

## **RESOLUTION NO. 972**

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO THE FINAL JOURNAL ENTRY OF JUDGMENT WITHOUT ADMITTING LIABILITY IN THE MATTER OF QUIKTRIP CORPORATION V. CITY OF BROKEN ARROW, ET AL, TULSA COUNTY DISTRICT COURT CASE NO. CV-2017-00006, AUTHORIZING FORECLOSURE AND VACATION OF UTILITY EASEMENT ON PROPERTY LOCATED IN PART OF LOT TWO (2), BLOCK ONE (1), HILLSIDE CROSSINGS, A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, GENERALLY LOCATED NORTH OF THE BROKEN ARROW EXPRESSWAY AND WEST OF 9<sup>TH</sup> STREET**

**WHEREAS**, on March 1, 2016, pursuant to the provisions of 11 O.S. § 42-110, the City of Broken Arrow adopted Ordinance No. 3412 closing a utility easement on property located in part of Lot One (1), Block One (1), Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of the Broken Arrow Expressway and west of 9<sup>th</sup> Street.

**WHEREAS**, on March 1, 2016, pursuant to the provisions of 11 O.S. § 42-110, the City of Broken Arrow adopted Ordinance No. 3457 correcting a scrivener's error contained within Ordinance No. 3412 and closing a utility easement on property located in part of Lot Two (2), Block One (1), Hillside Crossings, a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, generally located north of the Broken Arrow Expressway and west of 9<sup>th</sup> Street, to wit:

A TRACT OF LAND BEING A PART OF LOT TWO (2), BLOCK ONE (1), HILLSIDE CROSSINGS, A SUBDIVISION IN THE CITY OF BROKEN ARROW, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT ONE (1), BLOCK ONE (1), HILLSIDE CROSSINGS; THENCE SOUTH 88°35'39" WEST ALONG THE NORTH LINE OF HILLSIDE CROSSINGS A DISTANCE OF 86.15 FEET; THENCE SOUTH 01°24'21" EAST A DISTANCE OF 61.80 FEET; THENCE SOUTH 87°23'39" WEST A DISTANCE OF 186.81 FEET; THENCE SOUTH 01°24'21" EAST A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING. THENCE CONTINUING SOUTH 01°24'21" EAST A DISTANCE OF 146.78 FEET; THENCE SOUTH 88°35'39" WEST A DISTANCE OF 42.00 FEET; THENCE NORTH 01°24'21" WEST A DISTANCE OF 145.90 FEET; THENCE NORTH 87°23'39" EAST A DISTANCE OF 42.01 FEET TO THE POINT OF BEGINNING

SAID TRACT CONTAINING 6,146 S.F. AND 0.14 ACRES MORE OR LESS.

**WHEREAS**, there is no necessity for reopening the utility easement closed by the City of Broken Arrow pursuant to Ordinance No. 3457 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. 3457. The foreclosure of the right to reopen the utility easement closed by Ordinance No. 3457 will not injuriously affect the rights of the owners of the property in the vicinity of the utility easement and this easement is no longer required for public purposes; and

**WHEREAS**, all of the Defendants in this matter are anticipated to disclaim interest in the property of 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. 3457 on November 7, 2016; and

**WHEREAS**, it is the desire of the City Council to authorize the City Attorney to enter into the 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 foreclosing and vacating the above described utility easement; and

**ADOPTED AND APPROVED** by the Mayor of the Council of the City of Broken Arrow, Oklahoma, this 7<sup>th</sup> day of February, 2017.

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MAYOR

ATTEST:

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(seal) City Clerk

APPROVED AS TO FORM:

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Deputy City Attorney