

## **RESOLUTION NO. 1251**

**A RESOLUTION OF THE BROKEN ARROW CITY COUNCIL AUTHORIZING THE CITY ATTORNEY TO SEEK ISSUANCE BY THE COURT A JOURNAL ENTRY OF JUDGMENT IN THE CASE OF CITY OF BROKEN ARROW, OKLAHOMA V. CWP, INC., WAGONER COUNTY DISTRICT COURT CASE NO. CV-18-114, REGARDING THE CONDEMNATION OF PROPERTY LOCATED ON GOVERNMENT LOT 2, SECTION 7, T-18-N, R-15-E OF INDIAN MERIDIAN, WAGONER COUNTY, STATE OF OKLAHOMA**

**WHEREAS**, on November 20, 2018, the Broken Arrow City Council determined and declared the public necessity of taking, appropriating, condemning and acquiring the fee simple and permanent right of way of 95,532 square feet or 2.1 acres, more or less, from CWP, Inc. ("CWP") for the public purpose of completion of the 23rd Street, Kenosha to Houston, road widening project, as authorized under authority of 11 O.S. § 22-104; and

**WHEREAS**, on December 7, 2018, the City filed suit against CWP to acquire this fee simple and permanent right of way, along with a building located thereon used as a bar named Scooters South 40, for the 23<sup>rd</sup> Street, Kenosha to Houston, road widening project; and

**WHEREAS**, the Commissioners filed a report on January 31, 2019, valuing the take at \$178,000.00 and the City tendered the commissioners' award to the Court Clerk on February 25, 2019, taking title to the condemned property including the building thereon which is used as a bar; and

**WHEREAS**, one of the parties to the action who filed a timely jury demand was dismissed from the action and the other withdrew its jury demand; and

**WHEREAS**, CWP failed to file a timely jury demand, thus waiving its right to a jury trial regarding the valuation of the subject property; and

**WHEREAS**, the only party which objected to the entry of a proposed Journal Entry of Judgment was CWP and the City Attorney filed a motion requesting entry of a Journal Entry of Judgment without the written agreement of all parties; and

**WHEREAS**, the City Council desires to authorize the City Attorney to seek and obtain from the Court a Journal Entry of Judgment which awards the \$178,000 currently held in the court registry to CWP and resolves all issues;

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW THAT** the City Attorney is authorized to seek issuance by the Court of a Journal Entry of Judgment which awards the \$178,000 currently held in the court registry to CWP and resolves all issues in the Wagoner County District Court case, *City of Broken Arrow, Oklahoma v. CWP, Inc. et al.*, as outlined above.

**ADOPTED BY THE BROKEN ARROW CITY COUNCIL** this 20<sup>th</sup> day of August, 2019.

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MAYOR

ATTEST:

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(SEAL) CITY CLERK

**APPROVED AS TO FORM:**

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CITY ATTORNEY