



City of Broken Arrow

Request for Action

File #: 16-1431, Version: 1

**Broken Arrow City Council
Meeting of: 12-06-16**

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

Title:

Consideration, discussion, and possible approval of and authorization to execute Resolution No. 964, a Resolution authorizing the City Attorney to disclaim any interest in property located near 12631 South Garnett Road, Broken Arrow, Oklahoma, 74011, in a condemnation action entitled City of Tulsa, Oklahoma v. Eversole et al, filed by the City of Tulsa in the District Court in and for Tulsa County, State of Oklahoma, Case No. CJ-2016-4006 to acquire a sanitary sewer easement and temporary construction easement for the construction of the RMUA-ES-2009-10 C3 Force Main Improvements Haikey Creek Lift Station Rehabilitation Project

Background:

On November 3, 2016, the City of Tulsa filed a condemnation action against Anthony C. Eversole, 12631 South Garnett Road, Broken Arrow, Oklahoma 74011 seeking to condemn 0.46 acres of land for a temporary construction easement and permanent sanitary sewer easement in order to construct force main improvements for the Haikey Creek Lift Station Rehabilitation. The City of Broken Arrow was named as an additional defendant in this matter as Tulsa alleged that the City of Broken Arrow may claim some right or title or interest in the subject property by virtue of certain municipal ordinances annexing the property near Mr. Eversole's address, including pursuant to Ordinance No. 208, dated June 7, 1966, recorded at Book 3721, Page 155 in the office of the Tulsa County Clerk, re-recorded at Book 4389; Ordinance No. 272 dated February 6, 1968, recorded at Book 3837, Page 640 in the office of the Tulsa County Clerk; Ordinance 503, dated September 4, 1973, recorded at Book 4087, Page 261 in the office of the Tulsa County Clerk; and Ordinance No. 1547, dated March 20, 1989, recorded at Book 5173, Page 1403 in the office of the Tulsa County Clerk.

The Haikey Creek Lift Station is part of an RMUA property that will benefit the City of Broken Arrow.

The City staff has confirmed that the City of Broken Arrow does not have any utilities in this location and has no objection to the City of Tulsa's Petition for Condemnation. In addition, disclaiming the City's interest in this matter will not injuriously affect the rights of the City of Broken Arrow.

The attached Resolution authorizes the City Attorney to disclaim the City of Broken Arrow's interest in the property sought to be condemned by the City of Tulsa. Once the City has filed its disclaimer of interest, there will be no further action required in this matter.

Cost: **None**

Prepared By: **Trevor A. Dennis, Deputy City Attorney**

Reviewed By: **Development Services Department**

Approved By: **Michael L. Spurgeon, City Manager**

Attachments: **Resolution No. 964**

Recommendation:

Approve Resolution No. 964 and authorize its execution.