

RESOLUTION NO. 1042

A RESOLUTION OF THE CITY OF BROKEN ARROW APPROVING AND AUTHORIZING EXECUTION OF A CERTAIN ECONOMIC DEVELOPMENT AGREEMENT BY AND AMONG THE BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY, THE CITY OF BROKEN ARROW, OKLAHOMA, AND MILESTONE CAPITAL L.L.C.; DESIGNATING REPRESENTATIVES OF THE CITY FOR PURPOSES OF GRANTING CERTAIN APPROVALS AND EXECUTING CERTAIN INSTRUMENTS AS REQUIRED UNDER AND IN CONNECTION WITH SAID AGREEMENT; 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of approximately 1.864 acres, and included a dilapidated, unoccupied former church structure, parking lots, and other outdated appurtenances; and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 the 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'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 accepted assignment of all of AR&H, L.L.C.'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 \$600,000.00 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 \$87,000.00, 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 Authority for sale in the amount of the City's investment (approximately \$694,899.84), and as part of a comprehensive economic development activity; and

WHEREAS, in order to assist the City Council and the Trustees 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, L.L.C., (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 ninety (90) one (1) and two (2) bedroom residential units located on the upper three (3) floors of the building, and consisting of approximately 89,420 Square Feet; 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 City 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 available via a lease to Developer for the sum of \$1.00 per year; and

WHEREAS, in anticipation of execution of this Agreement, the City declared the Real Property surplus, and transferred it to the Authority; 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, implementation of an Economic Development Agreement (the “Agreement”), which will derive the aforesaid benefits, would otherwise be difficult or impossible without certain forms of public assistance for the Project and the involvement of the City and the Authority; and

WHEREAS, the City seeks to promote development in this area in order to retain and expand employment, enhance the tax base, stimulate economic growth, improve the quality of life in the City, and strengthen the community; and

WHEREAS, the City also recognizes that the Project and its operations will have additional direct and indirect economic benefits within and near the City, in Tulsa County and in the State through, including without limitation, diversifying the local economy, providing economic stimulus for additional employment and other development; and

WHEREAS, the City deems it appropriate to approve the execution and delivery of this Agreement in providing for the implementation of the Project and determines 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 THAT:

1. The Economic Development Agreement is hereby approved and shall be executed substantially in the form thereof submitted at the meeting at which this Resolution was approved and as finally approved by the Mayor or Vice Mayor, as the case may be, and shall be executed for and on behalf of the City Council by its Mayor or Vice Mayor, as the case may be and attested by the Clerk, and for and on behalf of the other parties thereto by their respective authorized officers. The Economic Development Agreement is hereby authorized for execution and delivery, subject to such minor changes, insertions and omissions in such filings of blanks therein as may be approved and made in the form thereof by the Officers of the City executing the same pursuant to this section. The execution of the Economic Development Agreement for and on behalf of the other parties thereto by their respective authorized officers and for and on behalf of the City Council by its Mayor or Vice Mayor as the case may be, with the official seal of the City affixed and attested by the signature of the Clerk, shall be conclusive evidence of the approval of any changes, insertions, omissions and filling of blanks.
2. All prior transfers made in connection with preparations for and the preparations of the Economic Development Agreement, including, without limitation, those made for the payment of legal services, engineering fees and costs, surveys, appraisals, and inspection payments are hereby approved and ratified.
3. The Mayor and the City Manager are hereby designated as representatives of the City for purposes of granting certain approvals and executing certain instruments for and on behalf of the City as required under the terms and/or as from time to time required under and/or in connection with the performance of the City’s obligations under the Economic Development Agreement.

4. It is the intention of the City Council hereof that the officers of the City shall, and they are hereby ex officio authorized and directed to, do any and all lawful acts and deeds to effectuate and carry out the provisions and the purposes of this Resolution, including without limitation and from time to time, the giving of certificates, notices, elections, and instructions under or with respect to, the Economic Development Agreement, and such other instruments and documents as are related thereto, and that such authorization and direction shall remain in full force and effect until such time as the respective terms of the Economic Development Agreement shall have expired or earlier terminated.

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 Members were present, this 1st day of August, 2017.

MAYOR

ATTEST:

(seal) City Clerk

APPROVED AS TO FORM:

City Attorney