

RESOLUTION NO. 928

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A FINAL JOURNAL ENTRY OF JUDGMENT WITHOUT ADMITTING LIABILITY IN MATTER OF RLAND DEVELOPMENT GROUP, LLC V. CITY OF BROKEN ARROW, ET AL., TULSA COUNTY DISTRICT COURT CASE NO. CV-2016-00612; AUTHORIZING FORECLOSURE AND VACATIONS OF A MUTUAL ROAD EASEMENT, STORMWATER DRAINAGE EASEMENT AND WATERLINE EASEMENT ON PROPERTY LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER (SW/4 SW/4) LOT 4 OF SECTION THIRTY (30), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, GENERALLY LOCATED NORTH OF WEST FLORENCE STREET AND EAST OF SOUTH MINGO ROAD

WHEREAS, on May 3, 2016, pursuant to the provisions of 11 O.S. § 42-110, the City of Broken Arrow adopted Ordinance No. 3420 closing a mutual road easement located north of West Florence Street and South Mingo Road, more particularly described as follows:

A water line and drive easement located in the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) (Lot Four) of Section Thirty (30), Township Eighteen (18) North, Range Fourteen (14) East of the Indian Base and Meridian; Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, To-wit:

Commencing at the Southwest corner of said SW/4 SW/4 of Section 30; thence N00°00'00"E along the West boundary of said SW/4 SW/4 a distance of 1323.10 feet to the Northwest corner of said SW/4 SW/4; thence N89°53'01"E along the North boundary of said SW/4 SW/4 a distance of 24.75 feet; thence S00°00'00"W and parallel with the West boundary of said SW/4 SW/4 a distance of 356.55 feet to the Point of Beginning; thence N90°00'00"E a distance of 89.49 feet; thence along a curve to the right having a radius of 150.00 feet (chord bearing: S81°41'24"E) a distance of 43.45 feet; thence along a curve to the left having a radius of 150.00 feet (chord bearing: S81°42'44"E) a distance of 43.45 feet; thence N90°00'00"E a distance of 59.43 feet; thence along a curve to the left having a radius of 275.00 feet (chord bearing: N80°42'42"E) a distance of 89.12 feet; thence N71°25'41"E a distance of 64.28 feet; thence along a curve to the right having a radius of 300.00 feet (chord bearing: N78°33'00"E) a distance of 74.58 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: N45°05'49"E) a distance of 35.41 feet; thence N4°31'19"E a distance of 12.07 feet; thence along a curve to the right having a radius of 175.00 feet (chord bearing: N13°48'31"E) a distance of 56.73 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: N4°57'47"W) a distance of 24.49 feet; thence along a curve to the right having a radius of 50.00 feet (chord bearing: N44°34'49"E) a distance of 135.44 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: S85°52'35"E) a distance of 24.49 feet; thence along a curve to the right

having a radius of 175.00 feet (chord bearing: N77°58'28"E) a distance of 72.75 feet; thence N89°53'01"E and parallel with the North boundary of said SW/4 SW/4 a distance of 187.47 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: N44°53'02"E) a distance of 39.27 feet; thence N00°06'57"W a distance of 100.00 feet to a point on the North boundary of said SW/4 SW/4; thence N89°53'01"E along the North boundary of said SW/4 SW/4 a distance of 50.00 feet; thence S00°06'57"E a distance of 100.00 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: S45°06'58"E) a distance of 39.27 feet; thence S00°00'00"E a distance of 50.00 feet; thence S89°53'01"W and parallel with the North boundary of said SW/4 SW/4 a distance of 287.37 feet; thence along a curve to the left having a radius of 125.00 feet (chord bearing: S47°12'10"W) a distance of 186.23 feet; thence S4°31'19"W a distance of 12.07 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: S36°03'11"E) a distance of 35.41 feet; thence S13°22'18"W a distance of 50.00 feet; thence along a curve to the left having a radius of 250.00 feet (chord bearing: S88°21'02"W) a distance of 131.08 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: S31°35'58"W) a distance of 36.42 feet; thence S79°52'09"W a distance of 53.95 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: N73°17'03"W) a distance of 26.62 feet; thence along a curve to the right having a radius of 325.00 feet (chord bearing: S83°06'03"W) a distance of 78.22 feet; thence S90°00'00"W a distance of 59.43 feet; thence along a curve to the left having a radius of 150.00 feet (chord bearing: S81°41'25"W) a distance of 43.45 feet; thence along a curve to the right having a radius of 150.00 feet (chord bearing: S81°41'02"W) a distance of 43.45 feet; thence S90°00'00"W a distance of 89.50 feet to a point being 24.75 feet East of the West boundary of said SW/4 SW/4; thence N00°00'00"E and parallel with the West boundary of said SW/4 SW/4 a distance of 75.00 feet to the Point of Beginning. Said easement containing 1.60 acres more or less, is not presently in use, and is hereby closed.

