



**Economic Development Corporation
(Type A) Agenda**

**Monday, January 22, 2024
4:30 PM**

**City Hall - 141 W. Renfro
Burleson, TX 76028**

1. CALL TO ORDER

2. CITIZENS APPEARANCES

Each person in attendance who desires to speak to the Board on an item NOT posted on the agenda, shall speak during this section. A speaker card must be filled out and turned in to the City Secretary prior to addressing the Board. Each speaker will be allowed three minutes to speak.

Each person in attendance who desires to speak on an item posted on the agenda shall speak when the item is called forward for consideration.

3. GENERAL

A. Consider approval of the minutes from the December 11, 2023, Economic Development Corporation (Type A) meeting. (*Staff Contact: Amanda Campos, City Secretary*)

B. Consider approval of a Performance Agreement between the Burleson 4A Economic Development Corporation and 16:11 Sports, LLC. for a development located at 224 East Renfro Street in Burleson, Texas. (*Staff Presenter: Alex Philips, Economic Development Director*)

4. BOARD REQUESTS FOR FUTURE AGENDA ITEMS OR REPORTS

5. RECESS INTO EXECUTIVE SESSION

In accordance with Chapter 551 of the Texas Government Code, the Board may convene in Executive Session in the City Council Workroom in City Hall to conduct a closed meeting to discuss any item listed on this Agenda.

- A. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071, Texas Government Code**
- B. Discussion regarding possible purchase, exchange, lease, or value of real property pursuant to Section 551.072, Texas Government Code**
- C. Deliberation regarding commercial or financial information received from or the offer of a financial or other incentive made to a business prospect seeking to locate, stay or expand in or near the territory of the City and with which the City is conducting economic development negotiations pursuant to Section 551.087, Texas Government Code**

CERTIFICATE

I hereby certify that the above agenda was posted on this the 17th of January 2024, by 6:00 p.m., on the official bulletin board at the Burleson City Hall, 141 W. Renfro, Burleson, Texas.



Amanda Campos

City Secretary

ACCESSIBILITY STATEMENT

The Burleson City Hall is wheelchair accessible. The entry ramp is located in the front of the building, accessible from Warren St. Accessible parking spaces are also available in the Warren St. parking lot. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the A.D.A. Coordinator at 817-426-9600, or TDD 1-800-735-2989.

Economic Development Corporation (Type A)

DEPARTMENT: City Secretary's Office
FROM: Amanda Campos, City Secretary
MEETING: January 22, 2024

SUBJECT:

Consider approval of the minutes from the December 11, 2023 Economic Development Corporation (Type A) meeting. (*Staff Contact: Amanda Campos, City Secretary*)

SUMMARY:

The Burleson 4A Economic Development Corporation Board duly and legally met on December 11, 2023.

RECOMMENDATION:

- 1) Board may approve the minutes as presented or approve with amendments.

FISCAL IMPACT:

N/A.

STAFF CONTACT:

Amanda Campos, TRMC
Deputy City Secretary
acampos@burlesontx.com
817-426-9665

BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION
December 11, 2023
DRAFT MINUTES

BOARD MEMBERS PRESENT:

Phil Anderson, Place 2
Ronnie Johnson, Place 4
Larry Scott, Place 1
Dan McClendon, President, Place 3
Adam Russell, Place 5

BOARD MEMBERS ABSENT:

Staff present:

Tommy Ludwig, City Manager
Harlan Jefferson, Deputy City Manager
Eric Oscarson, Deputy City Manager
Amanda Campos, City Secretary
Monica Solko, Deputy City Secretary
Matt Ribitzki, Deputy City Attorney

1. CALL TO ORDER – 4:45 P.M.

President Dan McClendon called the meeting to order. **Time: 4:50 P.M.**

2. CITIZEN APPEARANCE

- No speakers.

3. GENERAL

- A. Consider approval of the minutes from the November 13, 2023 Economic Development Corporation (Type A) meeting. (*Staff Contact: Amanda Campos, City Secretary*)**

Motion by Ronnie Johnson and seconded by Adam Russell to approve.

Motion passed 5-0.

- B. Resolution 4A12112023ChisholmSummitLakewoodDr authorizing the reimbursement of R.A. Development, Ltd., for costs associated with installation of pedestrian and street lighting along Lakewood Drive pursuant to an existing Chapter 380 and Economic Development and Performance Agreement in the amount of \$599,413.50. (*Staff Presenter: Errick Thompson, Director of Public Works & Engineering*)**

Errick Thompson, Director of Public Works & Engineering, presented a resolution to the board.

Motion by Adam Russell and seconded by Phil Anderson to approve.

Motion passed 5-0.

4. BOARD REQUESTS FOR FUTURE AGENDA ITEMS OR REPORTS

- None.

