

**CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT BY
AND BETWEEN**

**THE CITY OF SAGINAW, TEXAS AND
AM & JK DEVELOPMENT, LLC**

This CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") is made and entered into by and between the CITY OF SAGINAW, TEXAS, a Texas municipal corporation within Tarrant County, Texas ("City"), and AM & JK DEVELOPMENT, LLC, a Texas limited liability company ("Developer"), each of which may be singularly referred to as "Party" and jointly referred to as "Parties," acting by and through their respective authorized officers and representatives, for the purposes and considerations stated below:

WHEREAS, the City desires to provide, pursuant to Chapter 380 of the Texas Local Government Code ("Chapter 380"), an incentive to Developer to develop land wholly located within the City limits for the sale of lots for future use to construct mixed-use commercial and residential buildings; and

WHEREAS, the Developer intends to develop the land identified herein (the "Property") by platting individual lots for development of mixed use commercial and residential structures, assisting the City with any applicable zoning changes for the Property, and constructing certain infrastructure on the Property as described herein (the "Development"); and

WHEREAS, the Parties agree that Roadway Improvements contemplated herein have been proposed by Developer as an enhancement to the Development, are not being required by the City, and are being incentivized herein by the City because of the anticipated benefit to the Development and the general public; and

WHEREAS, the Parties further agree the Grant Payments incentivizing the Roadway Improvements shall not constitute a subsidization or reimbursement of the otherwise required proportionate share of mandatory roadway construction costs attributable to and necessitated by the Development, which construction costs constitute an independent obligation of Developer and are wholly unrelated to the Chapter 380 program established herein; and

WHEREAS, the City has the discretionary authority under Article 52-a of the Texas Constitution and Chapter 380 to make loans or grants of public funds for the purposes of promoting local economic development and through which stimulates business and commercial activity within the City; and

WHEREAS, the City Council finds and determines that making an economic development Grant to the Developer in accordance with this Agreement will further the objectives of the City, benefit the City and the City's inhabitants, and promote 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 are hereby acknowledged, the Parties agree as follows:

SECTION 1. FINDINGS INCORPORATED

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the Parties.

SECTION 2. PROGRAM AND TERM

- 2.1 Program. Pursuant to Section 380.001 of the Texas Local Government Code, a program is hereby established for the development of the Property to provide for a future mixed use development including streets, utilities, restaurant and retail uses and future multifamily to the City for the reasons set forth in the recitals. The terms of this Agreement shall implement the program.
- 2.2 Term. The term of this Agreement shall begin on the Effective Date and will continue until the Expiration Date, unless sooner terminated as pursuant to Section 5 herein.

SECTION 3. DEFINITIONS

For purposes of this Agreement, the following words shall have the meanings ascribed:

BANKRUPTCY OR INSOLVENCY shall mean the dissolution or termination (other than a dissolution or termination by reason of Developer merging with an affiliate) of Developer's existence as a going business, insolvency, appointment of receiver for any part of Developer's property and such appointment is not terminated within 60 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 Developer and such proceeding is not dismissed within 60 days after the filing thereof.

CERTIFICATE OF OCCUPANCY shall mean a certificate issued by the City certifying a building's compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for human occupancy.

COMPLETION OF CONSTRUCTION shall mean the acceptance of the completed Roadway Improvements by the City, as contemplated in Section 4.4, hereof.

DEVELOPMENT means a proposed mixed use subdivision on the Property, to contain streets, public utilities, restaurant and retail buildings and future multifamily substantially as depicted on the conceptual development plan attached hereto as "Exhibit A."

EFFECTIVE DATE means the date set forth in Section 9 of this Agreement.

EXPIRATION DATE shall mean the date the parties have satisfied their obligations in Sections 4 and 5 of this Agreement.

FORCE MAJEURE shall mean any contingency or cause beyond the reasonable control of a party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless cause by the intentionally wrongful acts of omissions of the party), fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns or work stoppages.

FULL TABLE SERVICE (Restaurant providing) shall mean a sit down eatery where food is ordered at and delivered directly to, the customers' table by the eatery's wait staff.

GRANT shall mean an economic development grant from the City in an amount not to exceed two million dollars (\$2,000,000) for the general assistance of associated development costs which are attributable to developing the Property for the future construction of the Development and for construction of the Roadway Improvements, dedication of land to the City and completion of Phase I Development, of which will promote local economic development and stimulate commercial activity in the City.

