Subject: FW: 239-18 Halsell Holdings, LLC

From: CityClerk

Sent: Tuesday, November 27, 2018 9:28 AM

To: Nyander, Tim <tnyander@fayetteville-ar.gov>

Cc: Fankhouser, Shea <kfankhouser@fayetteville-ar.gov>; Beavers, Jim <jbeavers@fayetteville-ar.gov>;

Atha, Kristin <katha@fayetteville-ar.gov>; Foren, Andrea <aforen@fayetteville-ar.gov>; Hutchens, Liz

<ehutchens@fayetteville-ar.gov>; jmain@fayetteville-ar.gov; McGaugh, Les <[lmcgaugh@fayetteville-](mailto:lmcgaugh@fayetteville-ar.gov)

ar.gov>; Purchasing <purchasing@fayetteville-ar.gov>; Smallwood, Deborah <[dsmallwood@fayetteville-](mailto:dsmallwood@fayetteville-ar.gov)

ar.gov>
Subject: 239-18 Halsell Holdings, LLC

Please see your agenda item passed by Council at the November 20, 2018 City Council meeting. If you have any questions, please feel free to contact our office.

Have a nice day!

Lisa

Office of the City Clerk Treasurer

113 W. Mountain Street, Suite 308

Fayetteville, AR 72701

479.575.8323

cityclerk@fayetteville-ar.gov

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)

<image001.png>

APPRAISAL REPORT

ON

THE HALSELL HOLDINGS, LLC PROPERTY
LOCATED AT 1521 W. HALSELL ROAD,
FAYETTEVILLE, ARKANSAS
WASHINGTON COUNTY

FOR

THE CITY OF FAYETTEVILLE
C/O HOLLY JONES
LAND AGENT, ENGINEERING DIVISION
125 W. MOUNTAIN STREET
FAYETTEVILLE, ARKANSAS 72701

BY

REED & ASSOCIATES, INC.
3739 N. STEELE BLVD., SUITE 322
FAYETTEVILLE, ARKANSAS 72703

FILE NO. 6138-1

AS OF

JULY 23, 2018

Reed & Associates, Inc.

Real Estate Appraisers – Consultants

3739 N. Steele Blvd., Suite 322, Fayetteville, AR 72703 * 479-521-6313 * Fax: 479-521-6315 * www.reedappraisal.biz

Katie Hampton • Jordan Karnes, MAI • Brian Kenworthy, MAI • Shannon Mueller • Tom Reed, MAI

August 15, 2018

Holly Jones
City of Fayetteville
Land Agent, Engineering Division
125 W. Mountain Street
Fayetteville, AR 72701

RE: The Halsell Holdings, LLC Property; 1.43± Acres And Residential Improvements Located At 1521 W. Halsell Road, Fayetteville, Arkansas; Washington County

Dear Ms. Jones:

In compliance with your request and for the purpose of estimating the market value of the above captioned property, we hereby certify that we have examined the subject property and made a survey of the matters pertinent to the estimation of its value.

We further certify that we have no interest, present or contemplated, in the property appraised, and that our fee was not contingent upon the value estimate reported.

The following real property appraisal report contains data gathered in our investigation, information from our files, and shows the method of appraisal in detail. This report is presented under the Appraisal Report Option.

This report addresses: the market value of the Whole Property Land Only prior to the City of Fayetteville acquiring 1,780± SF in permanent easement, for the Graham Waterline Improvement Project, as of July 23, 2018; and, the market value of the Remainder Property Land Only after the City of Fayetteville has acquired the 1,780± SF permanent easement, for the Graham Waterline Improvement Project, as of July 23, 2018.

Based on an analysis of relevant data, and contingent on the Assumptions and Limiting Conditions which follow and appear in the Addenda Section of this report, it is our opinion the market value of the fee simple estate of the subject property, as of July 23, 2018, is as follows:

WHOLE PROPERTY (LAND ONLY)	=	\$609,900
REMAINDER PROPERTY (LAND ONLY)	=	<u>\$588,000</u>
DAMAGE TO MARKET VALUE	=	\$ 21,900

The preceding values reflect terms equivalent to cash to the owners and represent that for real property only.

The following Extraordinary Assumptions are utilized in this report:

- 1. Subject land size is approximately as indicated in this report.**
- 2. The land area located within the permanent easement will be put back to as near original condition as possible, by the City of Fayetteville.**

If either, or both, of these Extraordinary Assumptions prove to be untrue, one or both of the preceding value estimates could be influenced.

The reader is referred to additional Assumptions and Limiting Conditions presented in the Addenda Section of this report.

