

## **RESOLUTION NO. 1137**

**A RESOLUTION AUTHORIZING THE ACTING CITY ATTORNEY TO AGREE TO JUDGMENT IN THE CASE OF THE CITY OF BROKEN ARROW V. B-Z PROPERTIES LLC., CASE NO. CV-18-22 IN WAGONER COUNTY DISTRICT COURT AND DIRECTING THE ACTING CITY ATTORNEY TO PREPARE AND FILE THE NECESSARY DOCUMENTS TO EFFECTUATE SETTLEMENT, INCLUDING A JOURNAL ENTRY OF JUDGMENT FOR THE COURT'S APPROVAL**

**WHEREAS**, on February 6, 2018 Council approved the filing of a Petition for Condemnation to acquire permanent right-of-way generally located at the east side of 23<sup>rd</sup> Street North, Range 15 East for the purpose of completing the 23<sup>rd</sup> Street Improvements between Houston and Kenosha Streets described as follows:

PARCEL 17:

PERMANENT RIGHT-OF-WAY:

LOTS 1, BLOCK 7, AMENDED PLAT OF PART OF ANGUS ACRES 2<sup>ND</sup> ADDITION, A SUBDIVISION OF A PART OF THE NW/4 OF SECTION 7, TOWNSHIP 18 NORTH, RANGE 15 EAST OF THE INDIAN BASE AND MERIDIAN, WAGONER COUNTY, STATE OF OKLAHOMA, CONTAINS 14,000 SQUARE FEET OR 0.32 ACRES, MORE OR LESS.

BASIS OF BEARING IS NOT APPLICABLE

**WHEREAS**, the hearing to appoint Commissioners in this matter was held on April 23, 2018; and

**WHEREAS**, the Commissioners filed their report on May 24, 2018 and valued the taking listed in the Petition at \$74,500.00; and

**WHEREAS**, on August 31, 2018, State Certified Appraiser, John Story III issued his Real Estate Appraisal report valuing the subject property at \$95,000.00; and

**WHEREAS**, B-Z Properties has offered to settle this matter and dismiss with prejudice the matter of B-Z Properties, LLC v. City of Broken Arrow in Wagoner County District Court No. CV-18-43, the inverse condemnation case related to the lack of payment of protective rent in this matter in the amount of \$135,633.40; and

**WHEREAS**, settlement of this matter would be less than the cost accrued in proceeding with the condemnation action; and

**WHEREAS**, Council has determined that resolution of this condemnation action and dismissal with prejudice of CV-18-43 for the sum of \$135,633.40 is reasonable and proper; and

**WHEREAS**, it is the desire for the Council to approve such settlement agreement by authorizing the Acting City Attorney to prepare and file the necessary documents to settle this case, including a Journal Entry of Judgment that represents a compromise settlement of disputed evaluations.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA** that the Acting City Attorney be, and is hereby directed to prepare and file the necessary documents, including a Journal Entry of Judgment incorporating the terms of the settlement agreement and attending this Resolution as authorized for settlement in the sum of \$135,633.40 in the District Court of Wagoner County, Oklahoma in case No. CV-18-22 and to execute any and all necessary documents to effectuate this settlement for the Court's approval.

ADOPTED and APPROVED by the Mayor of the Council of the City of Broken Arrow on this 2<sup>nd</sup> day of October, 2018.

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Mayor

Attest:

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City Clerk

Approved as to form:

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Acting City Attorney