[the "First Easement"].

WHEREAS, on May 3, 2016, pursuant to the provisions of 11 O.S. § 42-110, the City of Broken Arrow adopted Ordinance No. 3421, closing a stormwater drainage easement generally located north of West Florence Street and east of South Mingo Road, more particularly described as follows:

A Stormwater Drainage Easement located in the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) (Lot Four) of Section Thirty (30), Township Eighteen (18) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, To-wit:

Commencing at the Southwest corner of said SW/4 SW/4 of Section 30; thence N00°00'00"E along the West boundary of said SW/4 SW/4 a distance of 1323.10 feet to the Northwest corner of said SW/4 SW/4; thence N89°53'01"E along the North boundary of said SW/4 SW/4 a distance of 24.75 feet; thence S00°00'00"W and parallel with the West boundary of said SW/4 SW/4 a distance of 287.47 feet to the Point of Beginning; thence N90°00'00"E a distance of 25.25 feet; thence

N84°00'37"E a distance of 219.61 feet; then N12°33'06"E a distance of 271.62 feet to a point on the North line of said SW/4 SW/4; thence N89°53'01"E along the North line of said SW/4 SW/4 a distance of 79.88 feet; thence S8°44'48"W a distance of 249.18 feet; thence S27°54'39"W a distance of 104.06 feet; thence S14°08'57"E a distance of 23.94 feet; thence along a curve to the right having a radius of 275.00 feet (chord bearing: S82°55'32"W) a distance of 67.89 feet; thence N90°00'00"W a distance of 27.44 feet; thence S8°00'24"W a distance of 91.01 feet; thence N82°08'14"W a distance of 40.00 feet; thence N8°00'24"E a distance of 85.72 feet; thence along a curve to the right having a radius of 150.00 feet (chord bearing: N80°06'05"W) a distance of 35.08 feet; thence along a curve to the left having a radius of 150.00 feet (chord bearing: N81°42'04"W) a distance of 43.45 feet; thence N90°00'00"W a distance of 89.49 feet to a point being 24.75 feet East of the West boundary of said SW/4 SW/4; thence N00°00'00"E and parallel to the West boundary of said SW/4 SW/4 a distance of 69.08 feet to the Point of Beginning. Said easement containing 1.25 acres more or less, is not presently in use, and is hereby closed.

[the "Second Easement"]

WHEREAS, on May 3, 2016, pursuant to the provisions of 11 O.S. § 42-110, the City of Broken Arrow adopted Ordinance No. 3422 closing a waterline easement generally located north of West Florence Street and east of South Mingo Road, more particularly described as follows:

A waterline easement located in the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) (Lot Four) of Section Thirty (30), Township Eighteen (18) North, Range Fourteen (14) East of the Indian Base and Meridian, Tulsa County, State of Oklahoma, according to the United States Government Survey thereof, more particularly described as follows, To-wit:

Commencing at the Southwest corner of said SW/4 SW/4 of Section 30; thence N00°00'00"E along the West boundary of said SW/4 SW/4 a distance of 1323.10 feet to the Northwest corner of said SW/4 SW/4; thence N89°53'01"E along the North boundary of said SW/4 SW/4 a distance of 24.75 feet to the statutory right-of-way; thence S00°00'00"W and along said statutory right-of-way a distance of 356.55 feet to the Point of Beginning; thence N90°00'00"E a distance of 89.55 feet; thence along a curve to the right having a radius of 150.00 feet (chord bearing: S81°42'04"E) a distance of 43.45 feet; thence along a curve to the left having a radius of 150.00 feet (chord bearing: S81°42'04"E) a distance of 43.45 feet; thence N90°00'00"E a distance of 59.41 feet; thence along a curve to the left having a radius of 300.00 feet (chord bearing: N78°33'00"E) a distance of 74.58 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: N45°05'49"E) a distance of 35.41 feet; thence N4°31'19"E a distance of 12.07 feet; thence along a curve to the right having a radius of 175.00 feet (chord bearing: N13°27'51"E) a distance of 54.63 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: N5°48'38"W) a distance of 24.62 feet; thence along a curve to the right having a radius of 52.00 feet (chord bearing: N44°34'49"E) a distance of 142.69 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: S85°01'43"E) a distance of 24.62 feet; thence along a curve to the right having a radius of 175.00 feet (chord bearing: N78°19'08"E) a distance of 70.65