A Hypothetical Condition of this appraisal is that the Graham Waterline Improvement Project is complete and in place as of the effective date of this report in estimating the market value of the Remainder Property Land Only. In reality, the Graham Waterline Project was not complete and in place as of July 23, 2018. If this Hypothetical Condition is not considered, the estimated market value of the Remainder Property Land Only could be influenced.

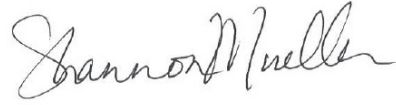
The appraisers are invoking the Jurisdictional Exception Rule in this appraisal. The Uniform Standards of Professional Appraisal Practice (USPAP) requires, under Standards Rule 1-2 (c) (iv), “When reasonable exposure time is a component of the definition for the value opinion being developed, the appraiser must also develop an opinion of reasonable exposure time linked to that value opinion.” However, the Uniform Appraisal Standards For Federal Land Acquisitions, under Section 1.2.4, states “Appraisers should not link opinions of value under these Standards to a specific opinion of exposure time, unlike appraisal assignments for other purposes under USPAP Standards Rule 1-2 (c).”

USPAP states the following under Standards Rule 1-4 (f): “When analyzing anticipated public or private improvements, located on or off the site, an appraiser must analyze the effect on value, if any, of such anticipated improvements to the extent they are reflected in market actions.” This appraisal is prepared in conformity to the provisions of the “Uniform Act” and its implementing regulation 49 CFR Part 24. The 49 CFR Part 24 regulation requires appraisers to disregard any decrease or increase in the market value of the property that has been caused directly by the project in the “Before Acquisition Value” appraisal. This is considered a Jurisdictional Exception. In addition, General Benefits as a result of the project have not been considered in the valuation of the Remainder Property based on 49 CFR Part 24. Considering USPAP Standards Rule 1-4 (f), this is also considered a Jurisdictional Exception.

Sincerely,



Katie Reed Hampton, SR 3642
REED & ASSOCIATES, INC.



Shannon Reed Mueller, CG2302
REED & ASSOCIATES, INC.



WATER/SEWER EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Halsell Holdings, LLC, an Arkansas limited liability company**, hereinafter called GRANTOR, for and in consideration of the sum of Twenty Five Thousand Dollars (\$25,000.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a permanent easement to construct, lay, remove, relay, inspect, enlarge and/or operate a water and/or sanitary sewer pipe line or lines, manholes, and appurtenances thereto, on, over, across, and under the following described land situated in the County of Washington, State of Arkansas, to-wit:

PROPERTY DESCRIPTION: Doc Ref: 2013-15594

A part of the S1/2 of the NW1/4 of the NE1/4 of Section 17, Township 16 North of Range 30 West of the 5th P.M., Washington County, Arkansas and bring more particularly described as beginning at a point 462 feet West of the NE corner of said 20 acre tract, thence South 330 feet, thence West 200 feet, thence North 330 feet, thence East 200 feet to the place of beginning.

Subject to easements, rights-of-way, and protective covenants record, if any.
Subject to all prior mineral reservations and oil and gas leases.

PERMANENT EASEMENT DESCRIPTION:

A part of the S1/2 of the NW1/4 of the NE1/4 of Section 17, T-16-N, R-30-W described as commencing at a point which is N86°52'20"W 348.00 feet, N87°17'48"W 121.10 feet and S03°23'36"W 20.00 feet from the NE corner of said 20 acre tract, said corner being a set cotton spindle, to the true Point of Beginning; thence S03°23'36"W 310.43 feet; thence N87°14'40"W 15.35 feet; thence N03°00'47"E 41.20 feet N48°29'22"E 18.57 feet; thence N02°42'20"E 256.24 feet; thence S87°17'48"E 5.54 feet to the Point of Beginning, containing 1,780 square feet, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

TO HAVE AND TO HOLD unto said Grantee, its successors and assigns, so long as such pipe line or lines, manholes and/or appurtenances thereto shall be maintained, together with free ingress to and egress from the real estate first hereinabove described for the uses and purposes hereinabove set forth.

The said Grantor is to fully use and enjoy the said premises except for the purposes hereinbefore granted to the said Grantee, which hereby agrees to bury all pipes, where feasible, to a sufficient depth so as not to interfere with cultivation of soil, and that manholes will be constructed flush with the surface of the ground except in bottom lands where they shall be at a height above high water.

The Grantor agrees not to erect any buildings or structures in said permanent easement.

The Grantee shall have the right to construct additional pipe lines upon the above described easement at any time in the future and agrees to pay any damages as a result of such future construction as set out in this easement.

The consideration first above recited as being paid to Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this document in behalf of the Grantee is without authority to make any covenant or agreement not herein expressed