5. RECESS INTO EXECUTIVE SESSION

- A. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071, Texas Government Code
- B. Discussion regarding possible purchase, exchange, lease, or value of real property pursuant to Section 551.072, Texas Government Code
- C. Deliberation regarding commercial or financial information received from or the offer of a financial or other incentive made to a business prospect seeking to locate, stay or expand in or near the territory of the City and with which the City is conducting economic development negotiations pursuant to Section 551.087, Texas Government Code

- No executive session needed.

6. ADJOURNMENT

There being no further discussion President Dan McClendon adjourned the meeting.
Time: 4:58 P.M.

Monica Solko
Deputy City Secretary

Economic Development Corporation (Type A)

DEPARTMENT: Economic Development

FROM: Alex Philips, Economic Development Director

MEETING: January 22, 2024

SUBJECT:

Consider approval of a Performance Agreement between the Burleson 4A Economic Development Corporation and 16:11 Sports, LLC. for a development located at 224 East Renfro Street in Burleson, Texas. (*Staff Presenter: Alex Philips, Economic Development Director*)

SUMMARY:

1611 Indoor Golf Club is a full service kitchen and bar featuring Trackman branded indoor golf simulator bays. 1611 Indoor Golf Club caters to the golfer that wants to improve their game as well as the weekend golfer who loves the game with friends. They provide a unique atmosphere with a laid back, fun and energetic modern day country club feel.

Founded in 2017 with one location, a second location followed in 2021, both in Fort Worth. 1611 Golf is now interested in opening their third location and relocated their corporate headquarters to Burleson. Specifically, Old Town Burleson in the former location of Dollar General on Renfro Street. This 1611 Golf location would mark Old Town's first "entertainment" use.

The Burleson location would feature eight private simulation bays, large putting green, full service kitchen and bar and a large private room for parties and meetings. 1611 Golf will also dramatically improve the façade of the existing building.

Staff has negotiated incentives to help facilitate the expansion and relocation of their headquarters in the form of a performance agreement.

1611 Golf Club Obligations:

- Execute a lease with the property owner by March 31, 2024
- Commence the remodel of the space including the façade improvements depicted in the presentation and exhibit by June 30, 2024

- Relocate the Corporate HQ to the Burleson location with all executive staff by December 31, 2024
- Receive the Certificate of Occupancy and open to the public by December 31, 2024

Burleson 4A EDC Obligations:

- Once the prospect has received the Certificate of Occupancy and relocated the Corporate HQ to the Burleson location with all executive staff; the Burleson 4A Economic Development Corporation will issue a cash contribution of \$250,000

In addition to these terms, the parties agree that following the Opening Date, if the Property is converted to a use other than the Corporate Headquarters and Golf-Simulator Entertainment Center, 1611 shall repay to the BEDC an amount equal to the total amount of the Incentive less Fifty Thousand Dollars (\$50,000.00) for every full year 1611 operated the Corporate Headquarters and Golf-Simulator Entertainment Center on the Property in accordance this Agreement.

RECOMMENDATION:

Staff recommends approval of this performance agreement

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

REFERENCE:

Insert CSO# if applicable

Insert resolution or ordinance change

FISCAL IMPACT:

\$250,000.00 will be budgeted in the following fiscal year to facilitate the incentive payment

STAFF CONTACT:

Alex Philips
Economic Development Director
aphilips@burlesontx.com
817-426-9613



Project 1611

Project 1611

- Founded in 2017 in Fort Worth and opened a second location in 2021.
- 1611 Indoor Golf Club offers a full service bar and kitchen, Trackman bays, a big tilt putting green and dozens of big screen TV's.
- 1611 Indoor Golf Club caters to the golfer that wants to improve their game as well as the weekend golfer who loves the game with friends.
- 1611 Indoor Golf provides an atmosphere with a laid back, fun and energetic modern day country club feel.



Item B.



Project 1611



Item B.

- Prospect would take over the Dollar General space next to City Market that is approximately 8,000 square feet.
- This use would provide Old Town with it's first entertainment use.
- Prospect would relocate their Corporate HQ from Fort Worth to Burleson as they continue to expand throughout the Metroplex.
- 1611 Indoor Golf provides an atmosphere with a laid back, fun and energetic modern day country club feel.



Project 1611



Item B.

- The layout would include 8 bays, large putting green entrance, full service bar and grill and large private bay for birthday parties or meetings.
- Prospect would also be updating the façade of the building.
- The CEO of the business and 2 other FTE's would be relocating to the new Corporate HQ here in Burleson.



Project 1611



Item B.



Before



After



 **1611 GOLF CLUB**
BAR & CRAFT KITCHEN

Prospect Obligations

- Execute a lease with the property owner by March 31, 2024 for a term of 6 years.
- Commence the remodel of the space including the façade improvements depicted in the presentation and exhibit by June 30, 2024.
- Relocate the Corporate HQ to the Burleson location with all executive staff by December 31, 2024.
- Receive the Certificate of Occupancy and open to the public by December 31, 2024.
- Make a minimum capital investment of \$2 million dollars.
- During the term 1611 shall not operate a corporate headquarters specified in the agreement in Collin, Dallas, Denton, Ellis, Hill, Hood, Johnson, Parker, Rockwall, Somervell, and Tarrant.