feet; thence N89°53'01"E and parallel with the North boundary of said SW/4 SW/4 a distance of 251.48 feet; thence N00°06'59"W a distance of 124.98 feet to a point on the North boundary of said SW/4 SW/4; thence N89°53'01"E along the North boundary of said SW/4 SW/4 a distance of 11.00 feet; thence S00°06'59"E a distance of 99.99 feet; thence along a curve to the left having a radius of 25.00 feet (chord bearing: S45°06'58"E) a distance of 39.27 feet; thence S00°00'00"E a distance of 11.00 feet; thence S89°53'01"W and parallel with the North boundary of said SW/4 SW/4 a distance of 287.45 feet; thence along a curve to the left having a radius of 164.00 feet (chord bearing: S78°19'08"W) a distance of 66.21 feet; thence along a curve to the right having a radius of 36.00 feet (chord bearing: S85°01'43"W) a distance of 35.46 feet; thence along a curve to the left having a radius of 41.00 feet (chord bearing: S44°34'49"W) a distance of 112.50 feet; thence along a curve to the right having a radius of 36.00 feet (chord bearing: S5°48'38"E) a distance of 35.46 feet; thence along a curve to the left having a radius of 164.00 feet (chord bearing: S13°27'51"W) a distance of 51.19 feet; thence S4°31'19"W a distance of 12.07 feet; thence along a curve to the right having a radius of 36.00 feet (chord bearing: S45°05'49"W) a distance of 50.99 feet; thence along a curve to the left having a radius of 289.00 feet (chord bearing: S78°33'00"W) a distance of 71.85 feet; thence S71°25'41"W a distance of 64.28 feet; thence along a curve to the right having a radius of 286.00 feet (chord bearing: S80°42'51"W) a distance of 92.70 feet; thence N90°00'00"W a distance of 59.41 feet; thence along a curve to the right having a radius of 161.00 feet (chord bearing: N81°42'04"W) a distance of 46.64 feet; thence along a curve to the left having a radius of 139.00 feet (chord bearing: N81°42'04"W) a distance of 40.27 feet; thence N90°00'00"W a distance of 89.55 feet to the 24.75 foot statutory right-of-way of said Section Thirty (30); thence N00°00'00"E along said statutory right-of-way a distance of 11.00 feet to the Point of Beginning. Said easement containing 0.32 acres more or less, is not presently in use, and is hereby closed.

[the "Third Easement"]

WHEREAS, there is no necessity for reopening the first, second, or third easements closed by the City of Broken Arrow pursuant to Ordinances Nos. 3420, 3421 and 3422. The foreclosure of the right to reopen the First, Second and Third easements closed by Ordinance Nos. 3420, 3421 and 3422 will not injuriously affect the right of the owners of the property in the vicinity of the mutual access easement, stormwater easement and waterline easement and such easements are no longer required for public purposes; and

WHEREAS, all of the Defendants to this matter are anticipated to disclaim interest in the First, Second and Third easements that are the subject of the Final Journal Entry of Judgment; and

WHEREAS, the Legal Department and City Staff recommend that the City Council authorize the City Attorney to enter into a Final Journal Entry of Judgment foreclosure and vacating the above-described First, Second and Third Easements that were closed by the City Council pursuant to Ordinance No. 3420 on May 3, 2016, Ordinance No. 3421 on May 3, 2016, and Ordinance No. 3422 on May 3, 2016; and

WHEREAS, it is the desire of the Council to authorize the City Attorney to enter into a 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 First, Second and Third easements.

ADOPTED and APPROVED by the Mayor of the Council of the City of Broken Arrow, Oklahoma this 20th day of June, 2016.

ATTEST:

Mayor

City Clerk

REVIEWED as to for form and legality this 20th day of June, 2016.

Deputy City Attorney