

**REQUEST FOR PLACEMENT OF ITEM ON
CITY COUNCIL AGENDA**

(in accordance with Bryan City Charter - 5 (j) (1) (a) 2.

CITY OF BRYAN
The Good Life. Texas Style.™

Date of Request: February 18, 2014

TO: Bryan City Secretary

Item(s) to be placed on Council Meeting Date: ~~Feb~~ ^{March} 25, 2014

_____ Workshop Meeting

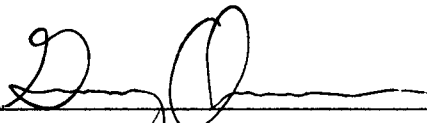
XX Regular Meeting

Subject: Park Hudson Villas Chapter 380 Economic Development Agreement


Discussion, consideration and possible action on the Park Hudson Villas Chapter 380 Economic Development Agreement, attached.

Presentation: Councilmember Owens, Mr. Bill Lero, Developer

Enclosures: History of the development, proposed Park Hudson Villas Chapter 380 Economic Development.



Greg Owens, Councilmember SMD 3 Date: _____



Rafael Pena, III, Councilmember SMO2 Date: 2.20.14

*Rec'd 2/19
at signature.*

February 18, 2014

Mr. Greg Owens
Honorable Councilmember
City of Bryan
PO Box 1000
Bryan, Texas 77805

RE: D.W.S. Development, Inc.
Development Assistance

Mr. Owens,

In 1999, The City of Bryan entered into a Public / Private Partnership with Bryan Development, Ltd. to form the Tax Incremental Reinvestment Zone #8. This project is known as the Park Hudson Subdivision and is located at Booneville Road and University Drive East.

The TIRZ#8 was established as a 20 year project, with the purpose of providing funding for public infrastructure; to help stimulate growth and development in East Bryan.

The Initial Public / Private Partnership or TIRZ#8 was funded by approximately \$2.5 Million of public funds and approximately \$1 Million of private funds that Bryan Development, Ltd contributed for the 10 acre DecisionOne Project. Bryan Development Ltd. also entered into an agreement to sell the TIRZ#8, at their cost the approximately 100 acres, that was to be given to the Bryan Independent School District and the City of Bryan. This agreement was a significant contribution by Bryan Development, Ltd to the TIRZ. This land could have been sold for major commercial development and a significant profit realized. This land is now the Park Hudson Trail Park & the Brazos County Tax office.

As you know, this plan worked very well. The Developer & the TIRZ worked together for over 12 years to create over \$165,000,000 in tax value for Bryan and has generated over \$25,000,000 in new property tax revenue.

The Park Hudson Development and the debt payback was so successful that after only approximately 12 years, the TIRZ Public Partners voted to disband TIRZ#8, 8 years ahead of the 20 year Public / Private Partnership Agreement. By disbanding the TIRZ, it allowed the Public Funding entities to refund to themselves all the remaining TIRZ cash balances and allow them to start capturing 100% of the property tax assessments directly to their general funds and not the Partnership.

The plan to end the TIRZ#8 worked well for the Public Funding Entities, bringing in millions of new dollars to the general fund every year. But now, there is no longer a Public / Private Partnership in place to provide funding for infrastructure needs in the Park Hudson Subdivision.

When TIRZ#8 was dissolved, the City of Bryan transferred the remaining TIRZ funds into the general fund. In 2013, the City of Bryan had a budget amendment to account for the windfall of \$2.5M of additional revenue that was remaining in the TIRZ#8 accounts when the TIRZ was dissolved. This \$2.5M was remaining after all the 20 year debts were retired in only 12 years and TIRZ#8 had funded in cash \$1.6M for the Park Hudson Park and \$750,000 was funded in cash for infrastructure to assist in building \$20M Gramarcy Park Apartment project (this \$750,000 in assistance was paid back in approximately 2 years) and \$250,000 was funded in cash for the new Dog Park along with a few other projects.



