

Memorandum

To: Honorable Mayor Shetter and members of the Burleson City Council

From: David G Wynn, P.E., Deputy City Manager

Date: January 20, 2009

Subject: Consideration of a second amendment to the Chapter 380 Economic Development Agreement between the City of Burleson and Burleson Commons, L.P.

Council Action Requested:

Approve a Second Amendment to Chapter 380 Economic Development Agreement between the City of Burleson and Burleson Commons, L.P.

Background Information:

On April 18, 2006 the City and BCLP entered into that certain Economic Development Agreement in accordance with City Resolution No. 583 and Section 380.001 of the Texas Local Government Code. The City Council approved an amendment to this original agreement on March 13, 2008. Exhibit B of the first amendment shows detention/retention at the center of the property.

On June 12, 2008, the City Council waived the requirement for detention ponds within Burleson Commons based on an engineering analysis showing that there would be no adverse downstream impacts. The developer proposed to create an open space on a portion of the area that had been previously encumbered by the detention pond. Council approved the amenity lot concept "contingent upon an acceptable site plan preserving one acre of green space including a water feature" in addition to the buildable lots requested by the developer. This second amendment is required to reflect the appropriate changes to Exhibit B of the first amendment.

The second amendment language also provides for approval of minor modifications to the amendment exhibit through the site plan and platting processes without formally revising the exhibit.

Board/Citizen Input:

The City Council approved the concept plan of the amenity lot on November 6, 2008.

Financial Considerations:

There is no expenditure of municipal funds associated with this item.

Attachments:

- 1) Site Plan of the development reflecting the amenity lot design.
- 2) Second Amendment to Chapter 380 Economic Development Agreement
Between The City Of Burleson And Burleson Commons, L.P.

Staff Contact:

Shai Roos, AICP
Director of Community and Economic Development
817-447- 5400 ext. 238
sroos@burlesontx.com

Attachment 2
SECOND AMENDMENT TO
CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF
BURLESON AND BURLESON COMMONS, L.P.

This Second Amendment to the Economic Development Agreement (this "**Amendment**") is entered into as of this 20th day of January, 2009 (the "**Effective Date**") by and between the City of Burleson, Texas (the "**City**"), a Texas municipal corporation of the Counties of Johnson and Tarrant, State of Texas, and Burleson Commons, L.P. (BCLP), a Texas Limited Partnership.

WITNESSETH:

WHEREAS, on April 18, 2006 the City and BCLP entered into that certain Economic Development Agreement (the "Agreement") pursuant to City Resolution No. 583 and Section 380.001 of the Texas Local Government Code (Section 380.001), said Agreement incorporated herein; and

WHEREAS, the Agreement was Amended by the Parties on the 20th day of January 2009, said Amendment having been approved by the City Council of the City of Burleson at their meeting of March 13, 2008; and

WHEREAS, the parties which to amend the Agreement to reflect changes to the development as submitted by BCLP and approved by the City; and

WHEREAS, the City Council finds and determines that this Second Amendment will effectuate the purposes set forth in the Program, and that BCLP's performance of its obligations herein will promote local economic development and stimulate business and commercial activity in the City.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **the parties agree to amend the Agreement** by replacing Article 1, Section 1.02 as follows:

Article 1. General Provisions

1.02. BCLP has purchased certain land (the "Property") in the City of Burleson, Johnson County, Texas described on Exhibit A attached hereto and made a part hereof. BCLP proposes to develop on the Property a retail/commercial center (the "Development") which Development the City has found will contribute to an increase in economic development in the City. The parties agree the Development may be revised from time to time via the City's approval of site plans, preliminary and final plats which may include all or a portion of the Property. Said site plans, preliminary and final plats, once approved by the City Council are included within the definition of the "Development" for purposes of this Agreement. This

January 20, 2009

11. -5

provision shall apply to all site plans, preliminary and final plats approved by the City since April 18, 2006 as well as any future preliminary and final plats approved for the Property.

EXECUTED on the respective dates of acknowledgment, to be effective as of the date first set forth above.

THE CITY OF BURLESON, a Texas municipal corporation

By: _____
Name _____
Title: _____

Burleson Commons, L.P. A Texas Limited Partnership

By: _____
Name: _____
Title: _____

STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on _____, 2009 by _____, known personally by me to be the _____ of the City of Burleson, on behalf of said City.

[Notary Seal]

Notary Public, State of Texas