

RESOLUTION NO. R-61-24

A RESOLUTION TO RECOMMEND THE DISSOLUTION OF THE FORT CHAFFEE REDEVELOPMENT AUTHORITY, TERMINATION OF INDENTURE OF TRUST, TO ESTABLISH A WINDING UP DATE, TO ESTABLISH PROCEDURES FOR THE DISTRIBUTION OF TRUST FUNDS AND TRUST PROPERTY TO THE BENEFICIARIES AND TO PROVIDE FINDINGS OF FACT, DEFINITIONS, AND OTHER PROVISIONS RELATED TO THE DISSOLVING OF THE FORT CHAFFEE REDEVELOPMENT AUTHORITY AND TRUST FOR MATTERS RELATED THERETO

WHEREAS, the Fort Chaffee Redevelopment Authority (the "**FCRA**") was established pursuant to an Indenture of Trust dated February 1997 (the "**Trust Agreement**") executed by Sebastian County, Arkansas as Settlor, Grantor and Trustor and each named beneficiary, namely, the City of Fort Smith and together with Sebastian County, Arkansas, the City of Barling, Arkansas and the City of Greenwood, Arkansas - collectively the "**Beneficiaries**" under the Trust Agreement (the "**Trust**");

WHEREAS, the United States of America conveyed to the Trust certain land more particularly described in the deeds of conveyances from the United States of America, recorded in the real property records of Sebastian County, Arkansas (the "**Trust Property**");

WHEREAS, a master land use plan was developed through the Trust with cooperation of the Beneficiaries and through consultants engaged by the Trustees of the Trust (the "**Land Use Plan**") and subsequent thereto since the commencement of the Trust significant land sales and development of Trust Property as residential, commercial, industrial and educational properties have occurred through land sales and conveyances by the FCRA as approved by the Board of Trustees of the FCRA as appointed from time to time under the bylaws of the Trust;

WHEREAS, the Trust was created for public purposes as set forth in Article IV Section 4.1 of the Trust which includes the orderly sale of the Trust Property and to place the Trust Property in productive use and return the real property to the tax assessment rolls of Sebastian County, Arkansas and for other economic development which benefits each of the Beneficiaries and the citizens of each Beneficiary (the "**Trust Purposes**");

WHEREAS, based upon reports and other analyses of the Trust Property there appears to be only approximately 250 acres of developable land remaining in the ownership of the FCRA Trust (the "**Economically Feasible Trust Land**") which includes some lands that have been set aside or will be set aside for public use such as the Deer Trails Golf Course consisting of 120 acres more or less;

WHEREAS, from land sales, the Trust has accumulated significant funds (the "**Trust Funds**") that should be distributed to the Beneficiaries along with the Economically Feasible Trust Land and other Trust Property presently titled in the name of the Trust located in each Beneficiary's jurisdiction;

WHEREAS, with such relatively small acreage of Economically Feasible Trust Land remaining and other remaining non-economic lands and considering the cost of administration of the Trust including annual salaries and operating expenses of the FCRA, the distribution of the Trust Funds and the Trust Property to the named Beneficiaries is reasonable, economical, and, applying fiduciary standards, now is the appropriate time for the FCRA and the Trust to dissolve;

WHEREAS other issues have arisen relating to the sale of remaining lands and controversy and conflicts regarding the timing of development and procedures applied to review and consider land sales and development and repurchase of Trust Property previously sold using Trust Funds, resulting in removal of such repurchased lands previously sold from the Sebastian County real property tax rolls and thereby reducing the real property taxes received by Sebastian County and the other Beneficiaries;

WHEREAS, termination of the Trust may be effected by a vote of the Beneficiaries and the Board of Trustees of the Trust when a governmental agency is willing to fulfill the purposes of the Trust;

WHEREAS, the City of Fort Smith and the City of Barling are presently involved in land use matters, zoning and building permits for development of Trust Property within their jurisdictions and have the staff to manage any additional matters related thereto without the administrative cost of the FCRA to administer Trust Property within its jurisdictions and the City of Fort Smith and the City of Barling are willing to fulfill the purposes of the Trust as to Trust Property within their respective jurisdictions and believe each of the other Beneficiaries is willing to fulfill their respective obligations for Trust Property within their respective jurisdiction;

WHEREAS, the City of Fort Smith desires to set a termination date for the Trust to be dissolved and all Trust Property be distributed to the Beneficiaries based upon the jurisdiction of such Trust Property and that Trust Funds held by the Trust be frozen so that no lands are repurchased by the Trust with Trust Funds, and that all funds not necessary for the winding up of the FCRA be distributed to the Beneficiaries forthwith with all remaining lands to be sold at private sale before such dissolution deadline or within thirty (30) days of such deadline all such lands be sold at public auction to the highest bidder with any such auction sale to include payment by buyer of a buyer's commission to the auctioneer employed by the FCRA; and

