



City of Broken Arrow

Request for Action

File #: 17-1818, Version: 1

**Broken Arrow City Council
Meeting of: 02-07-2017**

**To: Mayor and City Council
From: Office of the City Attorney**

Title: Consideration, discussion, and possible approval of and authorization to execute Resolution No. 962, a Resolution of the Broken Arrow City Council approving and authorizing execution of a certain First Amendment to the Economic Development Agreement by and among the Broken Arrow Economic Development Authority, the City of Broken Arrow and Shawn and Gretchen Whistler ("Whistler"); and containing other provisions relating thereto

Background:

On July 2, 2013, City Council passed Resolution No. 800 and the Broken Arrow Economic Development Authority ("BAEDA") passed Resolution No. 801 agreeing to an Economic Development Agreement between BAEDA, The City of Broken Arrow and Shawn and Gretchen Whistler.

The Whistler Economic Development Agreement was entered into for the completion of Hillside Drive. Hillside Drive opens approximately 27 acres of development and creates a nearly two-mile contiguous shopping corridor fronting the north side of the Broken Arrow Expressway. Completion of Hillside Drive is in conformance with the comprehensive plan, particularly the land use intensity map and provides necessary connectivity between two (2) major commercial corridors. In order to extend Hillside Drive, the City initiated a condemnation action to acquire the property from the Whistler's necessary to complete Hillside Drive.

During the pendency of the condemnation action, the City of Broken Arrow negotiated the Economic Development Agreement memorializing Resolution No. 800 and Resolution No. 801. The Whistler's dedicated 1.27 acres of right-of-way, 0.3 acres for a drainage easement, .18 acres for a temporary construction easement, and 1.37 acres for construction of a detention pond.

The key terms of the Agreement included the following from the City and BAEDA:

1. Place fill material from the Hillside Drive Project onto Whistler's property on an area south of an existing PSO easement and spread the fill material in accordance with the grading plan provided by Whistler; and
2. Extend access to all water, stormwater and sanitary sewer mains to Whistler's current property line within two (2) years of the date of execution of the Agreement; and
3. Ensure that the usable parcel on the south end of the property will be provided at least two (2) curb cuts, so long as standard planning practices, such as dedication of mutual access easements, are accomplished; and
4. Construct a stormwater detention facility on the area located to the north of the proposed roadway within two (2) years of the date of execution of the Agreement; and

5. Pay \$350,000.00 to the required dedications.

The deadline for the utility work and stormwater detention work was July 2, 2015. In lieu of the Authority and City's construction obligations, Whistler has proposed a First Amendment to Economic Development Agreement that allows Whistler to convert two existing Outdoor Advertising signs owned or controlled by Whistler from a changeable copy format to a digital format. Specifically, under the First Amendment to Economic Development Agreement Whistler is authorized to convert both faces of the Outdoor Advertising sign, structure no. W34, and both faces of the Outdoor Advertising sign, structure no. W32, located at the Elm exit from the Broken Arrow Expressway from a changeable copy format to a digital format. Both Outdoor Advertising signs shall be converted to digital format by December 31, 2017 and shall not exceed 480 square feet of display surface area per sign face. In addition, the City would issue a letter agreement that provides that neither onsite detention nor fees in lieu of detention would be required on the site. Further, the Authority will clear, including, without limitation all trees from the Site, grade and place fill material from the Hillside Drive Project onto an area south of the PSO easement. The City will also ensure that the usable parcel on the south end of the property will provide at least two (2) curb cuts.

Adoption of the First Amendment to Economic Development Agreement will resolve the City and BAEDA's remaining construction obligations under the 2013 Economic Development Agreement.

Cost: Development fees waived

Prepared By: Beth Anne Wilkening, City Attorney

Reviewed By: Legal Department
Finance Department
Engineering and Construction Department
Assistant City Manager - Operations

Approved By: Michael L. Spurgeon, City Manager

Attachments: Resolution No. 962
First Amendment to Economic Development Agreement

Recommendation:

Approve Resolution No. 962 and authorize its execution.