GRANT PAYMENT(S) means the schedule of payment for the incentive Grant as made to Developer pursuant to Section 5 of this Agreement.

IMPOSITIONS shall mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Developer or any property or any business owned by Developer within the City.

PAYMENT REQUEST shall mean a written request from Developer to City, in the form set forth at Exhibit "B" of this Agreement, for payment of the Grant, which request shall be accompanied by the information set forth in Exhibit "B" to establish that Developer is in compliance with this Agreement.

PHASE I DEVELOPMENT means development on the Property that results in the Completion of Construction of the Roadway Improvements AND at least three (3) Restaurants having each obtained a Certificate of Occupancy from the City, with at least two (2) of those Restaurants providing full table service to customers.

PROPERTY means the property on which the Development is located, depicted on "Exhibit A."

ROADWAY IMPROVEMENTS means the construction of a through street on the Property that connects Saginaw Boulevard with Old Decatur Road and all on and offsite utilities required to service the roadway, the improvements along Highway 287 necessitated by the through street, including the median opening and turn lanes, and shall include all third-party charges for engineering, design, labor and materials, and all work and improvements identified in the attached Exhibit "C" (provided, however, that the cost details contained therein are non-binding estimates only), but shall not include property acquisition costs.

RESTAURANT means a strong regional concept restaurant, an independent casual concept restaurant, or a national chain restaurant of high quality and proven success, not currently located in the City and merely relocating to the Development.

SECTION 4. OBLIGATIONS OF DEVELOPER

The obligation of City to provide Grant Payments shall be conditioned upon the compliance and satisfaction by Developer of the terms and conditions of the Agreement and each of the conditions set forth herein:

- 4.1 Completion of Phase I Development. Developer, at its sole cost and expense, must, subject to the events of Force Majeure, achieve Phase I Development completion on or before December 31, 2026.
- 4.2 Good Standing. Developer shall not have an uncured breach or default of this Agreement or any other agreement between the Parties concerning the Development and shall be solely responsible for the payment of all fees and for securing all permits necessary for construction of the Development. For all portions of the Property owned by Developer, all ad valorem taxes owed to the City or other jurisdiction for the Property are to remain current.
- 4.3 Conveyance of Land to City for any Public Purpose. Prior to the payment of any Grant Payment(s) set forth in Section 5 of this Agreement, Developer shall convey to and dedicate an approximate 4.402-acre tract shown on "Exhibit A" and described in detail on "Exhibit D," to the City free and clear of all liens, for use by the City for any public purpose. Developer agrees to maintain this tract at its sole cost and expense. In addition, the Developer shall not receive a credit or offset from the City of any otherwise required dedication or payment imposed by the City that is necessitated by and attributable to the Development, as a result of the dedication of this tract.
- 4.4 Conveyance of Completed Roadway.
- a. Upon completion of the Roadway Improvements shown on "Exhibit A" as a through-street connecting Saginaw Boulevard and Old Decatur Road, Developer shall convey to and dedicate the street and any onsite and offsite utilities installed by Developer to serve this street, to the City free and clear of all liens, encumbrances, assessments and restrictions other than as may be provided in this Agreement.
 - b. All Roadway Improvements shall be competitively bid according to the requirements of Chapter 252 of the Texas Local Government Code, including §252.022(d) thereof, and Chapter 2269 of the Texas Government Code. The City Manager of the City will cooperate with the Developer to determine the best method of competitive bidding. It is anticipated that once the project is publically noticed, the competitive bidding process will not exceed three (3) weeks. The Phase I Development deadline takes into consideration the time for the competitive bidding process.
 - c. Developer is solely responsible for all costs and expenses associated with the Roadway Improvements, including but not limited to the land acquisition, design, bonding, and construction, and all labor and materials. The City will perform inspections of the Roadway Improvements on an ongoing basis and will accept or reject utility and street construction improvements on a phase by phase basis (including for example, water line installation, sanitary sewer installation, etc.).
- 4.5 Copy of Construction Bonds. Prior to initiating construction of the Roadway Improvements, the Developer shall provide the City with a copy of the following construction bonds:
- a. Performance Bond. A good and sufficient Performance Bond in an amount equal to one hundred percent (100%) of the total cost of the Roadway Improvements, guaranteeing the full and faithful execution of the work and performance of this Agreement and for the protection of the City against any improper execution of the work or the use of inferior materials.
 - b. Payment Bond. A good and sufficient Payment Bond in an amount equal to one hundred

percent (100%) of the total cost of the Roadway Improvements, guaranteeing payment of all labor, materials and equipment used in the construction of the Roadway Improvements.

