

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: City Development

AGENDA DATE: Consent Agenda – July 31, 2012

CONTACT PERSON/PHONE: Mathew McElroy, Director, 541-4193

DISTRICT(S) AFFECTED: ALL DISTRICTS

SUBJECT:

Discussion and action on a resolution that the City Manager be authorized to execute a First Amendment to Chapter 380 Economic Development Agreement between the City and El Paso Place Apartments, LLC (“Applicant”) regarding the Applicant’s construction of a large-scale multi-family housing development in El Paso, Texas, which extends the deadline to obtain a certificate of occupancy for the development and provides additional consideration to the City for the agreed upon extension. (**All Districts**) [City Development Department – Mathew McElroy, Director 541-4193]

BACKGROUND/DISCUSSION:

On September 12, 2009 the City and NLIGP, LLC entered into a Chapter 380 Economic Development Program Agreement related to economic development incentives for the construction of 612 unit multi-family housing development; on December 15, 2009 the City consented to the assignment of the Agreement from NLIGP, LLC to El Paso Place Apartments, LLC. The multi-family housing development is located at 11611 Dyer in El Paso, Texas. The Applicant is requesting an extension deadline of one year to obtain a certificate of occupancy for the development due to expire on September 1, 2012 and agrees to obtain a certificate of occupancy for the development by September 1, 2013. Applicant also agrees to construct additional amenities as part of their consideration for the extension. Staff is recommending approval of the First Amendment of the Chapter 380 Agreement as the development is anticipated to encourage increased economic development in the City, provide significant increases in the City’s property tax revenues, and improves the City’s housing options, and therefore meets the requisites under Chapter 380 of the Texas Local Government Code.

PRIOR COUNCIL ACTION:

On September 12, 2009, upon approval by City Council, the City of El Paso and the Applicant entered into a Chapter 380 Economic Development Program Agreement.

AMOUNT AND SOURCE OF FUNDING:

General Fund – 380 Agreement.

BOARD/COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: _____





MEMORANDUM

DATE: July 31, 2012
TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
FROM: Mathew McElroy, City Development Director
SUBJECT: First Amendment to Chapter 380 Agreement-El Paso Place
Apartments, LLC

On March 31, 2009, El Paso's City Council approved a resolution establishing the multifamily housing needs incentive policy and Chapter 380 Grant Program. This program was implemented, as an additional 28,000 soldiers would be stationed at Fort Bliss under Base Realignment and Closure (BRAC). Furthermore, it was estimated that 37,000 family members would accompany the additional soldiers to the El Paso area. Market analyses conducted at the time indicated that the greater El Paso area would face a multifamily housing shortage for troops and civilians and their families. As such, El Paso's City Council determined that it was necessary to establish a short-term citywide multi-family housing needs incentive policy and accompanying Chapter 380 grant program to promote and stimulate business activity that would result in the immediate construction of large-scale multi-family housing developments to alleviate the critical housing needs of the City.

The incentive policy established by City Council on March 31, 2009 allowed staff to draft agreements for the development of 4,000 multifamily units throughout the El Paso area. The allotted units quickly filled as developers from within the city and out of state filled the multifamily housing shortage. On September 1, 2009, El Paso Place Apartments (formerly NLI GP) signed a 380 agreement with the City of El Paso to develop a 612-unit apartment complex at 11611 Dyer Street by September 1, 2012. However, due to unforeseen circumstances such as the coordination of utility installation with El Paso Electric and El Paso Water Utilities and the time needed by the



Two Civic Center Plaza
El Paso, TX 79901
(915) 541-0000

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

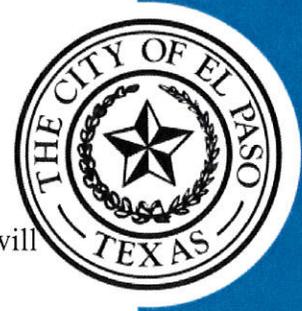
District 7
Steve Ortega

District 8
Cortney Carlisle Niland

City Manager
Joyce A. Wilson

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S E R V I C E S O L U T I O N S S U C C E S S



Applicant to familiarize with the City's local ordinances, the development will not be completed by September 1, 2012

Given the considerable public benefit that stands to be realized from the success of this project and as an example of a developer who invested in the El Paso community during the Fort Bliss expansion, it is in the best interest of the City to ensure that this development is successful and continues to improve the quality of life for its residents. To this end, the applicant has agreed to add additional amenities to the Parks within the development. The First Amendment presented herein reflects the Applicants agreement to include additional amenities, and additionally amends the agreement to extend the deadline to September 1, 2013.

Staff is recommending approval of the First Amendment of the Chapter 380 Agreement as the development is anticipated to encourage increased economic development in the City, provide significant increases in the City's property tax revenues, improves the City's housing options, and therefore meets the requisites under Chapter 380 of the Texas Local Government Code.