4A Obligations & Clawback



Item B.

4A Obligations

- 1611 to receive an incentive payment of \$250,000 once the following is completed and verified:
 - Receive a Certificate of Occupancy for the Development.
 - Operating the Development on the Property.
 - Making a Capital Investment of no less than Two Million Dollars (\$2,000,000) into the Property. the Incentive due to 1611 shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).

Clawback

- Following the Opening Date, if the Property is converted to a use other than the Corporate Headquarters and Golf-Simulator Entertainment Center, 1611 shall repay to the BEDC an amount equal to the total amount of the Incentive less Fifty Thousand Dollars (\$50,000.00) for every full year 1611 operated the Corporate Headquarters and Golf-Simulator Entertainment Center on the Property.

Project 1611

Project Name	2024 Year 1	2025 Year 2	2026 Year 3	2027 Year 4	2028 Year 5	2029 Year 6	2030 Year 7	2031 Year 8	2032 Year 9	2033 Year 10	2043 Year 20
CAPEX	\$ 2,000,000.00	\$ 2,060,000.00	\$ 2,121,800.00	\$ 2,185,454.00	\$ 2,251,017.62	\$ 2,318,548.15	\$ 2,388,104.59	\$ 2,459,747.73	\$ 2,533,540.16	\$ 2,609,546.37	\$ 3,507,012.11
Appraised Value (70% of CAPEX)	\$ 1,400,000.00	\$ 1,442,000.00	\$ 1,485,260.00	\$ 1,529,817.80	\$ 1,575,712.33	\$ 1,622,983.70	\$ 1,671,673.22	\$ 1,721,823.41	\$ 1,773,478.11	\$ 1,826,682.46	\$ 2,454,908.47
Revenue											
Sales Tax	\$ 40,000.00	\$ 41,200.00	\$ 42,436.00	\$ 43,709.08	\$ 45,020.35	\$ 46,370.96	\$ 47,762.09	\$ 49,194.95	\$ 50,670.80	\$ 52,190.93	\$ 70,140.24
Property Tax	\$ 10,080.00	\$ 10,382.40	\$ 10,693.87	\$ 11,014.69	\$ 11,345.13	\$ 11,685.48	\$ 12,036.05	\$ 12,397.13	\$ 12,769.04	\$ 13,152.11	\$ 17,675.34
Expenses											
Corporate HQ	\$ (250,000.00)										
Annual	\$ (199,920.00)	\$ 51,582.40	\$ 53,129.87	\$ 54,723.77	\$ 56,365.48	\$ 58,056.45	\$ 59,798.14	\$ 61,592.08	\$ 63,439.85	\$ 65,343.04	\$ 87,815.58
Cumulative		\$ (148,337.60)	\$ (95,207.73)	\$ (40,483.96)	\$ 15,881.52	\$ 73,937.97	\$ 133,736.11	\$ 195,328.19	\$ 258,768.03	\$ 324,111.08	\$ 1,095,668.35

10 Year – 130%

20 Year – 438%

1611 Performance Agreement

- Approve the Performance Agreement between the Burleson 4A Economic Development Corporation and 1611, LLC.
- Deny the Performance Agreement between the Burleson 4A Economic Development Corporation and 1611, LLC.



**PERFORMANCE AGREEMENT BETWEEN THE BURLESON 4A ECONOMIC
DEVELOPMENT CORPORATION AND 16:11 BURLESON, LLC**

This Performance Agreement (the "Agreement") is entered into as of January ___, 2023 (the "Effective Date") by and between the Burleson 4A Economic Development Corporation, a Texas municipal development corporation ("BEDC"), by and through its Board President, and 16:11 Burleson, LLC, a Texas limited liability company ("1611"), by and through its manager, 16:11 Management, LLC, a Texas limited liability company (the "Manager").

WITNESSETH:

WHEREAS, the City of Burleson, a Texas home rule municipal corporation ("City"), located in the counties of Johnson and Tarrant, has established a historic regional landmark and economic center with unique architecture in the Old Town Burleson ("Old Town"); and

WHEREAS, the City desires to encourage and incentivize high quality development in Old Town with architecture that is consistent with Old Town (as defined in the City's Zoning Ordinance) and ties to existing walkability comprised of office, retail, restaurants and some commercial; and

WHEREAS, 1611 will enter into a lease with the owner of the real property in the heart of Old Town commonly known as 224 E Renfro Street in Burleson, Johnson County, Texas, and as depicted in **Exhibit A**, attached hereto and incorporated herein by reference for all purposes (the "Property"), and the lease will allow 1611 to modify and renovate ; and

WHEREAS, 1611 proposes to operate a regional or national commercial headquarters and a golf-simulator entertainment center on the Property; and

