

RESOLUTION NO. 1283

A RESOLUTION OF THE BROKEN ARROW CITY COUNCIL DECLARING AN EMERGENCY AS A RESULT OF A SANITARY SEWER TRUNK LINE SEWER INFILTRATION NEAR THE CORNER OF 91ST STREET AND 225TH STREET (EVANS ROAD); ACTIVATION OF THE CITY'S EMERGENCY OPERATION PROTOCOLS, INCLUDING WAIVING STATE AND LOCAL PROVISIONS PERTAINING TO COMPETITIVE BIDDING AS ALLOWED BY LAW; AUTHORIZING AN INFORMAL BIDDING PROCESS; AUTHORIZING THE CITY MANAGER TO EXECUTE EMERGENCY CONTRACTS AS NECESSARY TO PURCHASE MATERIALS FOR REPAIRS AND ANY SUBSEQUENT CRITICAL EVENTS; RATIFYING ALL PRIOR ACTIONS OF THE CITY MANAGER, PROVIDING FOR THE TERMINATION AND EXTENSION OF THE PROVISIONS OF THIS RESOLUTION; AND DIRECTING THE CITY MANAGER TO CARRY OUT ALL APPLICABLE PROVISIONS

WHEREAS, on October 31, 2019 representatives of the Utilities Department found multiple sinkholes, one approximately twenty feet (20') by ten feet (10') by four feet (4') deep had formed in the area on top of the existing twenty four inch (24") trunk sewer line in the area of 91st Street and 225th Street; and

WHEREAS, upon further investigation and excavation of the sanitary sewer trunk line, Utilities Department crews discovered infiltration along approximately fifteen hundred feet (1500') of the sanitary sewer trunk line located in the area of 91st Street and 225th Street due to multiple holes in the line, some as large as a basketball; and

WHEREAS, the affected trunk line is a critical part of the City of Broken Arrow's overall sanitary sewer infrastructure in that a significant amount of the City's sewage material is transported through this trunk line to the Lynn Lane Waste Water Treatment Plant; and

WHEREAS, this sewer trunk line is at significant risk of collapsing due to multiple holes in the line causing bypass of the system and unpermitted discharges outside of the closed system prior to treatment that could potentially affect the health, safety, and welfare of Broken Arrow citizens, as well as residents in the area and downstream of the overflows; and

WHEREAS, in order to repair the trunk line and restore service in the closed system, it is necessary for the City's Utility Construction Team to open cut this sewer trunk line and replace approximately fifteen hundred feet (1500') of the failed line, install lining for the bed of the replaced sewer line and replace three eroded manholes, including the barrel section, top, ring and lids; and

WHEREAS, it is further necessary to expeditiously purchase materials and supplies required for repairs to the failed trunk line, including fifteen hundred feet (1500') of 24" SDR 35 sewer pipe for approximately \$40,000.00, fifteen hundred feet (1500') of lining for bed of the sewer line for approximately \$10,000.00 and three manholes, including the barrel section, top, ring and lids for approximately \$6,000.00; and

WHEREAS, Article XV Emergency Purchases of the City's Purchasing Manual provides that in case of emergency affecting the public health and safety, the City Manager or other City personnel in accordance with authorization issued by the City Manager may authorize a vendor to perform any and all work necessary to resolve such emergency without public advertisement provided that documentation of the emergency and the need for immediate action shall be presented to the City Manager by the Department Director prior to such authorization and be ratified by the City Council where the cost exceeds \$25,000.00, as provided by the Broken Arrow Municipal Code and State Statute; and

WHEREAS, said repairs need to be done as soon as possible, as there is no alternative for the transportation of sewage material in the area to the waste water treatment plant; and

WHEREAS, on November 1, 2019 city personnel immediately began the process of locating for purchase the approximately fifteen hundred feet (1500') of 24" SDR 35 sewer pipe, fifteen hundred feet (1500') of lining for bed of the sewer line and three manholes, including the barrel section, top, ring and lids for City crews to effect the necessary repair of the failed sanitary sewer trunk line; and

WHEREAS, in accordance with the provisions of the Broken Arrow Code of Ordinances, the City Manager authorized the purchase for approximately \$60,000 the approximately fifteen hundred feet (1500') of 24" SDR 35 sewer pipe, fifteen hundred feet (1500') of lining for bed of the sewer line and three manholes, including the barrel section, top, ring and lids for City crews to effect the necessary repair of the failed sanitary sewer trunk line; and

WHEREAS, it is reasonable and proper for the City Council to ratify and authorize the City Manager's decision to purchase the pipe and all other materials and supplies necessary to effectuate repair of the trunk line and; and