Because the TIRZ was dissolved in 2012 it has now allowed the City of Bryan to capture an additional \$2.5M of revenue from the TIRZ account and all of the 2013 property taxes for an additional approximate \$1M. The City of Bryan will continue to capture all of the property taxes into the future with significant increases as Park Hudson continues to develop.

Although the 20 year Public / Private TIRZ#8 was ended by the Public entities after only 12 years, the Developer, Bryan Development Ltd., continues to work and bring new projects to Park Hudson and the City of Bryan.

Bryan Development Ltd. has now come to you on behalf of D.W.S. Development, Inc. to ask you to assist them in infrastructure cost to develop an approximately \$8 Million Residential Development. The payback to the City is estimated to be 4 to 5 years.

When the City of Bryan and Bryan Development, Ltd. formed TIRZ#8 in 1999, both entities made contributions to the project that has paid long term benefits to the City of Bryan. Bryan Development, Ltd. will again be contributing to this project by greatly reducing the price of the land. The City of Bryan is being asked to contribute \$250,000 in infrastructure cost to D.W.S. Development, Inc.

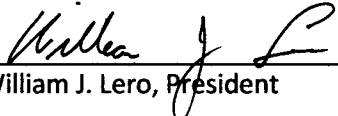
D.W.S. Development, Ltd. has a long and successful track record building and developing in Bryan & College Station. They have developed several successful projects very similar to that being proposed. We feel very strongly, that with your support, the C.O.B will not only be able to recoup their investment over the next 4 to 5 years, they will continue to receive tax & utility revenue for many years to come.

This boils down to asking the City of Bryan to reinvest (not give or donate) \$250,000 or just 10% of the \$2.5 M you have just received from dissolving the TIRZ#8, where this project is located. Your investment in Park Hudson has been paid tremendous returns to the City of Bryan.

I encourage you to review and consider the opportunity for the City of Bryan to Partner with DWS Development, Inc. DWS has had this request in for your consideration for approximately one year and I encourage you to act before other opportunities become available for them and they are no longer interested in developing this or other projects in Bryan.

Sincerely,

BRYAN DEVELOPMENT, LTD. a Texas Limited
Partnership
BY: BRYAN DEVELOPMENT GENERAL PARTNER,
INC., a Texas Corporation



William J. Lero, President

STATE OF TEXAS §

COUNTY OF BRAZOS §

PARK HUDSON VILLAS
CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

This Economic Development Agreement (“Agreement”) is entered into by and between the City of Bryan, Texas, a Texas home-rule municipal corporation, (“City”), and D.W.S Development, Inc. (“Developer”).

WHEREAS, the Texas Constitution prohibits any city, or other political subdivision, from lending its credit or granting public money to any individual, association or corporation whatsoever without a valid public purpose for doing so; and

WHEREAS, the Texas Constitution specifically states that economic development programs created pursuant to Chapter 380 of the Texas Local Government Code serve the public purpose of alleviating poverty, joblessness, economic blight, and provide other intangible benefits incidental to the development of the local economy; and

WHEREAS, the City created the now expired TIRZ 8 to encourage the development of land along the Boonville Road corridor, and though that TIRZ has ended, there is still a need to develop some as yet vacant land; and

WHEREAS, Developer is the owner of an approximately nine-acre piece of land in that area (“Property”) that Developer intends to develop as single family attached townhomes marketed in the range of \$190,000-\$300,000, and will subdivide the property in general conformity with **Exhibit A**; and

WHEREAS, the City Council finds that one of the reasons the Property has not developed before now is because it is an oddly shaped lot with a number of encumbrances (including easements and floodplain) which makes development difficult; and

WHEREAS, the City Council further finds that the project will not be economically feasible without some assistance from the City, given the odd shape of the tract and the encumbrances (easements and floodplain); and

WHEREAS, the City Council determines that it is in the best interests of the City to reimburse some of the costs associated with public infrastructure in exchange for the Developer’s agreement to construct residential housing of a quality and density that the City needs for its long term growth; and

WHEREAS, the City Council has also determined that there is a need for single family attached townhouses in the approximately \$200,000 to \$300,000 range, which the Developer plans on constructing in general conformity with **Exhibit B**, and so the planned development fills a market need, resulting in long term benefits to the City as a whole; and

