

CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT

THIS CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into by and between the City of Joshua, Texas (“City”), and Rumfield Properties (“Developer”) and effective on the Effective Date, as established herein.

WHEREAS, Developer is developing a retail building and parking lot located at 204 North Main Street in the City (“Property”), to be constructed in accordance with the exhibits attached hereto, and as more fully described herein; and

WHEREAS, a depiction of a Site Plan (“Site Plan”) for the Property is attached hereto as Exhibit A and incorporated by reference, and the retail building elevations are attached hereto as Exhibit B and incorporated by reference; and

WHEREAS, Developer has agreed to construct the parking lot at 204 North Main Street, as depicted in the Site Plan, on property (“Parking Lot Property”) owned by the City’s Type A Economic Development Corporation, subject to the terms contained in this Agreement; and

WHEREAS, the City has the authority under Chapter 380 of the Texas Local Government Code to make loans or grants of City funds for the purposes of promoting local economic development and stimulating business and commercial activity; and

WHEREAS, Developer and the City agree to be subject to the terms and conditions of this Agreement for the reimbursement of funds to Developer for Developer’s construction of a parking lot on the Parking Lot Property, and the City and Developer acknowledge and agree that such agreement promotes the continued economic development of the City; and

WHEREAS, Developer and the City recognize that this Agreement and all terms and provisions herein are subject to the laws of the State of Texas; and

WHEREAS, the City Council has considered and approved this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and the City hereby agree as follows:

1. **Authority.** The City’s execution of this Agreement is authorized by Chapter 380 of the Texas Local Government Code and constitutes a valid and binding obligation of the City. Developer’s execution and performance of this Agreement constitutes a valid and binding obligation of Developer in the event Developer proceeds with the construction of a parking lot on the Parking Lot Property in the City. The City acknowledges that Developer is acting in reliance upon the City’s performance of its obligations under this

Agreement in making its decision to commit substantial resources and money for the construction of the parking lot on the Parking Lot Property.

2. **Effective Date.** This Agreement shall be effective as of the date the last Party executes this Agreement and shall terminate when all terms and conditions of this Agreement have been fulfilled, specifically when Developer has been fully reimbursed for its costs of the construction of the parking lot, unless otherwise terminated by the Parties.

3. **Parking Lot Construction.** Developer shall construct a parking lot on the Parking Lot Property, subject to the following conditions:

A. The construction plans for the construction of the parking lot shall be approved by the City Engineer prior to the commencement of any construction. The City Engineer shall endeavor to review all submitted construction plans as promptly as feasible and all construction shall be consistent with the approved construction plans.

B. The City, with the concurrence of the City's Type A Economic Development Corporation, hereby grants a license to Developer to construct the parking lot on the Parking Lot Property, and the Parties agree and acknowledge that ownership of the Parking Lot Property shall remain with the City's Type A Economic Development Corporation.

C. The estimated cost for the construction of the parking lot is \$ _____ as of the date of execution of this Agreement. Developer shall obtain at least three (3) bids from qualified contractors for the construction of the parking lot, and the City shall assist Developer with any issues related to the bidding of the parking lot construction project.

D. If during construction of the parking lot, Developer experiences an unavoidable cost increase related to such construction, Developer shall submit a cost increase request to the City. After review and approval of such cost increase by the City, not to be unreasonably withheld, the additional cost shall become a part of the construction costs. Upon completion of the construction of the parking lot, Developer shall submit a copy of its actual final costs for the construction of the parking lot.

E. Developer shall execute a performance bond for the construction of the parking lot to ensure completion of same. The bond must be executed by a corporate entity in accordance with Chapter 2253 of the Texas Government Code, as amended. Further, prior to the City's acceptance of the parking lot, Developer (or any contractor it engages to construct the parking lot) shall execute a "bills paid" affidavit with the City, verifying that all subcontractors have been paid.

F. Upon the City's acceptance of the parking lot, Developer shall provide the City with a two-year warranty and provide same to the City.

4. **Reimbursement to Developer by City.**

A. Upon acceptance of the parking lot, the City will provide for quarterly payments (“Payments”) to be made to Developer by establishing a separate fund at the City, or a subaccount of an existing fund in the City treasury, as deemed appropriate by the City, into which certain Sales Taxes received by the City from the City’s downtown will be deposited. When Sales Taxes are received by the City from the State Comptroller, the City shall make Payments to Developer promptly to reimburse Developer the costs it incurred for the construction of the parking lot. In no event shall the City make Payments to Developer until the City has inspected and approved the completed parking lot.