- c. Maintenance Bond. A good and sufficient Maintenance Bond in an amount equal to one hundred percent (100%) of the total cost of the Roadway Improvements, guaranteeing the maintenance in good condition of the Roadway Improvements for a period of two (2) years from and after the date that a certificate of completion is issued from the City indicating that the Roadway Improvements have been completed by the Developer and accepted by the City.

Any surety company through which a bond is written shall be duly authorized to do business in the State of Texas, and the City, through its City Manager, shall retain the right to reject any surety company for any work under this Agreement regardless of such company's authorization to do business in the State of Texas; provided, however, the City may not unreasonably reject a surety and shall provide Developer with a written explanation as to why the City rejected a specific surety. The City must notify Developer within ten (10) business days of the acceptance or rejection of a surety company proposed for providing a bond set forth above.

SECTION 5. OBLIGATIONS OF CITY

In consideration of Developer's agreement to construct the Development in conformance with the requirements of this Agreement, all land and roadway conveyances being adhered to as set forth in this Agreement, and upon City receipt of Payment Requests made by Developer pursuant to the form attached as "Exhibit B" to this Agreement, the City agrees to pay Developer Grant Payments in the manner as detailed below:

- 5.1 Maximum Amount. The City shall make Grant Payments to Developer in an amount not to exceed two million dollars (\$2,000,000) on the following schedule:
 - a. First Grant Payment. The first one million dollars (\$1,000,000) shall be paid by City incrementally and on a dollar-for-dollar reimbursement basis for the actual cost to construct the Roadway Improvements as defined in Section 3, to include the third-party charges identified in Section 3. Each such Payment Request made shall be accompanied by copies of paid invoices evidencing the cost to construct elements of the Roadway Improvements. Payment Requests may be made in the frequency chosen by Developer and shall be paid by within sixty (60) days of receipt by City.
 - b. Second Grant Payment. The City shall make a second Grant Payment of five hundred thousand dollars (\$500,000) no later than sixty (60) days after Completion of Construction of the Roadway Improvements.
 - c. Third Grant Payment. Following Payment Request, the City shall make the final Grant Payment within sixty (60) days after Phase I Development is complete.
- 5.2 Payment Requests. Developer shall submit Payment Requests in accordance with the requirements of Section 8.12, hereof.

SECTION 6.
TERMINATION; OFFSET

6.1 Termination. This Agreement terminates on the Expiration Date, and may, prior to the Expiration Date, be terminated upon any one or more of the following:

- a. by mutual written agreement of the parties;
- b. upon written notice by either party, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- c. should any written warranty, representation or statement made or furnished to City by the Developer under this Agreement or any document(s) related hereto furnished to the City is/are false or misleading in any material respect, either now or at the time made or furnished, and the furnishing party fails to cure same within thirty (30) days after written notice from the receiving party describing the violation, or if such violation cannot be cured within such thirty (30) day period in the exercise of all due diligence;
- d. upon written notice by City, if any Impositions owed to City or the State of Texas by Developer shall have become delinquent (provided, however, Developer retains the right to timely and properly protest and contest any such taxes or Impositions);
- e. upon written notice by City, if Developer suffers an event of Bankruptcy or Insolvency; or
- f. upon written notice by either party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction declares or renders this Agreement invalid, illegal or unenforceable.

6.2 Repayment. Should the Developer fail to complete the Phase I Development by the date set forth in this Agreement, including any future amendments, notice and cure rights or extensions, and as required by Section 4.1, this Agreement shall terminate and Developer shall be eligible for no more Grant Payments and, upon written demand by the City, Developer shall repay the amount of Grant Payments made to date. In the event this Agreement is terminated by City pursuant to Section 6.1 (b), (c), (d) or (e), Developer shall immediately refund to City an amount equal to the amount of the Grant that has been provided by City to Developer prior the date of such termination, plus interest at the rate of interest periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by City) as its prime or base commercial lending rate, from the Effective Date until paid. Any amount to be repaid by Developer shall be adjusted to reflect a deduction for the value of the land conveyed to the City and the value of the Roadway Improvements completed by Developer as of the date of termination, which adjustment amount shall be negotiated between the City and Developer. If the City and Developer are unable to agree upon an adjusted amount for the repayment, the parties agree to submit the dispute to mediation pursuant to Section 8.25 of this Agreement. The repayment obligation of Developer set forth in this Section 6.2 hereof shall survive termination of this Agreement.