WHEREAS, the Developer will construct a public street, water line, and sewer line that will connect the project with existing City utilities and the City is willing to reimburse the verified hard costs associated with that construction in an amount not to exceed \$250,000; and

NOW, THEREFORE, for and in consideration of the premises and mutual agreements and covenants set forth herein, the City and the Developer agree as follows:

ARTICLE I
INFRASTRUCTURE PROJECTS

1. The Developer will construct a public street meeting the City's standards for residential streets and will convey, by plat, the required rights of way and easements per the City's Code of Ordinances.
2. The Developer will construct, if necessary, improvements and infrastructure connecting to the City's storm sewer system. The Developer will comply with all City Ordinances and requirements related to construction of the storm sewer infrastructure and connection to the City system.
3. The Developer will construct a water line of sufficient size, as determined by the City, to serve the development and connect the water line to the City's existing water system. The Developer will comply with all City Ordinances and requirements related to construction of the waterline and connection to the City system.
4. The Developer will construct the sanitary sewer system to serve the Property, again following the City's Ordinances and requirements related to construction, size, and connection to the City's system.
5. Collectively the public street, storm sewer, water line, and sanitary sewer projects are referred to in this Agreement as "Infrastructure Projects".

ARTICLE II
REIMBURSEMENT

6. The City will reimburse the Developer up to \$250,000.00 in hard costs for the Infrastructure Projects, in the manner provided herein. After completion of construction and acceptance of the Infrastructure Projects by the City, the Developer may submit a request for reimbursement of the documented hard costs. The request must be accompanied by sufficient documentation to establish the actual hard costs associated with the Infrastructure Projects, which sufficiency is reasonably determined by the City. Once sufficient documentation has been provided, reimbursement will be made within thirty (30) days.
7. The City's obligations under this Agreement are conditioned upon annual appropriation for same by the City Council.
8. As used herein, the term "hard costs" means material and labor costs directly related to the Infrastructure Projects. The term specifically excludes design and engineering costs.

ARTICLE V
MISCELLANEOUS

9. **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added as part of this Agreement a provision that is legal, valid and enforceable and that is as similar as possible in terms and substance as possible to the deleted provision.
10. **Texas law to apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas and the obligations of the parties created hereunder are performable by the parties in

the City of Bryan, Texas. Venue for any litigation arising under this Agreement shall be in a court of appropriate jurisdiction in Brazos County, Texas.

11. Sole Agreement. This Agreement constitutes the sole and only Agreement of the Parties hereto respecting the subject matter covered by this Agreement, and supersedes any prior understandings or written or oral agreements between the parties.

12. Amendments. No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing and dated subsequent to the date hereof and duly executed by the parties hereto.

13. No Waiver. City's failure to take action to enforce this Agreement in the event of Developer's default or breach of any covenant, condition, or stipulation herein on one occasion shall not be treated as a waiver and shall not prevent City from taking action to enforce this Agreement on subsequent occasions.

14. Notices. City and Developer hereby designate the following individuals to receive any notices required to be submitted pursuant to the terms of this Agreement:

CITY

City of Bryan
City Manager
P.O. Box 1000
Bryan, Texas 77805-1000

DEVELOPER

D.W.S Development, Inc.
David Scarmardo, President
PO Box 4508
Bryan, Texas 77805

15. Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are hereby incorporated herein as part of this Agreement.

16. Incorporation of Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

17. Headings. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs.

18. Duplicate Originals. The parties may execute this Agreement in duplicate originals, each of equal dignity. If the parties sign this Agreement on different dates, the later date shall be the effective date of this Agreement for all purposes.

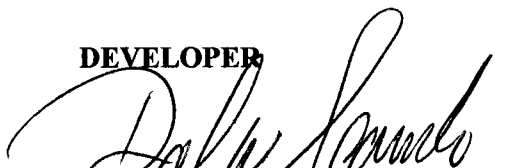
ATTEST:

CITY OF BRYAN, TEXAS

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

DEVELOPER



David Scarmardo, President

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney