

**CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SAGINAW, TEXAS
AND
CFJ MANUFACTURING, L.P.**

This Chapter 380 Economic Development Agreement (“Agreement”) is made by and between the City of Saginaw, Texas (“City”) and CFJ Manufacturing, L.P., a Texas limited partnership (“Company”). City and Company are sometimes hereafter referred to individually as a “party” and collectively as the “parties.”

RECITALS

WHEREAS, Company is owner of the real property located at 716 S. Saginaw Blvd. within the City; and

WHEREAS, Company desires to construct a new building on the Property and relocate its fine jewelry business to the Property; and

WHEREAS, the City desires to provide the incentives herein to assist Company by offsetting costs related to construction of the Project; and

WHEREAS, City is authorized by Article 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code to establish programs to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City Council has determined that establishing a program to bring Company’s business to the Property 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 foregoing, and on the terms and conditions set forth below, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**ARTICLE 1
DEFINITIONS**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

The terms “Agreement”, “City”, and “Company” shall have the meanings provided above.

“Bankruptcy or Insolvency” means the dissolution or termination of a party’s existence as a going business, insolvency, appointment of receiver for any part of such party’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 such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Car Wash Facility” means the existing self-service car wash facility, including all wash bays and signage, located on the Property as of the Effective Date and as shown on the attached Exhibit A.

“Effective Date” means the last date this Agreement is executed by the parties.

“Expiration Date” means the date both parties have fulfilled their obligations under this Agreement.

“Impositions” means 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 Company or any property or any business owned by Company within the City.

“Project” means a building to be used as Company’s retail jewelry storefront or related office use, and to be constructed by Company on the Property.

“Property” means the real property being more particularly described in the Warranty Deed from Roy M. Neece to CFJ Manufacturing, Instrument No. D220075051 of the Tarrant County Real Property Records, and more commonly known as 716 S. Saginaw Blvd.

“Related Agreement” means any agreement (other than this Agreement) between the City and Company.

“Term” shall have the meaning as defined in Article 2 of this Agreement.

ARTICLE 2 PROGRAM AND TERM

2.1 Program. A program authorized under Chapter 380 of the Texas Local Government Code is hereby established to bring the Project to the City. The terms of this Agreement implement the program.

2.2 Term. The term of this Agreement (“**Term**”) will commence on the Effective Date and will continue until the Expiration Date, unless sooner terminated as provided herein.

ARTICLE 3 COMPANY OBLIGATIONS

In consideration of the City providing the demolition of the Car Wash Facility, Company agrees to comply with every term and condition of this Agreement and each of the obligations set forth in this Article 3.

3.1 Good Standing. Company shall not have an uncured breach or default of this Agreement or a Related Agreement.

3.2 Construction of the Project. No later than twelve (12) months after the Effective Date, Company must have (a) received a building permit for construction of the Project from the City; and (b) commenced construction of the vertical elements (framing, columns, or beams, etc.) of the Project.

ARTICLE 4 CITY OBLIGATIONS

4.1 Demolition. As soon as practical after securing a contract with a third-party demolition company, the City agrees at its sole cost (subject to Section 6.2 of this Agreement) to cause the demolition and removal of the existing Car Wash Facility on the Property.

ARTICLE 5 CONSENT TO DEMOLITION

5.1 Consent. By its signature of this Agreement, Company consents to the City's demolition of the existing Car Wash Facility on the Property and agrees to provide the City and its contractors all reasonable access to the Property for demolition and cleanup purposes.

5.2 Release. IN CONSIDERATION OF THE CITY DEMOLISHING THE CAR WASH FACILITY, COMPANY: (a) RELEASES THE CITY, ITS CONTRACTORS, AGENTS, SERVANTS, REPRESENTATIVES, OFFICIALS, OFFICERS, AND EMPLOYEES, IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES ("RELEASED PARTIES"), FROM ANY AND ALL LIABILITY THAT ARISES OR MAY ARISE FROM THE DEMOLITION AND REMOVAL OF THE CAR WASH FACILITY, INCLUDING WITHOUT LIMITATION ANY DAMAGE TO OTHER STRUCTURES, PERSONAL PROPERTY WITHIN ANY STRUCTURES, VEGETATION, OR TREES, AND (b) AGREES TO INDEMNIFY THE RELEASED PARTIES FROM ANY AND ALL DAMAGES, CLAIMS OR LIABILITIES ARISING FROM OR IN ANY WAY CONNECTED TO THE DEMOLITION OF THE CAR WASH FACILITY.

ARTICLE 6 TERMINATION; REPAYMENT

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) upon written notice by the City, if any Impositions owed to the City or the State of Texas by Company shall have become delinquent (provided, however, Company retains the right to timely and properly protest and contest any such taxes or Impositions);

(d) upon written notice by the City, if Company suffers an event of Bankruptcy or Insolvency; or

(e) 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. In the event this Agreement is terminated by the City pursuant to Section 6.1(b), (c), (d), or (e), Company shall immediately refund to the City an amount equal to the amount that the City paid to its third-party contractor to demolish the Car Wash Facility 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 the City) as its prime or base commercial lending rate, accruing from the Effective Date until paid. The repayment obligation of Company set forth in this Section 6.2 hereof shall survive termination of this Agreement.

ARTICLE 7 MISCELLANEOUS

7.1 Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the parties hereto.

7.2 Limitation on Liability. It is understood and agreed between the parties that Company and the City, in satisfying the conditions of this Agreement, have acted independently, and the City assumes no responsibilities or liabilities to third parties in connection with these actions.

7.3 No Joint Venture. 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.

7.4 Authorization. Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement. The undersigned officers and/or agents of the parties are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties.

7.5 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City, to:

City of Saginaw, Texas
Attn: City Manager
333 West McLeroy Blvd
Saginaw, TX 76179

If intended for Company, to:

CFJ Manufacturing, L.P.
Attn: _____

7.6 Entire Agreement. This Agreement is the entire agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

7.7 Governing Law/Venue. The substantive laws of the State of Texas (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Mandatory and exclusive venue for any action arising out of, or relating to, this Agreement must be in a court of competent jurisdiction in Tarrant County, Texas.

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

7.9 Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

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

7.11 Successors and Assigns. This Agreement may not be assigned without the prior written consent of the City.

7.12 Recitals. The recitals to this Agreement are incorporated herein.

7.13 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

7.14 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

7.15 Employment of Undocumented Workers. During the term of this Agreement, Company agrees not to knowingly employ any undocumented workers, and if convicted of a violation under 8 U.S.C. Section 1324a(f) Company shall repay the amount paid by the City to its third-party contractor to demolish the Car Wash Facility and any other funds received by Company from the City as of the date of such violation within one hundred twenty (120) days after the date Company is notified by the City of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid.

7.16 Consequential Damages. The parties agree that the parties will never be liable under this Agreement for consequential damages (including lost profits) or exemplary damages.

7.17 No Waiver. Any failure by a party to insist upon strict performance by another party of any material provision of this Agreement shall not be deemed a waiver thereof, and the party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by writing signed by the party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any party of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

7.18 Attorneys' Fees. If either party employs an attorney or attorneys to enforce any of the provisions hereof, or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment or award agrees to pay the other party all reasonable costs, charges and expenses, including reasonable attorneys' fees and costs of court, expended or incurred in connection therewith.

{Signatures on following page}

CITY OF SAGINAW, TEXAS

Todd Flippo, Mayor

Date: _____

CFJ MANUFACTURING, L.P.
a Texas limited partnership

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT “A”

Car Wash Facility