- 6.3 Offsets. City may, at its option, offset any amounts due and payable to Developer under this Agreement against any debt (including taxes) lawfully due to City, from Developer, regardless of whether the amount due arises pursuant to the terms of this Agreement or otherwise, and regardless of whether or not the debt in question has been reduced to judgment by a court.

SECTION 7. INDEMNIFICATION

- 7.1 **DEVELOPER EXPRESSLY AGREES TO FULLY AND COMPLETELY DEFEND, INDEMNIFY, AND HOLD HARMLESS 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, 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 DEVELOPER OR ITS AGENTS OR EMPLOYEES, ARISING OUT OF DEVELOPER'S PERFORMANCE OF THIS AGREEMENT; PROVIDED, HOWEVER, IN NO EVENT WILL DEVELOPER HAVE ANY SUCH INDEMNIFICATION OBLIGATION FOR ANY CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, COSTS AND EXPENSES ARISING OUT OF OR CAUSED BY THE SOLE NEGLIGENCE, SOLE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR ANY OTHER SOLE ACT OR OMISSION OF THE CITY OR ITS EMPLOYEES. NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED AS WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER STATE LAW. IN THE EVENT OF JOINT OR CONCURRENT NEGLIGENCE OF BOTH THE CITY AND DEVELOPER, THE RESPONSIBILITY, IF ANY, OF DEVELOPER TO INDEMNIFY THE CITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.**
- 7.2 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, their past, present and future officers, elected officials, directors, employees and agents of the City does not assume any responsibility to any third party in connection with Developer's construction of the Development.

SECTION 8. MISCELLANEOUS PROVISIONS

The following miscellaneous provisions are a part of this Agreement:

- 8.1 Amendments. Any amendments to this Agreement must be in writing and signed by the appropriate authorities of all parties.
- 8.2 Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas. Exclusive venue for any action arising under this Agreement shall lie in the state district courts of Tarrant County, Texas.
- 8.3 Assignment; Conveyance of the Property. This Agreement may not be assigned without the express written consent of all of the other parties, which consent shall not be unreasonably withheld, conditioned, or delayed. Should Developer convey any portion or all of the Property subject to this Agreement to a third party(ies), Developer shall retain Developer's obligations pursuant to this Agreement, unless otherwise agreed in writing by the City. Any such third

party shall not be considered a third party beneficiary and shall be subject to Section 8.11 of this Agreement. Notwithstanding the foregoing, the City hereby consents to Developer's assignment, if any, to a lending institution of all of Developer's rights hereunder as security for repayment of one or more loans to finance the construction or ownership of any component of the Property. Notwithstanding the foregoing, any request for consent to assign to a lending institution, where such consent agreement mandates any future performance by the City - including but not limited to, agreement to provide notice of default to such lending institution, subordination of the City's rights described herein, or payment to such lending institution of any Grant Payment, or portion thereof - then in that case, such consent may be withheld, conditioned, or delayed by the City, in its sole discretion. In no case shall City agree to the placement of a lien on the real property subject to the Roadway Improvements construction.

- 8.4 Binding Obligation. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto and upon any successor or approved assignee of Developer. City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this Agreement and bind City to the same. Developer warrants and represents that the individual executing this Agreement on Developer's behalf has full authority to execute this Agreement and bind it to the same.
- 8.5 Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- 8.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- 8.7 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties as to the matters set forth in this Agreement. No other understanding, oral or otherwise, in direct conflict with this Agreement shall be deemed to exist or to bind any of the Parties hereto. All prior written or oral offers, counteroffers, memoranda of understanding, proposals and the like are superseded by this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the Party or Parties sought to be charged or bound by the alteration or amendment. Neither Party is relying on any statement, representation, nor warranty of the other Party not expressly set out in this Agreement. Each of the undersigned authorized representatives of the Parties warrants and represents and does hereby state and represent that no promise or agreement which is not herein expressed has been made to him or her in executing this Agreement, and that none of us is relying upon any statement or representation of any agent of the Parties. Each Party is relying on his or her own judgment and each Party has been represented by independent counsel of its choosing.
- 8.8 Force Majeure. It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of Force Majeure, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such Party was delayed.
- 8.9 Further Acts and Releases. The Parties agree to take such additional acts and execute such other documents as may be reasonable and necessary in the performance of their obligations hereunder.
- 8.10 Governmental Powers; Waiver of Immunity. By execution of this Agreement, the City does not waive or surrender any of its governmental powers, immunities or rights.