WHEREAS, 1611 desires to develop and operate a development on the Property in a manner that will create Qualified Jobs and are suitable to the development and expansion of regional or national corporate headquarter facilities; and

WHEREAS, the Property is not owned or leased by any member of the Burleson City Council, any member of the BEDC Board, or any member of the City Planning and Zoning Commission; and

WHEREAS, the BEDC Board finds and determines that the incentives contemplated in this Agreement constitute a "Project" as defined by the Development Corporation Act, codified in Subtitle C-1 of Title 12 of the Texas Local Government Code, in Section 501.101, in that the expenses are for land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or

retention of primary jobs and required or suitable for the development, retention, or expansion of regional or national corporate headquarter facilities; and

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 as follows:

ARTICLE 1. **AUTHORIZATION**

The Burleson City Council and the BEDC Board both find and determine that this Agreement is authorized by Chapters 501 and 504 of the Texas Local Government Code, and that that the incentives contemplated in this Agreement constitute a "Project" as defined by the Development Corporation Act, codified in Subtitle C-1 of Title 12 of the Texas Local Government Code, in Section 501.101.

ARTICLE 2. **DEFINITIONS**

2.01 The terms "1611," "Manager," "Agreement," "BEDC," "City," "Effective Date," "Old Town," "Project," and "Property," shall have the meanings provided, above.

2.02 "Building Permit" means the permit issued by the City's building official reflecting that 1611 may commence with construction of the Development in conformance with appropriate municipal codes.

2.03 "Capital Investment" means and shall include all costs incurred relating to the improvement of the Property, including actual construction costs including costs of all site preparation, buildings, structures, infrastructure, utilities, landscaping and other onsite improvements, including all labor and materials, architect fees, and engineering fees but shall not include financing costs for the Capital Investments, insurance costs, marketing costs.

2.04 "Certificate of Occupancy" means the certificate issued by the City's building official reflecting that construction has been completed in conformance with appropriate municipal codes and 1611 is authorized to secure full utility service and permit occupancy of a Development building or portion thereof.

2.05 "City Manager" means the city manager of the City.

2.06 "Concept Plan" means the plan depicted on **Exhibit B**.

2.07 "Corporate Headquarters" means the 1611 regional or national corporate headquarters facilities located in the Development on the Property, for which a majority of the products and services of that company are ultimately exported to regional,

statewide, national, or international markets, to be constructed and operated in general conformance with the Concept Plan.

2.08 “Development” means the renovation of the portion of the building on the Property of at least 8,000 square feet, of which a minimum of 1,600 square feet will be the Corporate Headquarters and a minimum of 6,400 square feet of Golf-Simulator Entertainment Center, including façade improvements to the building, to be constructed in general conformance with the Concept Plan. The 1,600 square feet for the Corporate Headquarters shall include corporate offices, a conference room, and a training room/fitting studio.

2.09 “Event of Bankruptcy” means the dissolution or termination of 1611’s existence as a going business, insolvency, appointment of receiver for any part of 1611’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against 1611 and such proceeding is not dismissed within ninety (90) days after the filing thereof.

2.10 “FTE” means a job requiring a minimum of One Thousand Nine Hundred Twenty (1,920) hours of work averaged over a twelve (12) month period with a minimum annual average salary of \$40,000.00, generally required as part of its job duties or requirement to office at the Corporate Headquarters.

2.11 “Golf-Simulator Entertainment Center” means the entertainment facilities located in the Development on the Property, which shall include at least eight (8) bays, large putting green, full-service bar and grill, and an additional large private bay for birthday parties or meeting, to be constructed and operated in general conformance with the Concept Plan.

2.11 “Incentives” mean the combined contributions, monetary or otherwise, of the BEDC towards completion of the Development, as required by this Agreement.

2.12 “Opening Date” means that date on which 1611, after receiving a Certificate of Occupancy for the Development, opens and begins to operate the Development, including the Corporate Headquarters and Golf-Simulator Entertainment Center, on the Property.

2.13 “Qualified Job” means an FTE in one of the following sector of the North American Industry Classification System (NAICS): (i) 551 – Management of Companies and Enterprises.

ARTICLE 3. **TERM**

The term of this Agreement shall commence on the Effective Date and will terminate six (6) years following the date 1611 receives a Certificate of Occupancy for the Development on the Property.

ARTICLE 4. IN GENERAL

4.01 The Development and Qualified Jobs. It is the parties' intent to cooperate in the creation of a high-end mixed-use development comprised of a corporate headquarters and commercial entertainment to enhance and compliment Old Town substantially in conformance with the Concept Plan set forth in **Exhibit B**. 1611 will be primarily responsible for constructing the Development. Additionally, it is the parties' intent that the Development will result in three (3) new Qualified Jobs in the City, specifically, in Old Town. The BEDC will provide the Incentives set forth in this Agreement provided 1611 is in compliance with its duties and obligations set forth herein. It is understood that these three (3) new Qualified Jobs may be employed by 1611 or by Manager.

