



City of Broken Arrow

Request for Action

File #: 17-2483, Version: 1

**Broken Arrow City Council
Meeting of: 08-01-2017**

**To: Mayor and Council Members
From: Office of the City Attorney**

Title: Consideration, discussion, and possible approval of Resolution No. 1023-Corrected, a Resolution authorizing the City Attorney to enter into a Final Journal Entry of Judgment without admitting liability in the matter of Rivergate Crossroads v. City of Broken Arrow, Tulsa County District Court Case CV-2017-00590, authorizing a foreclosure and vacation of mutual access and utility easements generally located north of the Broken Arrow Expressway, a quarter mile west of 9th Street

Background:

On April 4, 2017 City Council for the City of Broken Arrow passed Ordinances 3479 and 3480 granting the closure of mutual access and utility easements which extends along the west boundary of Lot Four (4), Block Two (2) of the Hillside Crossing's plat. Lots Four (4) and Five (5) of Block Two (2) were combined subsequently re-divided to create the Hobby Lobby's parcel. The original easements, dedicated by the Hillside Crossing's plat, ran directly under the Hobby Lobby building. No utilities were placed in this easement so the City Council closed the mutual access and utility easements subject to the dedication of a new mutual access and utility easement along the east boundary of the new property line. Notably, Oklahoma Natural Gas, Public Service Company of Oklahoma, Cox Communications and Windstream all indicated that they had no objection to the City's closing of the mutual accesses and utility easement at this location.

No Public convenience or necessity exists for the reopening of the mutual access and utility easements closed by the City of Broken Arrow pursuant to City of Broken Arrow Ordinances 3479 and 3480. The foreclosure for the right to reopen the mutual access and utility easements closed by Ordinances 3479 and 3480 will not injuriously affect the right of the owners of the property in the vicinity of the mutual access and utility easements or mutual access easements as they are no longer required for public purposes.

All the defendants in this matter are anticipated to disclaim interest in the mutual access and utility easements that are the subject of the Final Journal Entry of Judgment.

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 mutual access and utility easements that were closed by the City Council pursuant to ordinances 3479 and 3480 on April 4, 2017.

On June 5, 2017, the City Council for the City of Broken Arrow passed Resolution No 1023 authoring the City Attorney to enter into a Final Journal Entry of Judgment in the Matter of Rivergate Crossroads v. City of Broken Arrow Case No. CV-2017-00590. The legal Department discovered a scrivener's error in the original

Resolution No. 1023. This corrected Resolution No. 1023 contains the corrected legal description.

Cost: None

Prepared By: Beth Anne Childs, City Attorney

Reviewed By: Development Services Department

Approved By: Michael L. Spurgeon, City Manager

Attachments: Resolution No. 1023-Corrected

Recommendation: Approve Resolution No. 1023- Corrected and authorize execution.