- 8.11 No Third Party Beneficiaries. The performance of the respective obligations of the Parties under this Agreement are not intended to benefit any party other than the City or Developer except as expressly provided otherwise herein. No person or entity not a signatory to this Agreement shall have any rights or causes of action against any Party to this Agreement as a result of that Party's performance or non-performance under this Agreement, except as expressly provided otherwise herein.
- 8.12 Notices. Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

If intended for City, to:

City of Saginaw
West McLeroy Blvd.
Saginaw, Texas 76179
Attn: City Manager
Facsimile: (817) 332-4644

With a copy to:
Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107
Attn: Bryn Meredith
Facsimile: (817) 332-4740

If intended for Developer, to:

AM & JK Development, LLC 333

Attn: _____
Facsimile: _____

With a copy to:

Attn: _____
Facsimile: _____

- 8.13 Relationship of Parties. The Parties shall not be deemed in a relationship of partners or joint ventures by virtue of this Agreement, nor shall any Party be an agent, representative, trustee or fiduciary of the other. No Party shall have any authority to bind any other Party to any agreement.
- 8.14 Severability. The Parties declare that the provisions of this Agreement are severable. If it is determined by a court of competent jurisdiction that any term, condition or provision hereof is void, voidable, or unenforceable for any reason whatsoever, then such term, condition or provision shall be severed from this Agreement and the remainder of the Agreement enforced in accordance with its terms. The parties explicitly agree that this Clause 8.14 does not apply if the unenforceability relieves one Party from substantially all of its duties and obligations under this Agreement.
- 8.15 Time is of the Essence. Subject to the terms contained herein, time is of the essence in the performance of this Agreement.
- 8.16 Compliance with Law. All aspects of the construction and development of the Development shall be in substantial conformance with applicable state, federal and local laws.
- 8.17 Inspection. The City shall have access at all times to inspect construction of the Roadway Improvements.
- 8.18 No Alteration of Development Regulations. This Agreement is not intended to and does not

waive or alter any development requirement imposed by City ordinances, City development regulations or other law.

- 8.19 Undocumented Workers. As required by Subchapter B of Chapter 2264 of the Texas Government Code, Developer certifies that to Developer's knowledge it does not and will not knowingly employ an undocumented worker. If after receiving a Grant Payment set forth in this Agreement Developer is convicted under 8 USC Section 1324(a)(6), Developer shall repay the amount of the Grant Payment (or portion that he has received) plus 10% interest not later than the 120th day after the date the City notifies Developer of the violation. Developer is not liable for a violation of this Section by a subsidiary, affiliate, or franchisee of Developer or by a person with whom Developer contracts.
- 8.20 Rough Proportionality; Nexus. Developer agrees that the conveyance of land and right-of-way contemplated by Sections 4.3 and 4.4 hereof are roughly proportional to the impact of the Development, and Developer hereby waives any claim therefor that it may have in that regard. Developer further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation and dedication are related both in nature and extent to the impact of the Development. Developer waives and releases all claims against the City related to any and all rough proportionality and individual determination requirements mandated by Subchapter Z of Chapter 212, Texas Local Government Code, as well as other requirements of a nexus between development conditions and the projected impact of the Development.
- 8.21 Gift to Public Servant. 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. Notwithstanding any other legal remedies, City may obtain reimbursement for any expenditures made to Developer as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.
- 8.22 Interpretation. This Agreement shall not be construed against the drafting party.
- 8.23 Limitation of Liability. In no event will either party be liable to the other party for any indirect, special, punitive, or exemplary damages.
- 8.24 Expedited Permit Review. The City agrees to expedite the review of any permits submitted by Developer related to the project that is the subject of this Agreement.
- 8.25 Mediation. In the event of any disagreement or conflict concerning the interpretation, performance, breach, or enforcement of this Agreement, and such disagreement cannot be resolved by the City and Developer, the Parties agree to submit such dispute to mediation with a mutually-agreed upon mediator before seeking relief through the courts. Unless otherwise agreed by the parties, each shall bear its own cost of such resolution procedure, to include attorney's fees.

**SECTION 9.
EFFECTIVE DATE.**

This Agreement shall become effective upon the execution of the Agreement by all parties.

EXECUTED and effective as of the _____ day of _____, 2019 by City,
signing by and through its Mayor.