WHEREAS, the City of Fort Smith believes it would be in the best interest of the City of Fort Smith, its citizens, and all Beneficiaries that the Trust be dissolved as soon as practicable, which period shall be no longer than the date of December 31, 2025 (the "**Dissolution Date**"), and such dissolution is determined to be beneficial for the citizens of the City of Fort Smith.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: DISSOLUTION DATE ADOPTION. For the purpose of dissolution and termination of the Trust and distribution of Trust Property and the Trust Funds in the possession of the FCRA and to further facilitate any necessary land-use planning for the Economically Feasible Trust Land in the jurisdictions of the City of Fort Smith and the City of Barling, the Trust should be dissolved with an effective date as of the **Dissolution Date**. The adoption of the Dissolution Date is to allow for a time period to wind up and close the Trust before the Dissolution Date with final distribution of Trust Property and Trust Funds on or before the Dissolution Date.

SECTION 2: TRUST PROPERTY DISTRIBUTION. The Dissolution Date enacted by Section 1 of this Resolution shall be a target date for final winding up and distribution of all Trust Property in the jurisdictions of the City of Fort Smith, Arkansas, and the City of Baling, Arkansas, identified as the Fort Smith jurisdictional Trust Property in the Land Use Plan and the Barling jurisdictional Trust in the Land Use Plan.

SECTION 3: WINDING UP PERIOD. The Winding Up Period shall commence upon adoption of this RESOLUTION and similar ordinances or resolutions by each of the Beneficiaries and the FCRA (the "**Winding Up Period**") which said Winding Up Period shall end on or before the Dissolution Date. During the Winding Up Period, the FCRA shall continue to sell land, except for the Deer Trails Golf Course property, and improvements but shall not repurchase any previously sold land or improvements, it being the intent that all land and improvements previously sold remain taxable land unless otherwise non-taxable due to a charitable, educational, or religious use in accordance with applicable state and federal laws. In addition, all Trust Funds currently on deposit with the FCRA shall be distributed equally to each Beneficiary forthwith and any additional funds received from the sale of any additional Trust Property presently owned by the Trust to be distributed to the Beneficiaries by the jurisdiction in which the real Trust Property sold is situated. During the Winding Up Period, each Beneficiary shall contribute back to the FCRA an amount of the money for each Beneficiary to be set aside for such Beneficiary's share of expenses in the Winding Up of the Trust.

SECTION 4: DISSOLUTION AND DEFINITIONS.

A. The City Administrator of the City of Fort Smith, acting through the employees of the City of Fort Smith, shall observe and enforce the dissolution during the Winding Up Period until finalization of dissolution on or before the Dissolution Date adopted by Section 1 of this Resolution during the Winding Up Period stated in Section 3 of this Resolution.

B. All building permits applied for and issued, including, without limitation, commercial or industrial structures or residential construction prior to the Dissolution Date shall be approved by the City of Fort Smith or the City of Barling and remain effective for the City of Fort Smith jurisdictional Trust Property or the City of Barling jurisdictional Trust Property.

C. The Dissolution shall not limit the Fort Smith Planning Department and Planning Commission review or the City of Barling Planning Department and Planning Commission review and action regarding Fort Smith jurisdictional Trust Property or City of Barling jurisdictional Trust Property, including but not limited to, approval of development plans, land use amendments,

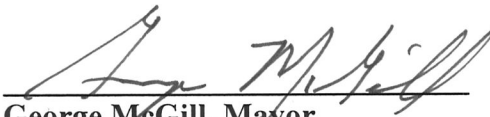
zoning and re-zoning, or subdivision of land applications and the issuance of approved building permits.

D. Terms appearing in this Resolution but not defined herein shall have the meanings provided in the City of Fort Smith's Code of Ordinances, or if not defined by the City, then the common meanings in accordance with ordinary usage or as defined in applicable state statutes.


SECTION 5: The provisions and applications of this Resolution shall be considered severable. The invalidity or inapplicability of this Resolution to one tract of Trust Property comprising a part of the Trust shall not adversely affect the validity or applicability of this Resolution to other tracts of Trust Property distributed by the Trust and shall not affect Trust Property or other property sold by the Trust acting through the FCRA Board of Trustees. The invalidity of any provision or application of this Resolution shall not adversely affect the validity or application of another provision hereof. Following dissolution, the City of Fort Smith and the City of Barling shall consider for adoption appropriate land use plans and ordinances.

PASSED AND APPROVED THIS 2nd DAY OF April, 2024.

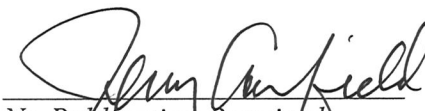
APPROVED:


George McGill, Mayor

ATTEST:


City Clerk

Approved as to form:


No Publication Required