

## **RESOLUTION**

**A RESOLUTION OF THE OF THE CITY COUNCIL OF THE CITY OF BURLESON APPROVING THE FINAL DESIGN AND ESTIMATED CONSTRUCTION COSTS OF THE ROAD IMPROVEMENTS TO LAKEWOOD DRIVE PURSUANT TO A CHAPTER 380 AND ECONOMIC DEVELOPMENT AND PERFORMANCE AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION AND R.A. DEVELOPMENT, LTD. FOR REIMBURSEMENT OF SAID ROAD IMPROVEMENTS AND LIMITED AUTHORIZATION TO PROCEED WITH CONSTRUCTION; AND AUTHORIZING THE CITY MANAGER TO REIMBURSE R.A. DEVELOPMENT, LTD.**

**WHEREAS**, the City of Burleson, Texas (“City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the Burleson 4A Economic Development Corporation, known as the “Type A Corporation”, incorporated and certified in October 2000 under the authorization of the Development Corporation Act of 1979; and

**WHEREAS**, the City, R.A. Development, Ltd. (“Developer”), the Type A Corporation, and other parties entered into that certain Chapter 380 and Economic Development and Performance Agreement, a copy of which is attached hereto and incorporated herein as Exhibit “A” of Exhibit “1” (hereafter defined), for the development of Chisholm Summit and Hooper Business Park (the “Agreement”); and

**WHEREAS**, the Agreement calls for the Developer to construct certain sewer improvements and roadway improvements; and

**WHEREAS**, the Developer is ready to construct the road improvements as defined in the Agreement, such improvements being more particularly described in the Final Design (defined below) (the “Road Improvements”); and

**WHEREAS**, the Developer retained professional engineers to design the Road Improvements, and a copy of the final design is attached hereto and incorporated herein as Exhibit “B” of Exhibit “1” (hereafter defined) (the “Final Design”); and

**WHEREAS**, the Developer submitted to the City and Type A Corporation an estimated cost of construction for the Road Improvements, an outlay of such costs which includes a contingency is attached hereto and incorporated herein as Exhibit “C” of Exhibit “1” (hereafter defined) (the “Estimated Construction Costs”); and

**WHEREAS**, the City desires that the Road Improvements be constructed in accordance with the

Agreement; and

**WHEREAS**, the City believes that the construction of the Road Improvements will further the purposes and findings set forth in the Agreement; and

**WHEREAS**, the Developer does not have the final design plans for the sewer improvements outside of Phase 1 as defined in the Agreement (“Final Sewer Design Plans”); and

**WHEREAS**, the City believes that the full construction of the Road Improvements cannot and should not occur until the City Council approves the Final Sewer Design Plans; and

**WHEREAS**, the City believes that the construction of the Road Improvements will be expedited by setting forth certain construction work on the Road Improvements that may occur before the City Council approves the Final Sewer Design Plans; and

**WHEREAS**, the City desires to enter into a Memorandum of Understanding with the Type A Corporation and Developer, attached hereto and incorporated herein as Exhibit “1” (the “MOU”), to set forth parameters by which Developer may begin certain, specific construction work before the City Council approves the Final Sewer Design Plans, specifically certain grading and paving work on the Road Improvements on property owned by the Developer and the Type A Corporation and the removal of dirt from Hooper Business Park for the construction of the Road Improvements, and by which the Developer may be reimbursed by the Type A Corporation for such construction costs; and

**WHEREAS**, the Agreement calls for the Type A Corporation to reimburse Developer for the funds paid for the construction of Road Improvements; and

**WHEREAS**, the Type A Corporation desires to reimburse Developer for the funds paid for the removal of soil from the Hooper Business Park for use in the Road Improvements as part of the Road Improvements; and

**WHEREAS**, the Agreement stipulates that, prior to reimbursement, the City must be satisfied with the work completed and the evidence of an expenditure;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, THAT:**

### **Section 1**

The City hereby approves the Final Design and the Estimated Construction Costs for the Road Improvements in accordance with the Agreement.

### **Section 2**

The City Manager is authorized to execute on behalf of the City the MOU between the Type A Corporation, City, and Developer, substantially in the form attached as Exhibit “A”.

### **Section 3**

The City Manager is authorized to reimburse the Developer from Type A Corporation funds for costs actually incurred in the construction of the Road Improvements and set forth in the Estimated Construction Costs (which includes a contingency). The reimbursement amount shall not exceed the Estimated Construction Costs. The reimbursement shall be paid in accordance with the Agreement.

### **Section 4**

The findings set forth above in the recitals of this resolution are incorporated into the body of this resolution as if fully set forth herein.

### **Section 5**

It is hereby officially found and determined that the meeting at which this resolution is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

### **Section 6**

That the terms and provisions of this resolution shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this resolution shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this resolution and the remainder of such resolution shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

### **Section 7**

This resolution shall take effect immediately from and after its passage.

**PASSED AND SO RESOLVED** by the City Council of the City of Burleson, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Chris Fletcher, Mayor  
City of Burleson, Texas

ATTEST:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Amanda Campos, City Secretary

\_\_\_\_\_  
E. Allen Taylor, Jr., City Attorney