

RESOLUTION NO. 1263

A RESOLUTION OF THE CITY OF BROKEN ARROW, OKLAHOMA (THE “CITY”) AUTHORIZING THE BROKEN ARROW ECONOMIC DEVELOPMENT AUTHORITY (THE “AUTHORITY”) TO ASSIST THE CITY IN CARRYING OUT AND ADMINISTERING THE CREEK 51 BUSINESS PARK ECONOMIC DEVELOPMENT PROJECT PLAN ADOPTED BY THE CITY; APPROVING AND AUTHORIZING THE EXECUTION OF AN ECONOMIC DEVELOPMENT AGREEMENT BY AND AMONG THE AUTHORITY, THE CITY, AND CREEK 51 BUSINESS PARK, LLC; APPROVING AND AUTHORIZING THE EXECUTION OF A SECURITY AGREEMENT BY AND BETWEEN THE AUTHORITY AND THE CITY PERTAINING TO THE TAX INCREMENT REVENUES; APPROVING THE USE OF ASSISTANCE IN DEVELOPMENT FINANCING; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Broken Arrow Economic Development Authority (the “Authority”) has been created by a Trust Indenture dated November 19, 1973, as supplemented and amended by an Amendment to Trust Indenture dated March 11, 1982, as supplemented and amended by a Second Amendment to Trust Indenture dated August 4, 1983, and as further supplemented and amended by a Third Amendment to Trust Indenture dated March 18, 2014, for the use and benefit of the City of Broken Arrow, Oklahoma (the “City”), under authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 2001, Sections 176 to 180.4, inclusive, as amended and supplemented (the “Act”), the Oklahoma Trust Act and other applicable statutes of the State of Oklahoma; and

WHEREAS, the City has adopted and approved the Creek 51 Business Park Economic Development Project Plan dated June 26, 2019 (the “Project Plan”) by Ordinance No. 3597 dated August 6, 2019 (the “Local Act”), pursuant to the Oklahoma Local Development Act, Title 62, Oklahoma Statutes, Section 850, *et seq.* as amended (the “Local Development Act”); and

WHEREAS, the City, by virtue of the Local Act, has heretofore created Increment District No. 2, City of Broken Arrow (as more specifically described herein, the “Increment District”), pursuant to the Local Development Act; and

WHEREAS, the Authority, the City, and Creek 51 Business Park, LLC (or its designee, referred to as the “Company”), desire to enter into an economic development agreement (the “Development Agreement”) for the purpose of providing a framework for the implementation of the Project Plan, including specifically the apportionment of certain Tax Increment Revenue for the payment of the costs of Traffic Improvements, Organizational Costs, and Investment Incentives (each as described in the Project Plan and the Development Agreement); and

WHEREAS, the Authority and the City have agreed to provide assistance in development financing (as authorized by Section 853(14)(o) of the Local Development Act), including specifically the payment of the Inventory Incentives, all as more fully set forth in the Development Agreement.

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

SECTION 1. AUTHORITY THE DESIGNATED PUBLIC ENTITY. The Authority is designated as the public entity authorized to assist the City in carrying out and administering the provisions of the Project Plan and to exercise all powers necessary thereto except those powers reserved to the City by the TIF Ordinance and the Local Development Act.

SECTION 2. EXECUTION OF ECONOMIC DEVELOPMENT AGREEMENT. The Economic Development Agreement by and among the Authority, the City, and the Company (the “Development Agreement”) is hereby approved and the Mayor or Vice Mayor and City Clerk or Deputy City Clerk are hereby authorized to execute same for and on behalf of the City, and to do all other lawful things to carry out the terms and conditions of said Development Agreement.

SECTION 3. EXECUTION OF SECURITY AGREEMENT. The Security Agreement by and between the Authority and the City (the “Security Agreement”) pertaining to the transfer of the TIF Revenues (as defined in the TIF Ordinance) to the Authority in furtherance of the implementation of the Project Plan, is hereby approved and the Mayor or Vice Mayor and City Clerk or Deputy City Clerk are hereby authorized to execute same for and on behalf of the City, and to do all other lawful things to carry out the terms and conditions of said Security Agreement.

SECTION 4. ASSISTANCE IN DEVELOPMENT FINANCING. The use of assistance in development financing, as contemplated in the Development Agreement, and as authorized by Section 853(14)(o) of the Local Development Act, is hereby approved.

SECTION 5. EXECUTION OF NECESSARY DOCUMENTS. The Mayor or Vice Mayor and City Clerk or Deputy City Clerk of the City are hereby further authorized on behalf of the City to accept, receive, execute, attest, seal and deliver the above mentioned documents and all additional documentation, certifications and instruments and to take such further actions as may be required in connection with the transactions contemplated hereby, and are further authorized to approve and make any changes to the documents approved by this Resolution, for and on behalf of the City, the execution and delivery of such documents being conclusive as to the approval of any terms contained therein.

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PASSED AND APPROVED THIS 3RD DAY OF SEPTEMBER, 2019.

CITY OF BROKEN ARROW, OKLAHOMA

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Clerk

CERTIFICATE
OF
CITY COUNCIL ACTION

I, the undersigned, hereby certify that I am the duly and acting City Clerk of the City of Broken Arrow, Oklahoma.

I further certify that the City Council of the City of Broken Arrow, Oklahoma held a Regular Meeting at 6:30 o'clock P.M., on September 3, 2019, after due notice was given in full compliance with the Oklahoma Open Meeting Act.

I further certify that attached hereto is a full and complete copy of a Resolution that was passed and approved by said Councilmembers at said meeting as the same appears in the official records of my office and that said Resolution is currently in effect and has not been repealed or amended as of this date.

I further certify that below is listed those Councilmembers present and absent at said meeting; those making and seconding the motion that said Resolution be passed and approved, and those voting for and against such motion:

PRESENT:

ABSENT:

MOTION MADE BY:

MOTION SECONDED BY:

AYE:

NAY:

WITNESS MY HAND THIS 3RD DAY OF SEPTEMBER, 2019.

CITY OF BROKEN ARROW, OKLAHOMA

(SEAL)

City Clerk