4.02 BEDC Participation. The BEDC's obligations under this Agreement shall not exceed Two Hundred and Fifty Thousand Dollars (\$250,000.00) for all obligations set forth herein, including all Incentives. The BEDC authorizes the City Manager to allocate such funds as permitted by law, and as necessary to meet the BEDC obligations set forth in this Agreement.

ARTICLE 5. COVENANTS OF 1611

5.01 Covenants Regarding 1611 Development and Operations. In consideration of BEDC agreeing to pay 1611 the Incentives in accordance with the terms, provisions and conditions of this Agreement, 1611 agrees to the following, which are not obligations of 1611, but are duties that must be fulfilled in order to receive the Incentives, subject to Article 12 below:

A. Design and construct the Development in substantial conformance with the criteria and development standards set forth in the ordinances of the City of Burleson and applicable state and federal laws.

B. Design and construct the Development in substantial conformance with the Concept Plan.

C. Operate the Development in substantial conformance with the criteria and development standards set forth in the ordinances of the City of Burleson and applicable state and federal laws.

D. Enter into a commercial lease agreement with the fee simple owner of the Property to construct, renovate, and operate the Development on the Property on terms mutually agreeable to the fee simple owner of the property and 1611 by March 31, 2024,

and the lease shall specifically allow 1611 to perform all the obligations under this Agreement and be for an initial minimum term of ten (10) years.

E. Commence construction (i.e., obtain a building permit from the City and start renovations) on the Development no later than June 30, 2024.

I. Substantially Complete construction of the Development no later than December 31, 2024.

J. Make a minimum Capital Investment of no less than Two Million Dollars (\$2,000,000.00) in the Property no later than December 31, 2024.

M. Achieve an Opening Date for the Development, including its Corporate Headquarters, no later than December 31, 2024.

N. Obtain a Certificate of Occupancy to operate the Development on the Property no later than December 31, 2024.

O. After the Opening Date, 1611 shall operate the Development, including its Corporate Headquarters, for the term of this Agreement subject to (i) Force Majeure, (ii) casualty and condemnation, and (iii) temporary closings for repair, renovations and/or alterations not to exceed ninety (90) consecutive days, in each event, subject to extensions for force majeure. As part of the operation of the Development, the 1611 Corporate Headquarters occupied by Manager shall employ no less than three (3) Qualified Jobs.

P. During the term of this Agreement, neither 1611 nor Manager shall operate a corporate headquarters other than the Corporate Headquarters specified in this Agreement in the following Texas counties: Collin, Dallas, Denton, Ellis, Hill, Hood, Johnson, Parker, Rockwall, Somervell, and Tarrant.

Q. 1611 shall remain current and paid on all property taxes, subject to appeal rights in accordance with law and subject to a right to cure any delinquency as set forth herein.

5.02 Verification of Capital Investment. Within 45 days following the receipt of a Certificate of Occupancy for the Development, 1611 shall provide written verification to the BEDC that the Capital Investment made by 1611 meets or exceeds the requirements set forth in this Agreement. 1611 agrees that the BEDC and City shall not be required to make any Incentive payments under this Agreement until such time that 1611 provides such written verification. The BEDC may request, and 1611 hereby agrees that it will permit reasonable review of information that permits the BEDC to verify that the Capital Investment made by 1611 for the Development meets or exceeds the requirements of this Agreement.

5.03 Verification of Qualified Jobs. In verifying Section 5.01(O) as it relates to Qualified Jobs, 1611 or Manager, as the case may be, shall provide written documentation to the BEDC annually for the term of this Agreement beginning December 31, 2025, that 1611 or Manager, jointly, has employed no less than three (3) Qualified Jobs at the Corporate Headquarters. Such written documentation shall include an employee identification number for each employee, number of employees, job titles, average salary, full time status of employees, number of hours required, and NAICS classification numbers.

ARTICLE 6. COVENANTS AND INCENTIVES OF BEDC

6.01 Incentives. Subject to 1611 complying with its duties and obligations under this Agreement, the BEDC agrees to the Incentives set forth in this Section. The Incentives shall be paid to 1611 in the amounts specified below upon completion of the following milestones:

A. Upon 1611 achieving all of the following: (1) receiving a Certificate of Occupancy for the Development, (2) operating the Development on the Property, and (3) making a Capital Investment of no less than Two Million Dollars (\$2,000,000) into the Property, the Incentive due to 1611 shall be Two Hundred Fifty Thousand Dollars (\$250,000.00).

