

RESOLUTION NO. 1066

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A FINAL JOURNAL ENTRY OF JUDGMENT IN THE MATTER OF CITY OF BROKEN ARROW V REIP, LLC; GORDON-WILLIAMS DEVELOPMENT, INC.; TRANSOK PIPE LINE COMPANY; SUNOCO MID-CON (IN) LLC; SUNOCO PARTNERS REAL ESTATE ACQUISITION, LLC; BOARD OF COUNTY COMMISSIONERS OF TULSA COUNTY; AND DENNIS SEMLER, COUNTY TREASURER, TREASURER OF TULSA COUNTY, OKLAHOMA TULSA COUNTY DISTRICT COURT CASE CJ-2017-01169, AUTHORIZING DAMAGES IN THE AMOUNT OF \$155,000.00 AND CONVEYANCE OF APPROXIMATELY 0.67 ACRES OF LAND GENERALLY LOCATED TO THE SOUTH AND WEST OF THE SOUTHERNMOST DAM AND PRESENTLY USED AS A POND; DECLARING THE 0.67 ACRES OF LAND GENERALLY LOCATED TO THE NORTH OF BROKEN ARROW EXPRESSWAY WEST OF NORTH JUNIPER PLACE AND WEST CONCORD STREET ADJACENT TO BATTLE CREEK GOLF COURSE SURPLUS AND AUTHORIZING CONVEYANCE OF THE LAND TO REIP, LLC PURSUANT TO A QUIT CLAIM DEED AND THE COURT'S ORDER; APPROVING AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS NECESSARY TO ACCOMPLISH THE DECLARATION OF SURPLUS AND TRANSFER OF TITLE; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

WHEREAS, On January 17, 2017, the Broken Arrow City Council determined and declared the public necessity of taking, appropriating, condemning and acquiring a drainage easement in and upon the following described real property in Tulsa County Oklahoma, to wit:

DRAINAGE EASEMENT:

A tract of land for Drainage Easement in the E/2 of the SW/4 of Section 34, T-19-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 34; thence N 00°03'00"W a distance of 1057.81 feet to the **POINT OF BEGINNING**; thence N 70°31'29"W a distance of 395.11 feet to a tangent curve to the right; thence along a tangent curve to the right with a central angle of 54°09'06", a radius of 120.00 feet, an arc distance of 113.42 feet, a chord bearing of N 43°26'56"W and a chord distance of 109.24 feet; thence N 16°22'23"W and tangent to the previous curve a distance of 60.44 feet; thence N 58°31'23"E a distance of 27.07 feet; thence N 15°56'14"W a distance of 86.47 feet; thence N 04°11'31"E a distance of 37.61 feet; thence S 16°22'23"E a distance of 189.17 feet to a tangent curve to the left;

thence along a tangent curve to the left with a central angle of 54°09'06 ", a radius of 80.00 feet, an arc distance of 75.61 feet, a chord bearing of S 43°26'56"E and a chord distance of 72.83 feet; thence S 70°31'29"E and tangent to the previous curve a distance of 380.93 feet to the east line of the SW/4 of said Section 34; thence S 00°03'00"E along the East line of the SW/4 of said Section 34 a distance of 42.44 feet to the Point of Beginning, containing 23,312 square feet or 0.5352 acres.

WHEREAS, the City of Broken Arrow filed case number CJ-2017-01169 to condemn this property, generally located at E/2 of the SW/4 of Section 34, T-19-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma presently owned by REIP, LLC ("REIP"), and generally located just west of North Juniper Place and West Concord Street, Broken Arrow, Oklahoma; and

WHEREAS, the filing of the condemnation action, the appointment of the Commissioners, the Oaths of Commissioners and the Commissioners' subsequent Report were regular in all respects; and

WHEREAS, on July 7, 2017 the Commissioners filed their Report and awarded \$110,000.00 in damages to REIP; and

WHEREAS, REIP does not contest the validity or propriety of the taking of the permanent drainage easement as described in Exhibit "A" to the Journal Entry attached hereto ("the Easement"), and agrees to accept the amount of \$155,000.00 and conveyance of 0.67 acres of land generally located to the south and west of the southernmost dam and presently used as a pond (the "Pond") as described in Exhibit "C" to the Journal Entry attached hereto, as full compensation and settlement of damages for the easement so taken; and

WHEREAS, REIP has waived its right to a trial on all issues dealing with the propriety of the taking and the damages sustained; and

WHEREAS, the taking of the easement is necessary for the public purpose of the City for constructing a storm water drainage and diversion facility within the Easement in accordance with the plans and specifications attached as Exhibit "B" to the Journal Entry attached hereto; and

WHEREAS, the City is prepared to pay REIP the sum of \$155,000.00 pursuant to the Report of the Court Appointed Commissioners, and the Court finds this amount, in addition to conveyance of the Pond, to be an appropriate award; and

WHEREAS, as further consideration for the resolution of this matter, REIP and its successors and assigns shall have the right to construct two (2) permanent thirty foot [30'] wide by forty foot [40'] long bridges/box culverts/roadways traversing the Easement (the "Easement Crossings") at locations reasonably determined by REIP or its successors and assigns, to provide for vehicular ingress, egress and travel over and across the Easement to and from the tracts of land

owned by REIP, located to the north and south of the Easement; provided that Easement Crossings shall be constructed in compliance with all City Codes, Regulations, and Ordinances; and

WHEREAS, the Legal Department and City Staff are recommending that the City Council authorize the City Attorney to enter into a 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 Journal Entry of Judgment in the case of City of Broken Arrow v. REIP, LLC; Gordon-Williams Development, Inc; Transok Pipe Line Company; Sunoco Mid-Con (IN) LLC.; Sunoco Partners Real Estate Acquisition, LLC; Board of County Commissioners of Tulsa County; and Dennis Semler, County Treasurer, Treasurer of Tulsa County, Oklahoma, Case No. CJ-2017-01169, consistent with the Journal Entry attached hereto.

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA, THAT the 0.67 acres located to the south and west of the southernmost pond, north of the Broken Arrow Expressway, west of North Juniper Place and West Concord Street, presently used as a Pond and as described in Exhibit "C" to the Journal Entry, is hereby declared surplus.

NOW THEREFORE BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA, THAT the transfer of real property legally described above to REIP, LLC. is hereby approved and authorized.

NOW THEREFORE BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA, THAT the Mayor is hereby authorized to execute a Quit Claim Deed or any other Deed or Instrument necessary to accomplish this transfer.

NOW THEREFORE BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA, THAT the officers and officials of the Council are authorized to do any lawful acts and deeds to effectuate and carry out the provisions and the purposes of this Resolution.

ADOPTED and APPROVED by the Mayor of the City Council of the City of Broken Arrow, Oklahoma this 7th day of November, 2017.

CITY OF BROKEN ARROW, OKLAHOMA



Mayor

Attest:



City Clerk

Approved as to form and legality this 7th day of November, 2017.

Beth Anne Chubb

City Attorney