Mayor
John F. Cook

City Council

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City Manager
Joyce A. Wilson



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El Paso, TX 79901
(915) 541-0000

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to execute a First Amendment to Chapter 380 Economic Development Agreement between the City and El Paso Place Apartments, LLC (“Applicant”) regarding the Applicant’s construction of a large-scale multi-family housing development in El Paso, Texas, which extends the deadline to obtain a certificate of occupancy for the development and provides additional consideration to the City for the agreed upon extension.

ADOPTED this ____ day of _____, 2012.

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

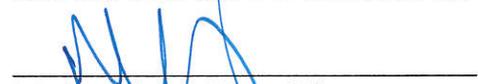
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew S. McElroy, Director
City Development

STATE OF TEXAS) **FIRST AMENDMENT TO CHAPTER 380 ECONOMIC**
) **DEVELOPMENT PROGRAM AGREEMENT**
COUNTY OF EL PASO) (Multi-Family Housing Development)

This First Amendment to Chapter 380 Economic Development Program Agreement (“Amendment”) is made this _____ day of _____, 2012, by and between the **CITY OF EL PASO, TEXAS** (the “CITY”) and **EL PASO PLACE APARTMENTS, LLC** (“APPLICANT”).

WHEREAS, on September 1, 2009, the CITY and NLIGP, LLC entered into a Chapter 380 Economic Development Program Agreement (the “Agreement”) related to economic development incentives for the construction of 612 unit multi-family housing development in El Paso, Texas; and

WHEREAS, on December 15, 2009, the CITY consented to the assignment of the Agreement from NLIGP, LLC to El Paso Place Apartments, LLC; and

WHEREAS, the parties now desire to amend the Agreement for the purpose of extending APPLICANT’s deadline to obtain a certificate of occupancy for the Development for which the APPLICANT has agreed to provide additional consideration to the CITY.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL COVENANTS AND AGREEMENTS, THE PARTIES HEREBY MUTUALLY AGREE AS FOLLOWS:

1. On page 3, Section 3. Obligations of Applicant, subsection A is revised to read as follows:

“APPLICANT agrees to develop and construct, at its sole cost, the Development. APPLICANT must obtain a certificate of occupancy for the Development by **September 1, 2013.**”

2. On page 4, Section 3. Obligations of Applicant is revised to add the following subsection F, to read as follows:

F. APPLICANT agrees to construct, at is sole cost, the following listed amenities (“additional amenities”) for the two parks in the Development, all of which is identified in **Exhibit C**, attached hereto and incorporated for all purposes:

1. In Park “A”: (i) a basketball court with two benches; (ii) one litter receptacle; and (iii) one mutt mitt station; and
2. In Park “B”: (i) 250 feet of architectural fencing; (ii) gates for the dog park; (iii) two shaded picnic tables; (iv) one litter receptacle; and (v) one mutt mitt station.

The amenities listed above are in addition to the amenities required by Northern Lights – Subdivision & Park Improvement Plans’ Letter of Approval dated March 19, 2010 and the plans last revised/approved on April 7, 2010.

Prior to the construction of the additional amenities for the parks identified in **Exhibit C** (the "Amenities"), APPLICANT shall submit a set of Park Improvement Plans concerning the same to the Parks and Recreation Department (the "Parks Department") for review and approval based on the CITY's design standards. In constructing the Amenities, APPLICANT agrees to comply with all applicable provisions in Title 19 Subdivisions of the El Paso City Code, including without limitation, the requirement that the Parks Departments shall inspect the Amenities prior to any acceptance of the same for maintenance or dedication to the CITY.

3. Except as amended herein, the Agreement between the CITY and APPLICANT shall remain in full force and effect.

IN WITNESS WHEREOF, the CITY and APPLICANT have executed this First Amendment to the Agreement as of the date first written above.

CITY OF EL PASO:

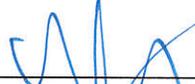
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew S. McElroy, Director
City Development Department

APPROVED AS TO CONTENT:



Nanette Smejkal, Director
Parks and Recreation Department

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the ____ day of _____, 2012, by Joyce A. Wilson, as City Manager of the City of El Paso, Texas, on behalf of the City of El Paso, Texas (City).

Notary Public, State of Texas

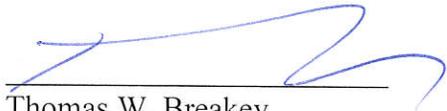
My Commission Expires:

[Signatures and Acknowledgments Continue on the Following Page]

APPLICANT:

