



# City of Broken Arrow

## Request for Action

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**File #: 18-838, Version: 1**

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**Broken Arrow Economic Development Authority  
Meeting of: 08-7-2018**

**Title:**

Approval of and authorization to execute Resolution No. 1114, a Resolution of the Broken Arrow Economic Development Authority, an Oklahoma Public Trust of which the City of Broken Arrow is the sole beneficiary (the “Authority”) accepting a General Warranty Deed from the City of Broken Arrow conveying all right, title, and interest in the approximate 5.2225 acres of City owned property identified as tracts 1A, 1B and 2B of Lot 2 combined of Lot 2, Block 1, Tiger Hill Plaza, a platted subdivision within the City of Broken Arrow, Tulsa County, State of Oklahoma, and generally located on the southwest corner of Lynn Lane (9th Street) and Kenosha Street (71st Street); repealing Resolution No. 865, a resolution of the Broken Arrow Economic Development Authority accepting a deed from the City of Broken Arrow conveying all right, title and interest in 6.84 acres of land located at the southwest corner of Lynn Lane (9th street) and Kenosha Street (71st Street); approving and authorizing execution of a certain Agreement for the purchase and sale of real property by and among the Broken Arrow Economic Development Authority and Tiger Hill Plaza, LLC designating representatives of the Broken Arrow Economic Development Authority for purposes of granting certain approvals and executing certain instruments as required under and in connection with said Purchase Agreement; and containing other provisions relating thereto

**Background:**

On July 10, 1992, long-time Broken Arrow residents Scott L. and Anne Graham (the “Grahams”) provided to the City an L-shaped tract of land located at the southwest corner of Lynn Lane (9th Street) and East Kenosha Street (71st Street), in an area which is part of an approximate 37-acre area commonly referred to as Tiger Hill (“Tiger Hill”). This tract was donated to the City of Broken Arrow without cost or restriction pursuant to a General Warranty Deed recorded in Tulsa County Land Records. The Grahams also provided a second tract located on the south side of Tiger Hill pursuant to a General Warranty Deed recorded in Tulsa County Land Records.

On January 5, 2010, the Broken Arrow City Council approved Resolution Number 638 which declared its intent to develop, approve, and adopt a project plan for the creation of a Tax Increment Financing District (“the District”) for the square mile between East Kenosha Street (71st Street), East Houston Street (81st Street), Lynn Lane (9th Street) and Elm Place, and encompassing Tiger Hill, among other areas of the City. On May 26, 2010, the City, the Authority and FlightSafety International, Inc., entered into an Economic Development Agreement (the “2010 FSI Agreement”) providing for the use of 17.88 acres of Tiger Hill (“South Tiger Hill”) by FlightSafety for construction of a new manufacturing and headquarters complex. Pursuant to the 2010 FSI Agreement and a lease thereof from the City, the Authority subleased South Tiger Hill to FlightSafety for the aforesaid purposes. The 2010 FSI Agreement also provided for the Authority’s payment of certain job retention benefits to FlightSafety, said payment being made with revenues of the District and thereafter FlightSafety’s

manufacturing and headquarters complex was completed and has remained in continuous operation since.

In connection with the foregoing, certain other revenues of the District were earmarked for use to prepare and provide necessary utility connections for certain building and related use sites on the north side of Tiger Hill deemed necessary for the construction of restaurant, retail and other commercial business operations in the interest of increasing the City's sales tax base; and thereafter, on March 3, 2012, the City Council approved the use of such revenues for, and authorized, the partial and preliminary development of a certain 6.84 acres located on the north side of Tiger Hill, for lease to such entities for such purposes.

In March, 2012, and thereafter it was contemplated that the Option Area would continue to be owned by the City and leased for such uses and for such purposes. Prior to and following the February, 2013 completion of the Option Area development activities authorized in March, 2012, City staff, together with representatives of the Broken Arrow Economic Development Corporation ("BAEDC") have actively marketed the same as intended under the City's structure, without success to date.

In the Fall of 2013, the City's Economic Development Coordinator E.D. Coordinator was approached by representatives of a company owning in excess of 2,000,000 square feet of commercial properties in the Tulsa metropolitan area and the developer of "Hillside Development" located at Hillside Drive and Lynn Lane and real property in Jenks, Oklahoma, regarding the Option Area.

