



# City of Broken Arrow

## Request for Action

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**File #: 19-599, Version: 1**

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**Broken Arrow Economic Development Authority**  
**Meeting of: 05-21-2019**

**Title:**

Consideration, discussion and possible approval of Resolution No. 1222, a Resolution authorizing James W. Rusher, attorney for the Broken Arrow Economic Development Authority, to enter into a final Journal Entry of Judgment in the case of Broken Arrow Economic Development Authority v. The City of Broken Arrow, et al., Tulsa County District Court Case Number CV-2019-0577, authorizing the foreclosure of a portion of a closed alleyway located within Block Eighteen, Original Town of Broken Arrow

**Background:**

The Broken Arrow Economic Development Authority (“BAEDA”) owns real property located at 305 North Main Street East in Block 18, Original Town of Broken Arrow (the “Property”). On August 1, 2017, BAEDA, the City and Milestone Capital, LLC (“Milestone”) entered into an Economic Development Agreement whereby, among other things, BAEDA agreed to lease the Property to Milestone, the City agreed to make certain improvements to infrastructure, and Milestone agreed to construct a four-story building consisting of residential, retail, restaurant and office uses and related appurtenances (the “Milestone Agreement”).

The Milestone Project will be built over a portion of an existing alley. On August 21, 2018, the Broken Arrow City Council passed Ordinance #3536 closing the t-shaped alley on the Property. In order to complete the Milestone Project, a portion, although not all, of the closed alley needs to be vacated. A closure and a vacation are two different events. The City Council can close a roadway or easement, subject to it being reopened if it becomes necessary, by ordinance. However, if a roadway or easement is vacated, the underlying land is permanently transferred to the person/s owning the abutting land/s. The roadway or easement is permanently extinguished. In order to vacate an alley (a type of roadway), an owner of property abutting the alley must file a District Court action, comply with the applicable statute, and obtain a court order vacating the alley.

On April 30, 2019, BAEDA through its attorney, James Rusher, of Albright, Rusher and Hardcastle, filed the action *Broken Arrow Economic Development Authority v. City of Broken Arrow, et al*, Tulsa County District Court Case Number CV-2019-0577. The attached Resolution authorizes Mr. Rusher to obtain a Journal Entry of Judgment. Once the Journal Entry has been entered by the Court, there will be no further action required in this matter.

**Cost:** No Cost

**Funding Source:** No Source

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

**Approved By:** City Manager’s Office

**Attachments:** Resolution No. 1222

**Recommendation:**

Approve Resolution No. 1222 and authorize its execution.