6.02 Verification of Completion of Milestone. Following the completion of each milestone specified in Section 6.01.A., 1611 shall provide written notice of such completion to the BEDC and provide proof of costs reasonably satisfactory to the BEDC. 1611 agrees that BEDC shall not be required to make any Incentive payment under this Agreement until such time that 1611 provides such written notice and proof of costs. The BEDC may request, and 1611 hereby agrees that it will permit reasonable review of information that permits the BEDC to verify that the costs made by 1611 for the Development meets or exceeds the requirements of this Agreement. Additionally, the BEDC may request, and 1611 hereby agrees that it will permit reasonable inspection of the Property during normal business hours that permits the BEDC to verify that the improvements made by 1611 for the Development meet or exceed the requirements of this Agreement. Following written notice of completion and proof of costs reasonably satisfactory to the BEDC, BEDC shall pay 1611 the Incentive amount specified in Section 6.01, as applicable, subject to the terms and provisions of this Agreement, within 90 days.

ARTICLE 7. REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS, OR METHODS

The parties hereto find that the area described herein constitutes an area of architectural importance and significance and the City Council of the City of Burleson, Texas, hereby designates it as an area of architectural importance and significance for purposes of Chapter 3000 of the Texas Government Code (the "Code"). In consideration for the mutual covenants and conditions contained herein and pursuant to Section 3000.002(d) of the Code, 1611 voluntarily consents to the application of all City rules,

charter provisions, ordinances, orders, building codes, and other regulations existing as of the Effective Date hereof (the "Regulations") that govern the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building on the Property regardless of whether a different building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. In addition, 1611 voluntarily consents to the application of the Regulations that establish a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building, regardless of whether the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building. The parties agree that: 1) the City will not issue any permits for the Property in violation of this Article; 2) the covenants contained within this Article constitute a material term of this Agreement; 3) 1611's voluntary consent to the application of the Regulations to the Property, as described in this Article, constitutes a material inducement for the BEDC to authorize the Incentives described herein; 4) the covenants contained herein shall run with the land and shall bind 1611 and all successors and assigns; and 5) this Article shall survive termination or expiration of this Agreement.

ARTICLE 8. AUTHORITY; COMPLIANCE WITH LAW.

- 8.01 1611 hereby represents and warrants to BEDC that it has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement and that the execution and delivery of this Agreement has been duly authorized by all necessary action by 1611 and this Agreement constitutes the legal, valid and binding obligation of 1611, and is enforceable in accordance with its terms and provisions.
- 8.02 BEDC hereby represents and warrants to 1611 that it has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement, and that the execution and delivery of this Agreement has been duly authorized by all necessary action by the BEDC, and upon the approval of this Agreement by the City Council, this Agreement will constitute the legal, valid and binding obligation of BEDC, and is enforceable in accordance with its terms and provisions.
- 8.02 In its performance under this Agreement, 1611 shall comply with all federal, state, and local laws.
- 8.03 During the term of this Agreement, 1611 agrees not to knowingly employ any undocumented workers at the Development, and if convicted of a violation under 8 U.S.C. Section 1324a(f), 1611 shall repay the amount of the Incentives received by 1611 as of the date of such violation within 120 business days after the date

1611 is notified by the BEDC of such violation, plus Interest. This Section shall supersede any other conflicting term in this Agreement and shall survive termination of the Agreement.

ARTICLE 9. **TERMINATION.**

9.01 Termination. This Agreement shall terminate at the expiration of the Term specified in Article 3 unless terminated earlier as follows:

- (a) By written agreement of the Parties;
- (b) On the date of termination set forth in a written notice provided by a Party to the other Party in the event the other Party is in default and breaches any of the terms and conditions, or fails to meet any performance conditions, of this Agreement and such default is not cured within ninety (90) days after the non-breaching Party sends notice to the breaching Party of such breach;
- (c) On the date of termination set forth in a written notice by BEDC to 1611 if 1611 experiences an Event of Bankruptcy;
- (d) On the date of termination set forth in a written notice by BEDC to 1611 if 1611 has delinquent ad valorem or sales taxes owed to the City (provided that 1611 retains the right to timely and properly protest and/or contest any such taxes), and such delinquent ad valorem or sales taxes owed to the City are not paid within ninety (90) days after the BEDC sends notice to 1611; or
- (e) On the date of termination set forth in a written notice by a Party to the other Party if either Party receives notice that any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal, or unenforceable; or

9.02 No Additional Incentives Following Termination. In the event this Agreement is terminated by the BEDC pursuant to Section 9.01, then 1611 shall not be entitled to any additional Incentive payments or other funds paid pursuant to this Agreement from BEDC and the BEDC shall have no further obligation to 1611.

9.03 False Representation or Falsification of Documentation. In the event this Agreement is terminated by the BEDC pursuant to Section 9.01(b) because 1611 has knowingly provided any false representation or provides any knowingly false documentation of investments, jobs, enrollment, costs, or achievement of any milestone or requirement under this Agreement, then 1611 shall within thirty (30) days of the date of termination return to the BEDC any funds received by 1611 related to such knowingly false representation or report with Interest from the date of termination. The terms set forth in this Section shall survive termination.