CITY OF SAGINAW, TEXAS
By:

Todd Flippo, Mayor
ATTEST:

Janice England, City Secretary

AM & JK Development, LLC,
a Texas limited liability corporation

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM AND LEGALITY:

Bryn Meredith, City Attorney

GRANT PAYMENT REQUEST FORM

City of Saginaw, Texas
Department of Economic Development
333 W. McLeroy Blvd
Saginaw, TX 76179

DATE: _____

Pursuant to the Chapter 380 Economic Development Agreement by and between the City of Saginaw, Texas and AM & JK Development, LLC, executed on _____, 2019, ("Agreement") please consider this a formal request for a Grant Payment, as contemplated by the Agreement.

AMOUNT OF PAYMENT REQUEST: \$ _____

Where applicable, attached to this request letter, please find copies of paid receipts indicating associated costs as authorized for reimbursement under the terms outlined within the Chapter 380 Agreement and in an amount totaling the requested amount specified above.

In the event this payment request is sought for completion of Phase I Development, please see the attached my certification of Phase 1 Development completion together with copies of the applicable three (3) certificates of occupancy.

I hereby attest to the legitimacy and veracity of this request and the documentation supplied to support it.

It is understood in submission of receipts for work completed or other documents that all such documentation may be subject to verification by the City of Saginaw, and may be made public upon formal Public Information Request.

Reimbursement checks shall be cut and mailed to the Developer at the name and address as noted in the Agreement.

Sincerely,

Internal:

Received by City of Saginaw on Date: _____



6750 Hillcrest Plaza Dr., Ste. 325
 Dallas, TX 75230 (972) 490-7090 Fax (972) 490-7099
 TEXAS ENGINEERING FIRM REGISTRATION No. 89
 TEXAS SURVEYOR FIRM REGISTRATION No. 10086600

ENGINEER'S OPINION OF PROBABLE COST

Winkelmann & Associates, Inc.

DATE: September 7, 2018

SITE: Old Decatur Road & N Saginaw Blvd (Bus. 287)

AREA: 27.25

CITY: Saginaw, TX

PROJ. NO.: 77301

CLIENT: Farooq Wazirali

AG

ZONING: (Must be Rezoned)

GRADING

ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT COST	COST
G1	Clearing	27.25	AC	\$1,000.00	\$27,247.28
G2	Uncl. Exc.	11,000.00	CY	\$8.00	\$88,000.00
G3	Erosion Control	1	LS	\$30,000.00	\$30,000.00
				SUB-TOTAL	\$145,247.28

PAVING

ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT COST	COST
P1	7" Concrete Pavement (37' Roadway)	8,756	SY	\$47.25	\$413,721.00
P2	6" Lime Stabilization w/ Lime	9,456	SY	\$6.00	\$56,736.00
P2	4" Concrete Sidewalk (5' Wide)	23,345	SF	\$5.00	\$116,725.00
P3	Striping	1	LS	\$15,000.00	\$15,000.00
P4	Curb & Gutter	4,220	LF	\$6.00	\$25,320.00
P5	Seeding	1	LS	\$5,000.00	\$5,000.00
				SUB-TOTAL	\$632,502.00

DRAINAGE & STORM SEWER

ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT COST	COST
D1	5'x5' RCB	273	LF	\$300.00	\$81,900.00
D2	7'x7' RCB	221	LF	\$350.00	\$77,350.00
D3	5'x5' HEADWALL	2	EA	\$15,000.00	\$30,000.00
D4	7'x7' HEADWALL	2	EA	\$18,000.00	\$36,000.00
D5	TRENCH SAFETY	494	LF	\$2.00	\$988.00
D6	Roadway Storm System (40% Paving; P1)	40%	PVG	\$413,721.00	\$165,488.40
				SUB-TOTAL	\$391,726.40

WATER

ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT COST	COST
W1	12" Water Line	2,804	LF	\$55.00	\$154,220.00
W2	12" Valves	8	EA	\$3,300.00	\$26,400.00
W4	Fittings/Bends	19	EA	\$750.00	\$14,250.00
W6	8" Water Line	218	LF	\$50.00	\$10,900.00
W7	8" Valves	6	EA	\$1,800.00	\$10,800.00
W8	6" Fire Line	250	FL	\$46.00	\$11,500.00
W9	Fire Hydrants w/ 6" Valves	8	EA	\$5,500.00	\$44,000.00
W10	TRENCH SAFETY	3,272	EA	\$2.00	\$6,544.00
				SUB-TOTAL	\$278,614.00