B. The Payments shall consist of a portion of the City’s Sales Taxes attributable to businesses located in the City’s downtown, as determined by the City in its sole discretion. The Payments shall continue each year until Developer has been fully reimbursed for the costs of the construction of the parking lot, as referenced herein.

C. The Payments shall be paid solely from lawfully available funds. As of the date of execution of this Agreement, the City may reimburse Developer from any of the following revenue streams: general sales tax proceeds or Type A economic development sales tax. Nothing in this Agreement shall obligate the City to designate a certain or exclusive revenue stream to be designated as the sole source of payments to Developer.

5. **Termination of this Agreement.** This Agreement shall terminate as follows:

A. If Developer has not commenced construction of the parking lot by January 1, 2026. For purposes of this Agreement, “commencement of construction” shall mean written authorization or approval by the City to proceed with construction of the parking lot.

B. If the City has paid to Developer any and all Payments in fulfillment of its financial obligations referenced herein.

C. Any warranty, representation or statement made or furnished to the City by or on behalf of Developer under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished, and Developer fails to cure same within thirty (30) days after written notice from the City describing the violation, or if such violation cannot be cured within such 30-day period in the exercise of all due diligence, then if Developer fails to commence such cure within such 30-day period or fails to continuously thereafter diligently prosecute the cure of such violation, or if Developer learns that any such warranty, representation or statement has become false or misleading at the time that it was made, and Developer fails to provide written notice to the City of the false and misleading nature of such warranty, representation or statement within ten (10) days after confirmed written notice to Developer, the City may declare default of this Agreement.

D. Failure of Developer to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any documents generated or otherwise created attendant to this Agreement or in any way related to this Agreement, or failure of Developer to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement between the City and Developer, and Developer fails to cure such failure within thirty (30) days after written notice from the City describing such failure, or if such failure cannot be cured within such 30-day period in the exercise of all due diligence, then if Developer fails to commence such cure within such 30-day period or fails to continuously thereafter diligently prosecute the cure of such failure, the City may declare default of this Agreement.

E. The dissolution or termination of Developer's existence as a going business, Developer's insolvency, any assignment of all or substantially all of the assets of Developer for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer unless, in the case of involuntary proceedings, such proceedings are discharged within sixty (60) days after filing.

6. **Miscellaneous Provisions.** The following miscellaneous provisions are a part of this Agreement:

A. This Agreement constitutes an entire understanding and agreement of the Parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by all of the Parties hereto.

B. 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 Johnson County, Texas. Venue for any action arising under this Agreement shall lie in the state courts of Johnson County, Texas.

C. This Agreement shall become a binding obligation on the Parties on the Effective Date.

D. The City expressly waives its right of immunity to suit for enforcement and collection under this Agreement, but otherwise does not waive any statutory or common law right to sovereign immunity by virtue of its execution hereof.

E. The City represents and warrants that this Agreement has been approved by the City Council in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act) and that the individual executing this Agreement on behalf of the City has been duly authorized to do so. Developer represents and warrants that this Agreement has been approved by the appropriate action of Developer, and that the individual executing this Agreement on behalf of Developer has been duly authorized to do so. Each Party acknowledges and

agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

F. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

G. If a Party is in default, the aggrieved party may, at its option and without prejudice to any other right or remedy under this Agreement, seek any relief available at law or in equity, including but not limited to, an action under the Uniform Declaratory Judgment Act, specific performance, mandamus, injunctive relief and termination of those provisions of this Agreement applicable to property owned by the defaulting party. Notwithstanding the foregoing, however, no default under this Agreement shall entitle the aggrieved party to the termination of this Agreement.

H. All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepared, addressed to the Party to whom the notice is to be given at the addresses shown below. Any Party may change its address for notices under this Agreement by giving formal written notice to the other Party, specifying that the purpose of the notice is to change the Party's address. For notice purposes, each Party agrees to keep the other informed at all times of its current address.