- 9.04 Failure of 1611 to Operate the Development Following the Opening Date. As a material part of the consideration of this Agreement, the parties agree that following the Opening Date, if the Property is converted to a use other than the Corporate Headquarters and Golf-Simulator Entertainment Center, 1611 shall repay to the BEDC an amount equal to the total amount of the Incentive less Fifty Thousand Dollars (\$50,000.00) for every full year 1611 operated the Corporate Headquarters and Golf-Simulator Entertainment Center on the Property in accordance this Agreement. The terms set forth in this Section shall survive termination.
- 9.05 Limitation of Liability. Notwithstanding any provision of this Agreement to the contrary, in no event shall BEDC be liable to 1611 for consequential, incidental, punitive, special, or exemplary damages, including lost revenues, profits, delays, or other economic loss arising from any cause including breach of warranty, breach of contract, tort, strict liability or any other cause whatsoever. To the extent permitted by law, any statutory remedies that are inconsistent with this provision of the Agreement are waived. The terms set forth in this Section shall survive termination.
- 9.06 No Waiver. No waiver or any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement. Any waiver of any term or condition of this Agreement must be in writing and approved by the authorized representatives of the parties and approved by the City Council.

ARTICLE 10. RIGHT OF OFFSET

1611 agrees that, subject to the provision of notice by BEDC and 90-day period following receipt of notice in which 1611 may respond or act, BEDC may offset the amount of any compensation due to 1611 for any calendar year under this Agreement against any amount which is: (i) lawfully due to City or BEDC from 1611, and (ii) not subject to challenge by 1611 in a court of competent jurisdiction.

ARTICLE 11. MANDATORY STATUTORY CERTIFICATIONS

- 11.01 By executing this Agreement, 1611 warrants, agrees, verifies, and certifies that it does not and during the duration of this Agreement will not:
- A. Boycott Israel as that term is defined in Texas Government Code Section 808.001 and Chapter 2271, as amended;
 - B. Do business with Iran, Sudan, or a foreign terrorist organization, as defined in Texas Government Code Chapter 2270, as amended;

- C. Boycott energy companies as defined in Texas Government Code Section 809.001 and Chapter 2274, as amended; or
- D. Discriminate against a firearm trade association as defined in Texas Government Code Chapter 2274, as amended.

11.02 By executing this Agreement, 1611 warrants, agrees, verifies, and certifies that to the best of its knowledge and belief, no member of City Council, City Manager, deputy city manager, city secretary, department heads, or deputy department heads of the City has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof, in violation of Section 132 of the Home Rule Charter of the City.

ARTICLE 12.

VENUE AND GOVERNING LAW

This Agreement is performable in Johnson County, Texas and venue of any action arising out of this Agreement shall be exclusively in Johnson County, Texas. This Agreement shall be governed and construed in accordance with applicable federal and state laws, violation of which shall constitute a default of this Agreement. To the extent permitted by law, the laws of the State of Texas shall apply without regard to applicable principles of conflicts of law, and the parties submit to the jurisdiction of the state and federal courts in Burleson, Johnson County, Texas.

ARTICLE 13.

FORCE MAJEURE

Performance of 1611's obligations and performance conditions under this Agreement shall be subject to extension due to delay by reason of events of force majeure, and 1611's obligations shall be abated during any period of force majeure. Force majeure shall include, without limitation, acts of God, damage or destruction by fire or other casualty, condemnation, strike, lockout, civil disorder, war, disease outbreak, pandemic or epidemic, States of Emergency, delaying or withholding of the issuance of any permit and/or legal authorization (including engineering approvals) by any governmental entity, unexpected delays in governmental approvals and permits, shortage or delay in shipment of materials or fuel occasioned by any event referenced herein, labor shortages, delays caused by government action; acts of nature, unusually adverse weather or wet soil conditions or other causes beyond the parties' reasonable control, including but not limited to, any court order or judgment affecting the 1611 performance, the Property or this Agreement.

ARTICLE 14.
GIFT TO PUBLIC SERVANT OR TO 1611 REPRESENTATIVE

- 14.01 No Benefit. Each party hereto represents to the other that it has not offered, conferred, or agreed to confer and that it will not offer, confer or agree to confer in the future any benefit upon an employee or official of the other party. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- 14.02 Right of Reimbursement. Notwithstanding any other legal remedies, BEDC may obtain reimbursement for any expenditure made to 1611 as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official or a BEDC employee or official. The terms set forth in this Section shall survive termination.

ARTICLE 15.
ASSIGNMENT

1611 may not assign any part of this Agreement without consent or approval by the BEDC Board of Directors and ratification by the City Council.