SANITARY SEWER

ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT COST	COST
S1	12" PVC SEWER - SDR-26	4,916	LF	\$52.00	\$255,632.00
S2	6" SERVICE LATERALS	300	LF	\$46.00	\$13,800.00
S3	STD. 5' DIA. MANHOLE	14.00	EA	\$6,000.00	\$84,000.00
S4	STD. 4' DIA. MANHOLE	1.00	EA	\$4,200.00	\$4,200.00
S5	CONNECT TO EXISTING MANHOLE	1.00	EA	\$5,000.00	\$5,000.00
S6	TRENCH SAFETY	5,216	LF	\$2.00	\$10,432.00
S7	Boring / Driveway Repair	120	LF	\$375.00	\$45,000.00
				SUB-TOTAL	\$418,064.00

MISC.

ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT COST	COST
M1	SIGNAL	1	LS	\$300,000.00	\$300,000.00
M2	Left Turn & Median Opening on Bus. 287	1	LS	\$100,000.00	\$100,000.00
M3	Decel Lane on Bus. 287	1	LS	\$125,000.00	\$125,000.00
M4	Street Lights (1 every 150'; 2100 LF)	14	EA	\$5,000.00	\$70,000.00
				SUB-TOTAL	\$595,000.00

CONSTRUCTION COST SUMMARY

	GRADING	\$145,247.28
	PAVING	\$632,502.00
	DRAINAGE & STORM SEWER	\$391,726.40
	WATER	\$278,614.00
	SANITARY SEWER	\$418,064.00
	MISC.	\$595,000.00
	TOTAL	\$2,461,153.68
	CONTINGENCIES (10%)	\$246,115.37
	TOTAL	\$2,707,269.04

ESTIMATED SOFT COST FEES

	WATER/SEWER IMPACT FEES	BY USERS
	ROADWAY IMPACT FEES	BY USERS
	CONSTRUCTION INSPECTION (4%)	\$108,290.76
	STAKING (2%)	\$54,145.38
	CONSTRUCTION TESTING (2%)	\$54,145.38
	SURVEY/ENGINEERING (10%)	\$270,726.90
	TOTAL	\$487,308.43

TOTAL CONSTRUCTION COST + ESTIMATED FEES	\$3,194,577.47
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NOTES:

- N1 DOES NOT INCLUDE COSTS FOR FRANCHISE UTILITIES OR ANY OTHER COSTS ASSOCIATED WITH SAME.
- N2 DOES NOT INCLUDE LAND COSTS.
- N3 DOES NOT INCLUDE COST FOR AMENITIES
- N4 THIS ESTIMATE OF PROBABLE COST IS MADE ON THE BASIS OF OUR PROFESSIONAL EXPERIENCE AND REPRESENTS
- N4 ALL UNIT PRICES AND TOTALS SHOWN ARE APPROXIMATE. ENGINEER HAS NO CONTROL OVER THE COST OF

Prepared by: _____

Michael D. Clark, P.E.

Winkelmann & Associates, Inc.

6750 Hillcrest Plaza Dr., Suite 325

Dallas, Texas 75230

972/490-7090

**EXHIBIT D
PROPERTY DESCRIPTION LOT 6**

**STATE OF TEXAS §
COUNTY OF TARRANT §**

BEING a tract of land situated in the BENJAMIN THOMAS SURVEY, ABSTRACT NO. 1497, City of Saginaw, Tarrant County, Texas, and being a portion of Tract 2 as described in deed to AM & JK Development, LLC, according to County Clerk's Instrument Number D21758083, Official Public Records, Tarrant County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod found for the Southwest corner of said Tract 2 and the Southeast corner of Lot 1, Block 1, Old Decatur Addition, according to the plat thereof recorded in Cabinet B, Slide 873, Official Public Records, Tarrant County, Texas;

THENCE North 00 deg 31 min 42 sec West, along the Easterly line of said Lot 1 and the Westerly line of said Tract 2, a distance of 575.65 feet to a 5/8-inch iron rod found for the Northwesterly corner of said Tract 2 and the Northeasterly corner of said Lot 1, said iron rod being situated in the Southerly line of Glen Mills Village, an addition to the City of Fort Worth, according to the plat thereof recorded in County Clerk's Instrument Number D203033327, Official Public Records, Tarrant County, Texas;