By Resolution Number 866 dated December 2, 2014, the Broken Arrow City Council declared the 6.84 acres of the Option Area surplus and authorized its transfer to the Broken Arrow Economic Development Authority (the "Authority") for good and valuable consideration and specifically for the purpose of furthering the City's economic development goals. By Resolution Number 865 dated December 2, 2014, the Authority accepted the Deed for the Option Area and by Resolution Number 864 dated December 2, 2014, the Authority approved and authorized execution of an Option to Purchase.

Following approval of the Resolutions by the City Council and the Authority, it was subsequently discovered through the due diligence process that the developable acreage of the Option Area was smaller than expected, thereby resulting in a lack of interest by the original company and the Authority's repeal of Resolution Number 864 approving and authorizing the Option through Resolution Number 871 approved by the Authority on March 3, 2015. The City's E.D. Coordinator continued to market this area when problems with the retaining wall located south of the Option Area surfaced. Design of proposed remediation to the retaining wall resulted in further reduction of the Option Area and a revised approach to furthering economic development in this area.

On November 3, 2017, the Broken Arrow Planning Commission approved a lot split of the platted subdivision known as Tiger Hill Plaza, thereby formally identifying the developable area sufficient for sale and for the purpose of advancing the public purpose of furthering the City's economic development goals, consisting of 5.2225 acres and identified as Tracts 1A, 1B and 2B Combined of Lot 2, Block 1, Tiger Hill Plaza ("North Tiger Hill").

In 2015, the E.D. Coordinator was approached by representatives of Tiger Hill Plaza, LLC ("Buyer"), who expressed an interest in purchasing the developable portion of the original Option Area. On July 5, 2016, the City Council considered the above recited series of events in connection with the proposed acquisition by Buyer, and a proposed economic development agreement with Buyer in Executive Session. Thereafter and in open public session the City Council directed City Staff to move forward with formal negotiations with Buyer with the goal of developing a mutually satisfactory structure through which Buyer could acquire North Tiger Hill and develop it in a manner meeting the City's sales tax generation and economic development objectives.

In recognition of both the City's and BAEDC's unsuccessful marketing efforts under the City's structure for the development and use of this area, it is recommended that the Authority take all actions necessary, including acceptance of title to North Tiger Hill (as defined by Resolution), entry into a comprehensive Agreement for the

Purchase and Sale of Real Property with Buyer for Buyer's acquisition and development and implementation of the Tiger Hill Project and such other actions as reasonably may otherwise be required of the Authority in connection therewith.

Following the Buyer's offer to purchase North Tiger Hill, City Staff and the City's contract Engineering firm recommended construction of a modified soldier wall in front of the original retaining wall. After further due diligence, it was discovered that ingress and egress to North Tiger Hill would be difficult due to the existing elevations. It is estimated that removal of an estimated 25,000 cubic yards of on-site material will be required to provide access at suitable grades. Removal of the on-site material remaining after the City's utilization is estimated to cost in excess of \$400,000.00.

Buyer has agreed to acquire North Tiger Hill for the aggregate sum of \$2,616,158.00 (which amount the Authority contends is in excess of the appraised fair market value thereof earlier obtained by the Authority), and has proposed a structure for its acquisition, development, and marketing to quality users. In part by reason of North Tiger Hill being made available to Buyer, Buyer has agreed to construct a commercial development consisting of, restaurant, retail and other commercial business operations consisting of an aggregate of approximately 31,830 square feet. The Broken Arrow Economic Development Authority is a Title 60 Public Trust legally authorized to own and transfer ownership in real property.

Staff recommends that The Broken Arrow Economic Development Authority approve Resolution No. 1113 and authorize its execution.

**Cost:** None for Option to Purchase Agreement (\$1,800,000 for construction of the modified soldier wall by separate agreement)

**Funding Source:** None for Option to Purchase Agreement (Sales Tax Capital Improvement Fund for construction of modified soldier wall under separate agreement)

**Requested By:** Norman Stephens, Economic Development Coordinator

**Approved By:** Michael L. Spurgeon, City Manager

**Attachments:** Resolution No. 1114  
Purchase Agreement

**Recommendation:**  
Approve and authorize execution of Resolution No. 1114.