ARTICLE 16.
INDEMNIFICATION

16.01 1611 EXPRESSLY AGREES TO FULLY AND COMPLETELY DEFEND, INDEMNIFY, AND HOLD HARMLESS THE BEDC, AND ITS OFFICERS, AND EMPLOYEES, AND THE CITY, AND ITS OFFICERS, AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, COSTS, AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, DAMAGES OR LIABILITY FOR WHICH RECOVERY OF DAMAGES IS SOUGHT (COLLECTIVELY, "LOSSES"), SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT, GROSSLY NEGLIGENT, WRONGFUL, OR STRICTLY LIABLE ACT OR OMISSION OF 1611 OR ITS AGENTS, EMPLOYEES, OR CONTRACTORS, ARISING OUT IN THE PERFORMANCE OF THIS AGREEMENT; NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL 1611 BE RESPONSIBLE FOR, NOR SHALL ITS INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS SECTION 16.01 EXTEND TO, ANY LOSSES ARISING OUT OF OR OCCASIONED BY THE ACTS OR OMISSIONS OF THE BEDC, AND ITS OFFICERS, AND EMPLOYEES, OR THE CITY, ITS OFFICERS AND EMPLOYEES, THAT CONSTITUTE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; AND IN THE EVENT OF JOINT AND CONCURRENT NEGLIGENCE/BREACH OF 1611, THE BEDC, OR THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY

AVAILABLE TO THE BEDC OR THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. Nothing in this paragraph may be construed as waiving any governmental immunity available to the City under state law. This provision is solely for the benefit of 1611, BEDC, and the City and is not intended to create or grant any rights, contractual or otherwise, in or to any other person. The terms set forth in this Section shall survive termination.

16.02 It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. The City and BEDC (including its past, present and future officers, elected officials, directors, employees and agents of the City) do not assume any responsibility to any third party in connection with 1611's construction of the Development.

ARTICLE 17. MISCELLANEOUS MATTERS

17.01 Time is of Essence. Time is of the essence in this Agreement. The parties hereto will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

17.02 Agreement Subject to Law. This Agreement is made subject in accordance with the Burleson Home Rule Charter and ordinances of the City, as amended, and all applicable State and federal laws.

17.03 Interpretation. Each of the parties have been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any party based on draftsmanship.

17.04 Counterparts Deemed Original; Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument. Any pdf-format or other electronic transmission of any signature of a signatory shall be deemed an original and shall bind such signatory.

17.05 Captions. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

17.06 Complete Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in the Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached and made a part of this Agreement.

17.07 No Waiver. Nothing contained in this Agreement shall be construed as the granting of any permit or permission required by any City ordinance or regulation, or the waiver of any requirement of any City ordinance or regulation.

17.08 Notice. Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by a nationally recognized overnight courier service; or (iii) delivered by United States certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the respective party at its address set forth below, and shall be effective (a) upon receipt or refusal if delivered personally; (b) one business day after depositing, with such an overnight courier service or (c) two business days after deposit in the United States mail, if mailed. Any party hereto may change its address for receipt of notices by service of a notice of such change in accordance with this subsection.

1611:	16:11 Management, LLC Attn: B.J. Warren, Manager 224 E Renfro Street Burleson, Texas
With a copy to:	The Mahon Firm, P.C. Attn: Jason R. Mahon 141 Countryside Court, Suite 100 Southlake, Texas 76092
BEDC:	Burleson 4A Economic Development Corp. Attn: Board President 141 West Renfro Burleson, TX 76028
With a copy to:	E. Allen Taylor, Jr., City Attorney Taylor, Olson, Adkins, Sralla & Elam, L.L.P. 6000 Western Place Suite 200 Fort Worth, TX 76107
With a copy to:	City Manager City of Burleson, Texas 141 West Renfro Burleson, TX 76028

17.09 Amendment. This Agreement may only be amended by the mutual written agreement of the parties.

17.10 Severability. In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word herein is held invalid, illegal, or unenforceable, the

balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In the event there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal and enforceable.

- 17.11 Approval by the City Council Required. The BEDC's action to enter into this Agreement is subject to the approval of the City Council of the City of Burleson, Texas. This Agreement shall not be effective until such Agreement is signed by the parties and the City Council of the City of Burleson, Texas ratifies and approves the BEDC's action to enter into this Agreement.

[Signature pages to follow]

**BURLESON 4A ECONOMIC DEVELOPMENT
CORPORATION**

By: _____

Name: _____

Title: Board President

Date: January ___, 2023

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on January ___, 2023, by
_____, known personally by me to be the Board President of the
Burleson 4A Economic Development Corporation, on behalf of said entity.

[Notary Seal]

Notary Public, State of Texas

**16:11 Burleson, LLC,
A Texas limited liability company
By: Its Manager, 16:11 Management, LLC
A Texas limited liability company**

By: _____

Name: Billy J. Warren

Title: Manager

Date: January 6, 2024

STATE OF TEXAS
COUNTY OF Tarrant

This instrument was acknowledged before me on January 6, 2024 by Billy J. Warren, known personally by me to be the manager of 16:11 Management, LLC as the Manager of 16:11 Burleson, LLC, on behalf of said entity.

[Notary Seal]

Judy Fox
Notary Public, State of Texas





