



City of Broken Arrow

Request for Action

File #: 17-2251, Version: 1

Broken Arrow City Council

Meeting of: 08-1-2017

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

Title:

Consideration, discussion, and possible approval of 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

Background:

On February 12, 2016, the City purchased 1.864 acres located at 305 North Main street in the amount of \$600,000.00 plus attorney's fees and related costs. Due to the dilapidated condition of the structures and appurtenances located on the real property, 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. It was initially contemplated that the City would either use the 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. In order to assist the City Council and the Trustees of the Authority with evaluation of all potential options, the Broken Arrow Economic Development Corporation (the "BAEDC") issued two (2) different Requests for Proposals (RFP's) for development of the real property. Responses to the first RFP were received and evaluated in 2016. 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. 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 this parcel.

In February of 2017, Cowen Construction ("Cowen") submitted a comprehensive response to the RFP. 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 development of this property. Cowen is a premier General Contractor that has been in business for over 121 years. Thereafter, Milestone Capital, LLC., (the "Developer") an Oklahoma Limited Liability Company, formed by representatives of Cowen for purposes of developing the property, have agreed to construct a four-story building of mixed uses. This project will consist

of approximately 31,660 Square Feet of retail, restaurant and office space on the street level of the building. 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. 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. 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. Sales taxes realized by the City are expected to exceed \$150,000.00 annually. Taxes on the improvements are expected to exceed \$250,000.00 annually. In part by reason of this property being made available and the Authority making certain improvements to infrastructure, the Developer has agreed to undertake this project.

Resolution Number 1042 of the Council and Resolution Number 1040 of the Authority approve and authorize execution of a comprehensive certain Economic Development Agreement between the Developer, the City and the Authority. This Agreement provides that the Authority will lease the property to the Developer for a term of 99 years. The Developer will build the project consistent with the parameters set forth above. The Authority will also upgrade the waterline providing service to the site, extend the downtown streetscape to encompass the project, and relocate various utilities. Resolution Number 1041 of the Authority approves a comprehensive Lease with the Developer. It also provides for an option to purchase by the Developer for the amount of the City's investment within a five (5) year period of time, but only after the project is substantially complete. After that time, it provides for acquisition for fair market value. Importantly, any proceeds of sale would need to be returned to their original funding source.

Staff believes that it is in the best interests of the citizens of Broken Arrow to declare the Real Property surplus, and approve the transfer to the Authority for the public purpose of economic development. Resolution Number 1019 declares the property located at 305 North Main Street surplus and authorizes its transfer to the Broken Arrow Economic Development Authority. It also approves and authorizes the execution of documents necessary to transfer title, including a General Warranty Deed. As a result, Staff recommends that the Council approve Resolution No. 1019 and authorize its execution.

Cost: Recording Costs

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. 1019
General Warranty Deed
Cowen Proposal**

Recommendation:
Approve Resolution No. 1019 and authorize its execution.