WHEREAS, the break in the sanitary sewer trunk line constitutes a natural emergency as defined in Section 9-1 of the Broken Arrow Code justifying adoption of a Resolution to such effect; and

WHEREAS, the break in the sanitary sewer trunk line constitutes an emergency as defined by the Oklahoma Public Competitive Bidding Act of 1974 and 60 O.S. Section 176, as it is a condition resulting from a sudden, unexpected happening, and an unforeseen occurrence and condition whereby the public health and safety is potentially endangered; and

WHEREAS, immediate attention has been required and continues to be required to protect the public health, safety and welfare, insure public safety and provide for the worst case scenario; and

WHEREAS, this sanitary sewer trunk line break constitutes a significant event as defined in the Oklahoma Emergency Management Act of 2003, and justifies declaration of an emergency and notification to the Oklahoma Department of Emergency Management; and

WHEREAS, during this period of declared emergency, it is necessary and prudent that the City Manager be able to take action and implement policies quickly and expeditiously in the best interest of the residents of the City of Broken Arrow; and

WHEREAS, the procedures set forth in the Public Competitive Bidding Act codified in 61 O.S. § 101, *et seq.*, and § 2-28 of the Broken Arrow Code will take in excess of sixty (60) days; and

WHEREAS, it is estimated that the savings that would occur as a result of the competitive bidding process would not be sufficient to justify the potential danger to the health and safety of the public; and

WHEREAS, it is necessary that the City Manager be able to enter into contracts quickly and expeditiously during this time of declared emergency, in order to serve the residents of Broken Arrow; and

WHEREAS, it is further necessary that during this period of declared emergency, it is necessary and prudent that the City Manager be able to take action and implement policies quickly and expeditiously in the best interest of the residents of the City of Broken Arrow; and

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW THAT an emergency exists due to the sanitary sewer trunk line break, the resultant infiltration, potential overflows and unintentional, unpermitted discharges onto private property and City infrastructure, all of which compromises the health, safety, and welfare of the public; and

BE IT FURTHER RESOLVED THAT the City of Broken Arrow, its agents, employees, contractors and assigns are hereby authorized to enter onto private and public property for the purpose of repairing the City's trunk line and remediating the affected areas of the unpermitted discharges; and

BE IT FURTHER RESOLVED THAT the City of Broken Arrow, its agents, employees, contractors, and assigns will suffer neither liability nor be responsible for any damages caused to private or public property during this emergency; and

BE IT FURTHER RESOLVED THAT City staff is prepared for full activation of the City's Emergency Operations Protocols; and

BE IT FURTHER RESOLVED THAT during this period of declared emergency, the City Manager is hereby authorized and directed to exercise the power possessed by the City Manager as set forth in the Code of Ordinances, in state law, and as directed by this Resolution, and to further expressly take all actions necessary in the best interest of the citizens of Broken Arrow, in keeping with the policies of the City; and

BE IT FURTHER RESOLVED THAT all acts and policies taken, made, and implemented to this date by the City Manager are hereby ratified and approved, including, but not limited to authorizing the purchase of the pipe, bed lining and manholes, including barrel section, top, ring and lids to make the identified repairs; and

BE IT FURTHER RESOLVED THAT the City Manager is expressly authorized to contact other political subdivisions and the State of Oklahoma pursuant to mutual aid agreements, the state mutual aid agreement, and in accordance with state law, as are necessary in his judgment; and

BE IT FURTHER RESOLVED THAT the City Manager is hereby authorized to accept all services, equipment, supplies and aid from other political subdivisions, agencies, and the State of Oklahoma in assistance with this emergency; and

BE IT FURTHER RESOLVED THAT the City Council hereby authorizes and directs that the amounts set forth in the Broken Arrow Code which defines the limits of the contracting authority for the City Manager are hereby suspended during the effective period of this Resolution and the City Manager is hereby authorized to contract for, purchase, or issue purchase authorizations as provided in the Code, but without necessity of the approval of the City Council; and

BE IT FURTHER RESOLVED THAT the City Council hereby waives the competitive bidding procedure, authorizes an informal bidding process, and authorizes the City Manager to execute emergency contracts and bonds as are necessary in the repair of the trunk line and any subsequent catastrophic event; and

BE IT FURTHER RESOLVED THAT the provisions of the Resolution shall expire thirty (30) days from this date; and

BE IT FURTHER RESOLVED THAT the City Council may terminate or extend the provisions of this Resolution prior to said date of expiration; and

BE IT FURTHER RESOLVED THAT these actions are all take for the health, safety and general welfare of the City of Broken Arrow and its residents.

ADOPTED BY THE BROKEN ARROW CITY COUNCIL this 5th day of October, 2019.

MAYOR

ATTEST:

(SEAL) CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY