



City of Broken Arrow

Request for Action

File #: 18-385, Version: 1

**Broken Arrow City Council
Meeting of: 03-20-2018**

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

Title: Consideration, discussion, and possible approval of and authorization to execute Resolution No. 1095, a Resolution approving and authorizing a Development Agreement between the City of Broken Arrow, New Bedford Lakes, LLC, New Bedford Park, LLC, Glenn Shaw and Charles L. Ramsay, Jr.

Background:

The Developers Glenn Shaw and Charles L. Ramsay, Jr. and their affiliated entities (the “Developers”) own approximately 551 acres of land in the City of Broken Arrow. This land is located along 37th Street between East Omaha Street (East 51st Street South) and East Albany Street (East 61st Street South). This area, referred to as the “Development Land,” is shown on Exhibit “A” to the Development Agreement.

The Developers intend to develop the Development Land for residential and other suitable uses in accordance with the City of Broken Arrow's Comprehensive Plan, Zoning Ordinance, the Land Subdivision Code, Engineering Design Criteria Manual and other city codes. The City of Broken Arrow desires to facilitate the development of the area to promote the City's growth and to provide parks and recreation facilities for the City's residents. The Developers previously dedicated real property and easements to the City for location of a sanitary sewer lift station, sanitary sewer mains, a portion of the right-of-way for the construction of 37th Street, easements for the location of various utilities, and temporary construction easements.

More specifically, these dedications consisted of the following:

- a. approximately 4.5 acres for placement of sanitary sewer lines and a lift station; and
- b. approximately 9.12 acres for construction of the sanitary sewer lines and lift station; and
- c. approximately 3.206 acres of permanent right-of-way for the construction of 37th street; and
- d. approximately 2.52 acres for construction of 37th street; and
- e. right-of-way along 101st street between Lynn Lane and County Line Road; and
- f. approximately 26.73 acres for a regional detention pond across from Broken Arrow High School; and
- g. right-of-way along East Albany Street, between Lynn Lane and County Line Road; and

The Developers' estimate of the value of the above-referenced dedications, including the loss of developable land, is \$1,261,815.00.

In conjunction with the referenced dedications, City Staff entered into negotiations with Developers for donation of portions of the Development Land for construction of a regional detention facility (the "Detention Facility"). The Detention Facility will benefit the residents of the City by reducing peak stormwater flows, facilitating future development in the area, and maximizing other developable land. Staff also negotiated for location and construction of a Park surrounding the proposed Detention Facility. Location of a Park in the Development Land is in accordance with the City of Broken Arrow Parks and Recreation Master Plan. In furtherance of these objectives, in 2011 and 2014, the voters approved issuance of General Obligations Bonds for both the Detention Facility and the Park.

37th Street runs north and south along the section line and is considered a section line road, but presently no roadway exists between East Albany Street and East Omaha Street. Construction of 37th Street between East Albany Street and East Omaha Street and as approved by the voters in 2014, will provide significant connectivity between north and south Broken Arrow, and would, in particular, facilitate citizen access to the retail area and public education facilities located along the Creek Turnpike and 37th Street. In furtherance of the above stated goals and approval of the voters, the City entered into a construction contract with Paragon Contractors, LLC, for construction of 37th Street pursuant to the 2014 General Obligation Bond Issue that authorized funding for the design and construction of 37th Street.

Following extensive negotiations with Developers, Staff is recommending that it would be reasonable and appropriate for the City to provide the following in exchange for the dedication of real property, right-of-way and easements necessary for the construction of 37th Street between Omaha Street and Albany Street, the Detention Facility, and the Park:

1. Construct, or cause to be constructed, a Detention Facility in accordance with plans designed by AAB Engineering and in an amount not to exceed \$1,335,885.13; and
2. Construct, or cause to be constructed, 37th Street from East Albany Street to East Omaha Street as a two (2) or more lane street; and
3. Construct, or cause to be constructed, a Park surrounding the regional Detention Facility; and
4. Allow utilization of the Regional Facility for stormwater detention for lands in this area owned by Developers; and
5. Allow the filing of the Final Plat and provide for the offset of fee-in-lieu for the Tucson Village Project.

Dedications of the Developers as set forth above are estimated to be valued in excess of \$516,000.00. Importantly, the cost of acquisition of the land required for the Detention Facility and the Park would be

insufficient to purchase the necessary real property, right-of-way and easements and complete the projects as set forth in the General Obligation Bond proceeds. Also, it is estimated that the City will recover approximately \$1.5 million in fee-in-lieu from other surrounding land owners for their use of this Detention Facility. In exchange for the conditions set forth above, the Developers have indicated their willingness to dedicate all necessary right-of-way for the construction of 37th Street from East Albany Street to East Omaha Street and all appurtenances required therein, approximately 10 acres of real property for construction of the Detention Facility, and approximately 30 acres of real property for construction of the Park.

The proposed funding sources for the aforementioned projects are the 2011 and 2014 General Obligation Bond issues, savings from named General Obligation Bond projects, the stormwater capital improvement fund, and all other legal funding sources as the Council may decide. Staff recommends that the Council approve the Development Agreement and authorize its execution.

Cost: None

Prepared By: Beth Anne Childs, City Attorney

Reviewed By: Assistant City Manager-Operations

Approved By: Michael L. Spurgeon, City Manager

Attachments: Resolution No. 1095
Development Agreement

Recommendation:
Approve Resolution No. 1095 and authorize its execution.