

RESOLUTION NO. 994

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO FILE A PETITION AGAINST NIKEL INVESTMENT, LLC FOR NIKEL INVESTMENT, LLC'S VIOLATION OF A JULY 15, 2008 DEVELOPMENT AND LICENSE AGREEMENT AND AUTHORIZATION TO DRAFT AND FILE ALL NECESSARY ACCOMPANYING LEGAL DOCUMENTS TO EFFECTUATE SUIT AGAINST NIKEL INVESTMENT, LLC

WHEREAS, on July 15, 2008, the City of Broken Arrow and Nikel Investment, LLC entered into a Development and License Agreement as part of Nikel's platting of its car dealership located on the north side of the Broken Arrow Expressway, approximately ¼ mile west of Aspen Avenue and ½ north of Albany Street, Tulsa County, State of Oklahoma; and

WHEREAS, the Development and License Agreement required Nikel Investment, LLC to dedicate to the City right-of-way for the extension of West Fargo Street, a frontage road to the Broken Arrow Expressway, construct, repair and maintain a 36-foot wide paved street to serve as an extension to West Fargo Street and required Nikel Investment, LLC to remove three (3) billboards located within the West Fargo Street right-of-way dedicated to the City for the extension of West Fargo Street; and

WHEREAS, Nikel Investment, LLC breached the Development and License Agreement by failing to remove the billboards by July 29, 2015 as required by the Development and License Agreement and failed to perform its obligations under the Development and License Agreement by constructing the northerly curve and landscaping to the immediate north of the Fargo Street extension according to City standards; and

WHEREAS, on July 27, 2016, the City of Broken Arrow provided notice to Nikel Investment, LLC that Nikel Investment, LLC was in breach of the Development and License Agreement; and

WHEREAS, Nikel Investment, LLC failed to cure or remedy its breach of the Development and License Agreement within 30 days after receipt of the City's notice and the breach has not been cured or remedied within a reasonable time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Broken Arrow, Oklahoma, that the City Attorney is authorized to file a Petition against Nikel Investment, LLC and draft and file all necessary accompanying legal documents to effectuate suit against Nikel Investment, LLC.

ADOPTED AND APPROVED by the Mayor of the Council of the City of Broken Arrow, Oklahoma, this 7th day of March, 2017

MAYOR

ATTEST:

(seal) City Clerk

APPROVED AS TO FORM:

City Attorney