

RESOLUTION NO. 884

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO THE FINAL ENTRY OF JUDGMENT WITHOUT ADMITTING LIABILITY IN THE MATTER OF *AG EQUIPMENT COMPANY V. CITY OF BROKEN ARROW, OKLAHOMA, ET AL.*, TULSA COUNTY DISTRICT COURT CASE NUMBER CJ-2015-507, AUTHORIZING FORECLOSURE AND VACATION OF A UTILITY EASEMENT ON PROPERTY LOCATED ON PART OF WILLIAMS BROTHERS CONSTRUCTORS PARK AMENDED, AN ADDITION TO THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, A RESUBDIVISION OF LOT 1, BLOCK 1, WILLIAMS BROTHERS CONSTRUCTORS PARK AND A SUBDIVISION OF PART OF LOT 2 AND PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION FOUR, TOWNSHIP 18 NORTH, RANGE 14 EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, GENERALLY LOCATED ONE-HALF MILE SOUTH OF WEST ALBANY STREET, EAST OF NORTH OLIVE AVENUE, TULSA COUNTY, BROKEN ARROW, OKLAHOMA.

WHEREAS, on April 21, 2015, pursuant to the provisions of 11 O.S. § 42-110, the City of Broken Arrow adopted Ordinance No. 3339 closing a utility easement generally located one-half mile south of West Albany Street, East of North Olive Avenue, City of Oklahoma Arrow, Oklahoma, to-wit:

A PART OF WILLIAMS BROTHERS CONSTRUCTORS PARK AMENDED, AN ADDITION TO THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, A RESUBDIVISION OF LOT 1, BLOCK 1, WILLIAMS BROTHERS CONSTRUCTORS PARK AND A SUBDIVISION OF PART OF LOT 2 AND A PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER (S/2, NE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, RECORDED AS PLAT NUMBER 6290, IN THE OFFICE OF THE TULSA COUNTY CLERK.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 1 OF WILLIAMS BROTHERS CONSTRUCTORS PARK AMENDED, RECORDED AS PLAT NO. 6290, IN THE OFFICE OF THE TULSA COUNTY CLERK; THENCE S 89° 56' 10" W, ALONG THE SOUTH LINE OF THE PLATTED 17.5 FOOT UTILITY EASEMENT AND THE NORTH LINE OF THE PLATTED RIGHT-OF-WAY OF W. SEATTLE STREET, A DISTANCE OF 17.50 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING S 89° 56' 10" W, CONTINUING ALONG THE SOUTH LINE OF THE PLATTED 17.5 FOOT UTILITY EASEMENT AND THE NORTH LINE OF THE PLATTED RIGHT-OF-WAY OF W. SEATTLE STREET, A DISTANCE OF 259.42 FEET; THENCE N 00° 03' 08" W, PARALLEL WITH AND 15.00 FEET EAST OF A 40 FOOT EASEMENT TO THE MKT RR ESTABLISHED BY COURT CASE C-78-2515, A DISTANCE OF 17.50 FEET, TO THE NORTH

LINE OF THE PLATTED 17.5 FOOT UTILITY EASEMENT; THENCE N 89° 56' 10" E, PARALLEL WITH THE SOUTH LINE OF SAID LOT 1 AND ALONG THE NORTH LINE OF THE PLATTED 17.5 FOOT UTILITY EASEMENT, A DISTANCE OF 259.37 FEET, TO A POINT 17.50 FEET FROM THE EAST LINE OF SAID LOT; THENCE S 00° 13' 05" E, PARALLEL WITH THE EAST LINE OF SAID LOT 1, A DISTANCE OF 17.50 FEET, TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINING 0.1042 ACRES / 4,539.39 SQUARE FEET.

THE BASIS OF BEARINGS FOR SAID TRACT IS S 89° 56' 10" W, ALONG THE SOUTH LINE OF WILLIAMS BROTHERS CONSTRUCTORS PARK AMENDED, AN ADDITION TO THE CITY OF BROKEN ARROW, TULSA COUNTY, OKLAHOMA, A RESUBDIVISION OF LOT 1, BLOCK 1, WILLIAMS BROTHERS CONSTRUCTORS PARK AND A SUBDIVISION OF PART OF LOT 2 AND A PART OF THE SOUTH HALF OF THE NORTHEAST QUARTER (S/2, NE/4) OF SECTION FOUR (4), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FOURTEEN (14) EAST OF THE INDIAN BASE AND MERIDIAN, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, RECORDED AS PLAT NUMBER 6290, IN THE OFFICE OF THE TULSA COUNTY CLERK.

WHEREAS, there is no necessity for reopening the utility easement closed by the City of Broken Arrow pursuant to Ordinances No. 3339 and this utility easement is no longer required for public purposes; and

WHEREAS, no public convenience or necessity exists for the reopening of the utility easement closed by the City of Broken Arrow pursuant to Ordinance No. 3339. The foreclosure of the right to reopen the utility easement closed by Ordinance No. 3339 will not injuriously affect the right of the owners of the property in the vicinity of the utility easement and is no longer required for public purposes; and

WHEREAS, all of the Defendants in this matter are anticipated to disclaim interest in the easement which is 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 foreclosing and vacating the above-described utility easement that was closed by the City Council pursuant to Ordinance No. 3339 on the 21st day of April, 2015; 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 utility easement; and

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA that the City Attorney is authorized to enter into as Final Journal Entry of Judgment vacating the utility easement described above.

ADOPTED and APPROVED by the Mayor of the Council of the City of Broken Arrow, Oklahoma this 7th day of July, 2015.

ATTEST:

Mayor

City Clerk

REVIEWED as to for form and legality this 7th day of July, 2015.

Assistant City Attorney