

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, IDENTIFYING FUNDS FOR THE DESIGN AND CONSTRUCTION COSTS OF SEWER IMPROVEMENTS PURSUANT TO AN EXISTING CHAPTER 380 AND ECONOMIC DEVELOPMENT AND PERFORMANCE AGREEMENT.

WHEREAS, the City of Burleson, Texas (the “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 City, R.A. Development, Ltd. (“Developer”), the Burleson 4A Economic Development Corporation (“BEDC”), 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”, 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 for the development of Chisholm Summit and Hooper Business Park (the “Improvements”) and for the City to reimburse Developer for the funds paid for the construction of such sewer improvements; and

WHEREAS, on September 20, 2021, the City Council in Resolution No. CSO#1878-09-2021 approved reimbursing Developer for sewer design costs for the Improvements in an amount not to exceed \$508,750 in accordance with the Agreement; and

WHEREAS, on October 18, 2021, the City Council in Resolution No. CSO#1900-10-2021 approved reimbursing Developer for construction of phase one of the Improvements in an amount not to exceed \$1,779,012.90 in accordance with the Agreement; and

WHEREAS, on May 16, 2022, the City Council in Resolution No. CSO#2068-05-2022 approved increasing the reimbursement amount Developer for construction of phase one of the Improvements by an amount not to exceed \$200,000, for a total reimbursement not to exceed \$1,979,012.90 for construction of phase one of the Improvements; and

WHEREAS, as of September 14, 2022, the City has reimbursed Developer in the amount of \$1,463,070.40 in accordance with the above-mentioned resolutions; and

WHEREAS, Developer, through a subcontractor, is nearing completion of phase one of the Improvements; and

WHEREAS, Developer, through an engineering firm, is nearing completion of the final design of the remaining phases of Improvements under the Agreement; and

WHEREAS, the City desires to identify funds available to pay, at least in part, for the

remaining design and construction of the Improvements; and

WHEREAS, the City has identified funds in account number 470-7500-439.79-98 (Project 22PW01 Chisholm Summit Part C) in the amount of \$6,319,883.10 as available for the remaining design and construction of the Improvements; and

WHEREAS, in accordance with the Agreement and state law, the construction of the remaining Improvements must be formally bid, and the City may only reimburse Developer for the actual costs of construction of the Improvements pursuant to such bid; and

WHEREAS, the Agreement requires that the City Council approve the final design and all construction costs for any sewer improvements prior to reimbursement; and

WHEREAS, at a later date the Developer will submit to the City Council for approval the final design and an estimated cost of construction for the remaining phases of the Improvements.

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

Section 1

The City Council hereby identifies funds in account number 470-7500-439.79-98 (Project 22PW01 Chisholm Summit Part C) in the amount of \$6,319,883.10 as available for the remaining design and construction of the Improvements.

Section 2

Nothing in this resolution shall be construed as acting as an encumbrance on any City funds, including but not limited to funds in account number 470-7500-439.79-98 (Project 22PW01 Chisholm Summit Part C). Additionally, nothing in this resolution shall be construed as an approval by the City Council under the Agreement of the design or construction costs of the Improvements. In accordance with the Agreement, the Developer shall submit to the City Council for approval the final design and an estimated cost of construction for the remaining phases of the Improvements. Finally, nothing in this resolution shall be construed as an approval by the City Council under the Agreement to reimburse Developer for construction costs in an amount in excess of the actual costs of construction of the Improvements as determined through a formal bid under state law.

Section 3

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 4

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 5

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 6

This resolution shall become effective from and after its date of passage in accordance with law.

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