

RESOLUTION NO. 1023- CORRECTED

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A FINAL ENTRY OF JUDGMENT WITHOUT ADMITTING LIABILITY IN THE MATTER OF *RIVERGATE CROSSROADS V. THE CITY OF BROKEN ARROW, ET ALL*, TULSA COUNTY DISTRICT COURT CASE CV-2017-00590, AUTHORIZING FORECLOSURE AND VACATION OF MUTUAL ACCESS AND UTILITY EASEMENTS GENERALLY LOCATED NORTH OF THE BROKEN ARROW EXPRESSWAY, A QUARTER MILE WEST OF 9TH STREET.

WHEREAS, on April 4, 2017, pursuant to the provisions of 11 O.S. § 42-110, The City of Broken Arrow adopted Ordinance number 3479 closing a mutual access to utility easement on property located in the Southeast Quarter (SE/4) of Section Two (2) Township Eighteen (18) North, Range Fourteen (14) East , Lot 4, Block 2, Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County , State of Oklahoma , generally located north of Broken Arrow Expressway, a quarter mile west of 9th Street, more particularly described as follows:

A TRACT OF LAND THAT IS IN LOT FOUR (4), BLOCK TWO (2), HILLSIDE CROSSINGS, A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT THEREOF, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT A POINT THAT IS THE NORTHEAST CORNER OF SAID LOT FIVE (5); THENCE S21°56'26" W AND ALONG THE EAST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 18.41 FEET TO THE BEGINNING OF A CURVE AND THE POINT OF BEGINNING; SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 01°33'40", HAVING A RADIUS OF 462.50 FEET, A LENGTH OF 12.60 FEET AND WHOSE LONG CHORD BEARS S85°49'55"E FOR A DISTANCE OF 12.60 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE S21°56'26"W FOR A DISTANCE OF 5.24 FEET; THENCE S02°01'33"W FOR A DISTANCE OF 162.94 FEET; THENCE S21°56'26"W FOR A DISTANCE OF 105.12 FEET; THENCE S68°03'34"E FOR A DISTANCE OF 10.00 FEET; THENCE S21°56'26"W FOR A DISTANCE OF 10.00 FEET; THENCE N68°03'34"W FOR A DISTANCE OF 10.00 FEET; THENCE S21°56'26"W FOR A DISTANCE OF 60.00 FEET; THENCE N68°03'33"W FOR A DISTANCE OF 15.00 FEET; THENCE N21°56'26"E FOR A DISTANCE OF 172.48 FEET; THENCE N02°01'33"E FOR A DISTANCE OF 118.90 FEET; THENCE S21°56'26"W FOR A DISTANCE OF 284.27 FEET; THENCE N68°03'33"W FOR A DISTANCE OF 12.00 FEET; THENCE N21°56'26"E AND ALONG THE EAST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 329.70 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 0.20 ACRES MORE OR LESS.

WHEREAS, on April 4, 2017, pursuant to the provisions of 11 O.S. § 42-110, the City of Broken Arrow adopted Ordinance 3480 closing a mutual access and utility easement, on property located in the Southeast Quarter (SE/4) of Section Two (2) Township Eighteen (18) North, Range 14 East , Lot 5, Block 2, Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County , State of Oklahoma , generally located north of Broken Arrow Expressway, a quarter mile west of 9th Street, more particularly described as follows:

A TRACT OF LAND THAT IS IN LOT FIVE (5), BLOCK TWO (2), HILLSIDE CROSSINGS, A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA ACCORDING TO THE RECORDED PLAT THEREOF, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT A POINT THAT IS THE NORTHEAST CORNER OF SAID LOT FIVE (5); THENCE S21°56'26"W AND ALONG THE EAST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 18.41 FEET TO THE **POINT OF BEGINNING**; THENCE S21°56'26"W FOR AND ALONG THE EAST LINE OF SAID LOT FIVE (5) A DISTANCE OF 329.70 FEET; THENCE N68°03'33"W FOR A DISTANCE OF 12.00 FEET; THENCE N21°56'26"E FOR A DISTANCE OF 325.49 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH 01°34'32", HAVING A RADIUS OF 462.50 FEET, A LENGTH OF 12.72 FEET AND WHOSE LONG CHORD BEARS S87°24'01"E FOR A DISTANCE OF 12.72 FEET TO THE **POINT OF BEGINNING**.

WHEREAS, there is no necessity for reopening the mutual access and utility easements closed by the City of Broken Arrow pursuant to Ordinances 3479 and 3480 and these mutual access and utility easements are no longer required for public purposes; and

WHEREAS, no public convenience or necessity exists for the reopening of the mutual access and utility easements closed by the City of Broken Arrow pursuant to Ordinance No. 3479 and 3480. The foreclosure of the right to reopen the mutual access and utility easements closed by Ordinance No. 3479 and 3480 will not injuriously affect the right of the owners of the property in the vicinity of the mutual access and utility easements and the mutual access and utility easements are no longer required for public purposes; and

WHEREAS, all the Defendants in this matter are anticipated to disclaim interest in the mutual access and utility easements that are the subject of the final Journal Entry of Judgement; and

WHEREAS, the mutual access and utility easements closed by Ordinance No. 3479 and 3480 were originally dedicated by the Hillside Crossing plat, and the mutual access and utility easements ran directly under the Hobby Lobby building at that location. No utilities are in place in this easement and a new mutual access and easement dedication will be presented in a separate fact sheet to relocate the mutual access and utility easement along the East boundary of the new property line; and

WHEREAS, the Legal Department and City Staff are recommending that the City Council authorize the City Attorney to enter into a Final Journal Entry of Judgment foreclosing and vacating the above described mutual access and utility easements that were closed by the City Council pursuant to Ordinance No. 3479 and 3480 on April 4, 2017; and

WHEREAS, it is the desire of the Council to authorize the City Attorney to enter into the Final Journal Entry of Judgment in the above matter.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA that the City Attorney is authorized to enter into a Final Journal Entry of Judgment foreclosing and vacating the mutual access and utility easements previously closed by City Council on April 4, 2017 pursuant to Ordinance No. 3479 and 3480.

ADOPTED and APPROVED by the Mayor of the Council of the City of Broken Arrow, Oklahoma this 1st day of August, 2017.

CITY OF BROKEN ARROW, OKLAHOMA

Mayor

Attest:

City Clerk

Approved as to form and legality this 1st day of August, 2017.

Assistant City Attorney