EL PASO PLACE APARTMENTS, LLC,
a Michigan limited liability company

By: MRD OPS, LLC,
a Michigan limited liability company
Its: Manager

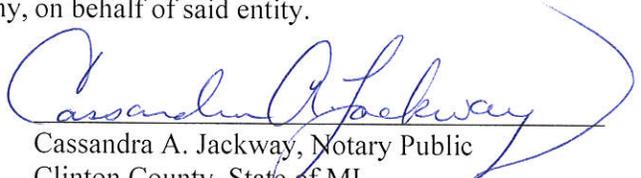
By: 
Thomas W. Breakey
Its: Manager

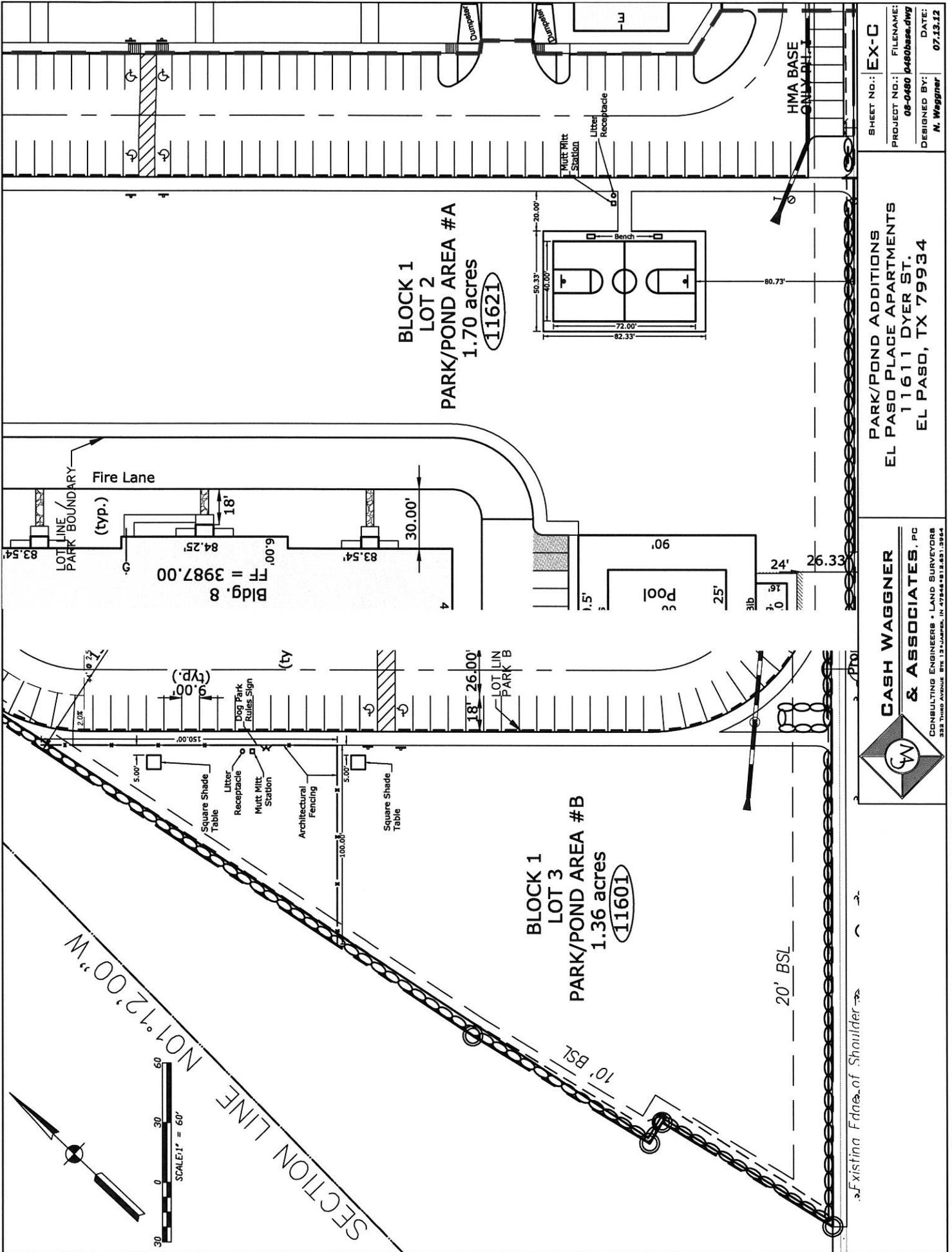
ACKNOWLEDGMENT

STATE OF MICHIGAN §
 §
COUNTY OF INGHAM §

This instrument was acknowledged before me on the 11th day of July 2012, by Thomas W. Breakey, as Manager of MRD OPS, LLC, a Michigan limited liability company, the Manager of El Paso Place Apartments, LLC, a Michigan limited liability company, on behalf of said entity.




Cassandra A. Jackway, Notary Public
Clinton County, State of MI
My Commission Expires: November 25, 2014
Acting in Ingham County, MI



SHEET NO.: **EX-C**
 PROJECT NO.: **08-0480**
 FILENAME: **0480base.dwg**
 DESIGNED BY: **N. Wegner**
 DATE: **07.13.12**

PARK/POND ADDITIONS
EL PASO PLACE APARTMENTS
11611 DYER ST.
EL PASO, TX 79934

CASH WAGNER & ASSOCIATES, PC
 CONSULTING ENGINEERS & LAND SURVEYORS
 328 THIRD AVENUE, SUITE 1300, INDIANAPOLIS, IN 46204-2818, USA