

RESOLUTION NO. 1019

A RESOLUTION OF THE BROKEN ARROW CITY COUNCIL DECLARING APPROXIMATELY 1.864 ACRES OF CITY-OWNED PROPERTY LOCATED AT 305 NORTH MAIN STREET, SURPLUS AND AUTHORIZING TRANSFER TO THE BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY, AN OKLAHOMA PUBLIC TRUST OF WHICH THE CITY OF BROKEN ARROW IS THE SOLE BENEFICIARY FOR GOOD AND VALUABLE CONSIDERATION AND SPECIFICALLY FOR THE PUBLIC PURPOSE OF FURTHERING THE CITY'S ECONOMIC DEVELOPMENT GOALS; AND APPROVING AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS NECESSARY TO ACCOMPLISH THE DECLARATION OF SURPLUS AND TRANSFER OF TITLE, INCLUDING A GENERAL WARRANTY DEED; AND CONTAINING OTHER PROVISIONS RELATING THERETO

WHEREAS, downtown Broken Arrow has reinvented itself several times with the adoption of the 2005 Downtown Master Plan, establishment of the Rose District, and ongoing beautification and infrastructure projects; and

WHEREAS, establishing an Arts and Entertainment District has resulted in the attraction of new mixed use developments, including restaurants, retail stores, residential lots and offices along Main Street and within the Rose District; and

WHEREAS, the current downtown maintains a core of museums, a farmer's market, churches, city offices, long established banks, restaurants, clothing retail, furniture specialty stores, manufacturing, aviation simulation and many other businesses; and

WHEREAS, over 100 businesses, churches and services are located in the corridor around downtown and within the Rose District; and

WHEREAS, in order to keep this momentum progressing, representatives of the Broken Arrow Economic Development Corporation, (the "BAEDC"), the Chamber of Commerce (the "Chamber") and the City of Broken Arrow's Economic Development Coordinator are actively recruiting investors to the Rose District, especially those that will focus on mixed-use development with a residential component; and

WHEREAS, one area of particular interest to the City, the BAEDC, and the Chamber was a tract of real property located at 305 North Main Street, in the City of Broken Arrow, Oklahoma (the "Real Property"); and

WHEREAS, the Real Property, consisted of approximately 1.864 acres, and included a dilapidated, unoccupied former church structure, parking lots, and other outdated appurtenances; and

WHEREAS, despite the best efforts of the BAEDC and the Chamber, the Real Property remained in a dilapidated state, impairing further development of the Rose District; and

WHEREAS, the BAEDC and the Chamber approached City representatives about the City’s acquisition of the Real Property and demolition of the identified structures and appurtenances to create further continued development in the downtown area and in the Rose District; and

WHEREAS, in support of the City of Broken Arrow’s efforts and in the interest of securing the Real Property, the BAEDC worked with AR&H, LLC to enter into a Contract for Sale of Real Estate with the William K. Myers, Sr. Revocable Living Trust at the Contract-stated purchase price of \$600,000.00; and

WHEREAS, at the request of the BAEDC, the City of Broken Arrow accepted assignment of all of AR&H, LLC’s interest in, to and under the Contract for Sale of Real Estate, dated November 19, 2015; and

WHEREAS, on February 12, 2016, the City finalized the sale and acquired the Real Property for the sum of \$600,00.00 plus attorney’s fees and related costs; and

WHEREAS, due to the dilapidated condition of the structures and appurtenances, the City entered into a construction contract with ARK Wrecking Company of Oklahoma, Inc. for demolition in the amount of \$87,140.00, said demolition being completed in 2016; and

WHEREAS, it was initially contemplated that the City would either use the Real Property for its own purposes or declare it surplus and transfer it to the Broken Arrow Economic Development Authority (the “Authority”) for sale in the amount of the City’s investment (approximately \$701,151.40), and as part of a comprehensive economic development activity; and

WHEREAS, in order to assist the City Council and the Trustees of the Authority with evaluation of all potential options, the BAEDC issued two (2) different Requests for Proposals (RFP’s) for development of the Real Property; and

WHEREAS, responses to the first RFP were received and evaluated in 2016; and

WHEREAS, after due consideration, investors negotiating with the BAEDC and the City advised that they could not advance development of the Real Property without significantly decreasing the size and scope of the proposed development; and

WHEREAS, following this development, the BAEDC issued a second RFP with the recognition that a long term lease of the land or additional incentives would be necessary to maximize the size, scope and quality of any development on the Real Property; and

WHEREAS, in February of 2017, Cowen Construction (“Cowen”) submitted a comprehensive response to the RFP; and

WHEREAS, on March 21, 2017, the City Council authorized the City Manager to enter into formal negotiations with Cowen for a comprehensive economic development package for the Real Property; and

WHEREAS, Cowen is a premier General Contractor that has been in business for over 121 years; and

WHEREAS, thereafter, Milestone Capital, LLC., (the “Developer”) an Oklahoma Limited Liability Company formed by representatives of Cowen for purposes of developing the Real Property, have agreed to construct a four story building consisting of residential, retail, restaurant and office uses (“the Project”); and

WHEREAS, the Project will consist of approximately 31,660 Square Feet of retail, restaurant and office space on the street level of the building; and

WHEREAS, the Project will also consist of approximately 89,420 square feet of one (1) and two (2) bedroom residential units located on the upper three (3) floors of the building; and

WHEREAS, Developer’s investment in the Project is estimated to be \$17,474,799.00, plus an additional \$577,742.00 in engineering, design and surveying costs; and

WHEREAS, of this figure, it is estimated that the City will receive \$260,549.00 in sales and use taxes for the materials necessary for construction of the Facilities and the Project; and

WHEREAS, sales taxes realized by the City from the Project are expected to exceed \$150,000.00 annually; and

WHEREAS, taxes on the improvements of the Project are expected to exceed \$250,000.00 annually; and

WHEREAS, in part by reason of the Real Property being made available and the Authority making certain improvements to infrastructure, Developer has agreed to undertake the Project; and

WHEREAS, in the interest of obtaining the Developer’s investment in Downtown Broken Arrow, the City and the Authority have determined the Real Property should be made available via a lease to Developer for the sum of \$1.00 per year; and

WHEREAS, the City recognizes that the development of the Project will have direct economic benefits within and near the City as they will retain and likely increase sales taxes realized by the City from the Development, increase ad valorem revenues derived by the City, Tulsa County, Oklahoma, Independent School District No. 3 of Tulsa County, Oklahoma, and other local and area governmental entities from time to time benefiting therefrom, generally enhance property values, both residential and commercial, within the City, and otherwise contribute significantly to the economic well being of the citizens and residents within and near the City, and those of Tulsa County and the State of Oklahoma (the "State"); and

WHEREAS, the Authority was created under a certain Trust Indenture dated November 19, 1973, as amended March 11, 1982; August 4, 1983, and March 18, 2014 (the "Authority Trust Indenture"), as a public trust for the use and benefit of its sole beneficiary, the City, under authority of and pursuant to Title 60, Oklahoma Statutes, §§176, *et seq.*; and

WHEREAS, among the Authority Trust Indenture’s stated purposes are those of promoting and encouraging the development of industry and commerce within and without the territorial limits of the City by instituting, furnishing, providing and supplying property, improvements and

services for the City and for the inhabitants, owners and occupants of property, and governmental, industrial, commercial and mercantile entities, establishments and enterprises within and without the City; promoting the general convenience, general welfare and public safety of the residents of the City; acquiring by purchase real property useful in instituting, furnishing, providing, or supplying any of the aforementioned property, improvements and services; complying with the terms and conditions of contracts made in connection with or for the acquisition of any of said properties; receiving funds, property and other things of value from, among others, the City; and participating in programs of the State and others which are to the advantage of the City and the Authority's undertakings; and

WHEREAS, pursuant to State law and City Ordinance, the City Council finds it to be in the best interest of the citizens of Broken Arrow to declare the Real Property surplus; and

WHEREAS, the City further finds that it is in the best interest of the citizens of Broken Arrow to transfer the Real Property to the Authority for good and valuable consideration and specifically for the public purpose of executing the Lease of the subject property to Milestone Capital, LLC; and

WHEREAS, the City Council further deems it appropriate to the execution and delivery of a General Warranty Deed in providing for the implementation of the Project, and determines that such actions are in the best interests of the City and the health, safety and welfare of the City and residents within and near the City.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA, THAT:

1. The 1.864 acres located at 305 North Main Street, as legally described as Lots as one (1) thru Twenty-two (22), Block Eighteen (18), ORIGINAL TOWN OF BROKEN ARROW, Tulsa County, State of Oklahoma, according to the recorded plat thereof, is hereby declared surplus.
2. Transfer of the real property legally described above to the Authority is hereby approved and authorized.
3. The Mayor is hereby authorized to execute a General Warranty Deed or any other Deed or instrument necessary to accomplish this transfer.

Approved and adopted by the Broken Arrow City Council, at a regular meeting thereof, advance public notice of which was duly given and at which a majority of said Council was present, this 1st day of August, 2017.

CITY OF BROKEN ARROW, OKLAHOMA

Mayor

APPROVED AT TO FORM:

ATTEST: (SEAL)

Assistant City Attorney

City Clerk