

**SECOND AMENDMENT TO CHAPTER 380  
ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF SAGINAW, TEXAS  
AND AM&JK DEVELOPMENT, LLC**

This Second Amendment to the Chapter 380 Economic Development Agreement (“Second Amendment”) is made and entered into on this the 5<sup>th</sup> day of January, 2021, by and between the City of Saginaw, Texas (“City”), and AM & JK DEVELOPMENT, LLC, a Texas limited liability company (“Developer”). This Second Amendment incorporates all definitions, terms and provisions of the Original Agreement and the First Amendment as defined below, unless the Original Agreement and First Amendment are in express conflict with any provisions of this Second Amendment, in which case, this Second Amendment shall control. This Amendment shall be effective on the date which this Second Amendment is finally executed by both parties, unless further modified or amended by the parties.

**R E C I T A L S**

**WHEREAS**, City and Developer entered into that certain Chapter 380 Economic Development Agreement dated June 18, 2019 (“Original Agreement”); and

**WHEREAS**, City and Developer entered into that certain First Amendment to Chapter 380 Economic Development Agreement dated November 19, 2019 (“First Amendment”); and

**WHEREAS**, the Original Agreement contemplates the issuance of Grant Payments upon the occurrence of certain conditions precedent, as described in the Original Agreement; and

**WHEREAS**, the First Grant Payment is contemplated to be in an amount not to exceed one million dollars (\$1,000,000.00), to be paid out by the City to the Developer on a dollar-for-dollar reimbursement basis for the actual cost to construct the Roadway Improvements, and the Second Grant Payment of five hundred thousand dollars (\$500,000) no later than sixty (60) days after Completion of Construction of the Roadway Improvements; and

**WHEREAS**, the First Amendment provides that the amount of the First Grant Payment (and hence the total amount of the three Grant Payments) be reduced, on a dollar for dollar basis, by the total amount of the City’s Direct Cost, as that term is defined in the First Amendment; and

**WHEREAS**, the parties now desire to enter into this Second Amendment to provide that the City’s Direct Cost, together with (to the extent not already included in the City’s Direct Cost) the costs identified in TxDOT’s Local On-System Improvement Project Agreement (“LOSA”) and the cost of a third party inspection firm hired by the Developer (“City’s Total Cost”), be funded on a dollar-for-dollar basis by deducting the City’s Total Cost from the Grant Payments; and, that the Developer shall not be entitled to seek reimbursement from any Grant Payments for any eligible work contemplated in the Original Agreement, until: 1) City’s Total Cost has been deducted from the First Grant Payment and to the extent the First Grant Payment is insufficient to fund City’s Total Cost, deducted from the Second Grant Payment; and, 2) the infrastructure improvements within TxDOT right-of-way contemplated to be funded by City’s Total Cost, have been accepted by TxDOT; and

**WHEREAS**, City and Developer both desire to enter into this Second Amendment to approve the revisions to the Grant Payment amounts, as contemplated above.

**NOW THEREFORE** the Parties agree to amend the Original Agreement as amended by the First Amendment, as follows:

**SECTION 1.**

That the City's Total Cost shall be funded on a dollar-for-dollar basis by deducting the City's Total Cost from the Grant Payments in the manner described below; and, that the Developer shall not be entitled to seek reimbursement from any Grant Payments for any eligible work contemplated in the Original Agreement, until: 1) City's Total Cost has been deducted from the First Grant Payment and to the extent the First Grant Payment is insufficient to fund City's Total Cost, deducted from the Second Grant Payment; and, 2) the infrastructure improvements within TxDOT right-of-way contemplated to be funded by City's Total Cost, have been accepted by TxDOT. Once the amount of the First Grant Payment and to the extent necessary to fund City's Total Cost, the amount of the Second Grant Payment, is funded and the infrastructure improvements have been accepted by TxDOT, said Grant Payments reflected in the Original Agreement are reduced by the amount of the City's Total Cost. As a result of this reduction, the amount of the total of the Grant Payments contemplated in Section 5.1 of the Original Agreement shall also be reduced by the amount of the City's Total Cost.

**SECTION 2.**

Developer acknowledges City is in compliance with all its obligations under the Original Agreement, as previously amended and further hereby amended.

**SECTION 3.**

All other terms and conditions of the Original Agreement, as amended, remain in full force and effect.

EXECUTED on this 5th day of January, 2021.

CITY OF SAGINAW, TEXAS

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

By: \_\_\_\_\_  
Todd Flippo, Mayor

By: \_\_\_\_\_

ATTEST:

Name: \_\_\_\_\_

By: \_\_\_\_\_  
Janice England, City Secretary

Title: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

By: \_\_\_\_\_  
Bryn Meredith, City Attorney