For the City: City of Joshua, Texas
101 South Main Street
Joshua, Texas 76058
Attention: City Manager

For Developer: Rumfield Properties, Inc.
P.O. Box 1687
Burleson, Texas 76097
Attention: Robbie Rumfield

I. 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.

J. Except as provided below, this Agreement and the rights and obligations contained herein may not be assigned by Developer without the prior written approval of the City not to be unreasonably withheld.

K. Notwithstanding anything contained herein regarding a time of commencement or completion of the construction of the parking lot, Developer shall be granted such additional time as may be required in the event of "force majeure" so long as Developer is diligently and faithfully pursuing commencement or completion of the

same. For purposes of this Agreement, the term “force majeure” shall mean any contingency or cause beyond the reasonable control of Developer, or its assignee, as the case may be, including, without limitation, acts of God, or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action, fires, explosions, floods, strikes, epidemics or shortages of essential materials.

L. FROM THE EFFECTIVE DATE OF THIS AGREEMENT TO THE DATE ON WHICH ALL CONSTRUCTION OF THE PARKING LOT IS COMPLETED, AS CONTEMPLATED HEREIN, AND HAS BEEN ACCEPTED BY THE CITY, DEVELOPER, INDIVIDUALLY AND ON BEHALF OF ITS RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEES AND/OR TRUSTEES, DOES HEREBY AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY AND ITS ELECTED AND APPOINTED OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL DAMAGES, INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE) LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY’S FEES AND EXPENSES (INCLUDING ATTORNEY’S FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF THE APPLICABLE DEVELOPER, ITS OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, REPRESENTATIVES, AGENTS, OR ANY OTHER THIRD PARTIES FOR WHOM SUCH DEVELOPER IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, THE CONSTRUCTION OF THE IMPROVEMENTS CONTEMPLATED HEREIN (HEREINAFTER “CLAIMS”). DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND THE CITY AGAINST ALL SUCH CLAIMS ARISING UNDER THIS AGREEMENT, AND THE CITY IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER(S) IN PROVIDING SUCH DEFENSE.

M. In its reasonable discretion, the City shall have the right to approve counsel to be retained by Developer in fulfilling its obligation hereunder to defend and indemnify the City. The City reserves the right to provide a portion or all of its own defense, at its sole cost; however, the City is under no obligation to do so. Any such action by the City is not to be construed as a waiver of Developer’s obligation to defend the City or as a waiver of Developer’s obligation to indemnify the City pursuant to this Agreement. Developer shall retain City-approved defense counsel within seven (7) business days of the City’s written notice that the City is invoking its right to indemnification under this Agreement.

N. Subsection (L), above, relative to indemnification, shall survive the termination of this Agreement.

O. The recitals contained in this Agreement: (a) are true and correct as of the effective date; (b) form the basis upon which the Parties negotiated and entered into this Agreement; (c) are legislative findings of the City’s City Council; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement. In the

event it becomes necessary to interpret any provision of this Agreement, the intent of the Parties, as evidenced by the recitals, shall be taken into consideration and, to the maximum extent possible, given full effect. The Parties have relied upon the recitals as part of the consideration for entering into this Agreement and, but for the intent of the Parties reflected by the recitals, would not have entered into this Agreement.

P. This Agreement is executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

Q. Developer certifies that it does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the term of this Agreement, Developer or its successors or assigns is convicted of a violation under 8 U.S.C. § 1324a(f), Developer or its successors or assigns shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120th day after the date the City notifies Developer or its successors or assigns of the violation.

R. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

S. This Agreement contains the entire agreement between the Parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

T. Invalidation of any one of the provisions of this Agreement by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

U. In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to mediation.

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CITY OF JOSHUA, TEXAS

By: _____
Printed Name: Scott Kimble
Title: Mayor

ATTEST:

Alice Holloway, City Secretary

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF JOHNSON §

This instrument was acknowledged before me on the ____ day of _____, 2025, by Scott Kimble, Mayor of the City of Joshua, Texas, on behalf of said municipal corporation.

Notary Public, State of Texas

My commission expires: _____

RUMFIELD PROPERTIES, INC.:

By: _____

Printed Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS §

§

COUNTY OF JOHNSON §

This instrument was acknowledged before me on the _____ day of _____, 2025, by _____, _____ of Rumfield Properties, Inc., on behalf of said corporation.

Notary Public, State of Texas

My commission expires: _____

EXHIBIT A
(Site Plan)

EXHIBIT B
(Building Elevations)