THENCE North 88 deg 58 min 58 sec East, along the Southerly line of said Glen Mills Village and the Northerly line of said Tract 2, passing at a distance of 183.16 feet a 1/2-inch iron rod with cap stamped "BEASLEY" found for the Southeasterly corner of said Glen Mills Village and the Southwesterly corner of a tract of land as described in deed to B.N.M. Properties, as recorded in County Clerk's Instrument Number D199228249, Official Public Records, Tarrant County, Texas, and continuing along the Northerly line of said Tract 2 and the Southerly line of said B.N.M. Properties tract, for a total distance of 439.25 feet to a point for corner;

THENCE departing the Southerly line of said B.N.M. Properties tract, and over and across said Tract 2 the following:

South 31 deg 34 min 46 sec East, a distance of 27.83 feet to a point for corner;

South 34 deg 32 min 21 sec East, a distance of 40.83 feet to a point for corner;

South 65 deg 26 min 006 sec West, a distance of 69.09 feet to a point for corner, said point being the beginning of a non-tangent curve to the left, with a radius of 1,225.27 feet, a central angle of 14 deg 07 min 27 sec, a chord bearing of South 56 deg 58 min 46 sec West, and a chord length of 301.28 feet;

Along said non-tangent curve to the left, an arc distance of 302.04 feet to a point for corner;

South 39 deg 09 min 04 sec West, a distance of 119.95 feet to a point for corner, said point being the beginning of a curve to the left, with a radius of 335.00 feet, a central angle of 29 deg 45 min 54 sec, a chord bearing of South 36 deg 38 min 30 sec West, and a chord length of 172.08 feet;

Along said non-tangent curve to the left, an arc distance of 174.03 feet to a point for corner, said point being the beginning of a curve to the right, with a radius of 165.00 feet, a central angle of 59 deg 51 min 00 sec, a chord bearing of South 51 deg 41 min 03 sec West, and a chord length of 164.63 feet;

Along said curve to the right, an arc distance of 172.36 feet to the POINT OF BEGINNING.

CONTAINING within these metes and bounds 3.068 acres or 133,656 square feet, more or less. Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 10th day of

PROPERTY DESCRIPTION LOT 3

STATE OF TEXAS §
COUNTY OF TARRANT §

BEING a tract of land situated in the BENJAMIN THOMAS SURVEY, ABSTRACT NO. 1497, City of Saginaw, Tarrant County, Texas, and being a portion of Tract 1 as described in deed to AM & JK Development, LLC, according to County Clerk's Instrument Number D21758083, Official Public Records, Tarrant County, Texas, and being more particularly described as follows:

COMMENCING at a 5/8-inch iron rod found for the Northeast corner of said Tract 1 and the Southeast corner of Lot 1, Block 1, Old Decatur Addition, according to the plat thereof recorded in Cabinet B, Slide 873, Official Public Records, Tarrant County, Texas;

THENCE South 89 deg 23 min 14 sec West, along the Northerly line of said Tract 1 and the Southerly line of said Lot 1, a distance of 229.45 feet to the POINT OF BEGINNING;

THENCE departing the Southerly line of said Lot 1 and over and across said Tract 1 the following:

South 00 deg 36 min 46 sec East, a distance of 1.52 feet to a point for corner, said point being the beginning of a non-tangent curve to the left, with a radius of 385.00 feet, a central angle of 47 deg 27 min 52 sec, a chord bearing of South 65 deg 39 in 18 sec West, and a chord length of 309.90 feet;

Along said non-tangent curve to the left, an arc distance of 318.94 feet to a point for corner, said point being the beginning of a curve to the right, with a radius of 764.87 feet, a central angle of 16 deg 48 min 33 sec, a chord bearing of South 50 deg 19 min 29 sec West, and a chord length of 223.59 feet;

Along said curve to the right, an arc distance of 224.39 feet to point for corner;

North 18 deg 19 min 35 sec West, a distance of 280.43 feet to a point for corner, said point being situated in the Northerly line of said Tract 1 and the Southerly line of said Lot 1;

THENCE North 89 deg 23 min 14 sec East, along the Northerly line of said Tract 1 and the Southerly line of said Lot 1, a distance of 542.62 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 1.334 acres or 58,106 square feet, more or less. Bearings shown hereon are based upon an on-the-ground Survey performed in the field on the 10th day of January, 2019, utilizing a G.P.S. bearing related to the Texas Coordinate System, North Texas Central Zone (4202), NAD 83, grid values from the Geoshack VRS network.