

**REVISED CHAPTER 380
ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF WILLOW PARK, TEXAS
AND
PULIDO’S WESTLAND WILLOW PARK, LLC**

This Chapter 380 Economic Development Agreement (this “Agreement”) revises and replaces in its entirety the Chapter 380 Economic Development Agreement entered, executed and approved on February 25, 2025, and this revised agreement is entered into this _____ day of _____, 2025, by and between Pulido’s Westland Willow Park, LLC, hereinafter referred to as “Business Developer,” a Texas limited liability company, and the City of Willow Park, Texas, hereinafter referred to as “City”, a Texas Type A general law city.

FACTUAL RECITALS AND FINDINGS

WHEREAS, the City Council of the City has adopted a resolution (the “Resolution”), authorizing the City to make certain performance-based economic development grants as an incentive to the Business Developer in recognition of the positive economic benefits which will accrue to the City through the Business Developer’s efforts to renovate and operate a restaurant, called the Pulido’s Kitchen & Cantina, to be located at 104 S. Ranch House Rd., Willow Park, Texas (the “Project”); and

WHEREAS, the Business Developer estimates the total construction/renovation costs of the Project to be approximately FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) and that the Project will produce annual taxable sales of approximately TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00); and

WHEREAS, the Business Developer estimates that development and operation of the Project will result in the creation of the equivalent of approximately forty (40) part-time and full-time jobs; and

WHEREAS, the Business Developer approached the City and requested an economic incentive in order to induce the Business Developer to develop the Project within the City; and

WHEREAS, the City recognizes that development of the Project in the City represents an opportunity to provide significant economic benefit and opportunities for its citizens; and

WHEREAS, the City desires to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City desires to offer incentives to the Business Developer over a period of time to induce Business Developer to develop the Project in the City and to enable the Business Developer to develop and operate the Project successfully in a manner that will be of lasting and significant benefit to the City; and

WHEREAS, the City finds that development of the Project will add significant new revenues to the City's tax base, both and ad valorem and sales tax, and will create jobs, which will promote state and local economic development and stimulate business and commercial activity in the City thereby enhancing the economic stability and growth of the City.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Business Developer agree as follows:

Agreements

1. Authorization. The City's execution of this Agreement is authorized by the *Texas Constitution*, Article III, §52-a and by Chapter 380, *Texas Local Government Code*, and by the Resolution, and constitutes a valid and binding obligation of the City. The Business Developer's execution and performance of this Agreement constitutes a valid and binding obligation of Business Developer, and Business Developer agrees to proceed with the development of the Project. The City acknowledges that the Business 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 to develop the Project, and Business Developer acknowledges that City is acting in reliance upon Business Developer's full and complete performance of its obligations under this Agreement in making its decision to commit substantial resources to this Project.

Section 380.001 of the Texas Local Government Code authorizes cities to establish one or more programs to promote local economic development and to stimulate business and commercial activity in the city. The City desires to encourage businesses that will enhance City sales tax and other tax revenues to locate or maintain a place of business within the City. The Project will enhance the City's sales tax and ad valorem tax revenues. By this Agreement, the City establishes an economic development program for the Project.

2. Definitions. In this Agreement:

Comptroller means the Comptroller of Public Accounts of the State of Texas, or whatever person, position, or office is designated by law to administer the collection, reporting, and distribution of sales taxes.

Person means an individual, sole proprietorship, partnership, limited partnership, corporation, or any other legal entity.

Project means the construction and renovation of Pulido's Kitchen & Cantina, to be located at 104 S. Ranch House Rd., Willow Park, Texas with a minimum of Four Hundred Thousand Dollars in improvements to be made by Business Developer, which shall include the installation of a fire suppression system in accordance with city ordinance and any applicable laws.

Sales Tax means the one percent (1.00%) municipal sales and use tax adopted by the City under the authority of the *Texas Tax Code*, Chapter 321 and available for general fund purposes. Sales Tax expressly excludes the one-half percent (.50%) municipal sales and use tax to be used to reduce property

taxes, and any Sales Tax generated by the sale of alcohol, including, the Mixed Beverage Sales Tax and the Mixed Beverage Gross Receipts Tax.

Sales Tax Reports means the monthly reports furnished by the Business Developer to the Comptroller pursuant to Texas Tax Code Section 321.302, including the reports more fully described in Section 5(e) of this Agreement.

3. City Council Findings. By approval of this Agreement, the City Council of the City finds that each of the factual findings and recitals set forth above are found to be true and correct for all purposes and are hereby incorporated into the body of this Agreement.

4. Business Developer Obligations.

(a) The Business Developer agrees that:

(1) The Project will be constructed/renovated in accordance with all applicable laws, including, without limitation, all applicable City ordinances, adopted codes, and required permits.

(2) A certificate of occupancy shall be in place for the Project and the Project will be open for business no later than March 1, 2026.

(3) The Project must remain open for business to the public (during normal store hours set by the Business Developer in its reasonable discretion, but not less than fifty (50) hours a week) for the term of this Agreement, except any days during which no business is conducted because of the actions of the Business Developer's landlord, casualty, condemnation, repairs, environmental remediation or investigation, or any other reason that is beyond the reasonable control of Business Developer including, but not limited to, those reasons referenced in Paragraph 7 (b) of this Agreement, except for any economic reasons, including, without limitation, low restaurant sales, credit reasons, or any other reasons related to financial considerations.

(b) New Sales Tax Revenue and Operation of New Store. For the Business Developer to receive the economic incentive payments described in this Agreement, the Business Developer must generate new Sales Tax and must open and operate a restaurant known as the Pulido's Kitchen & Cantina at 104 S. Ranch House Road, Willow Park, Texas, in accordance with the terms of this Agreement.

(c) Reports and Information. Business Developer shall comply with all requirements of State law, including without limitation, the Texas Tax Code, for tracking, reporting, and documenting Sales Tax generated by the Project and received by Business Developer as a result of the Project. Beginning in January 2026, and each month thereafter during the term of this Agreement, the Business Developer will provide the City with true and correct copies of its monthly Sales Tax Reports filed with the Comptroller for sales from the preceding month. All information provided by Business Developer to the City under this subsection shall be sent to the attention of the City's City Manager at the address specified for giving notice in this Agreement. The reports and

information provided by the Business Developer to the City are private, proprietary, and confidential, and in no manner shall it become a public record of the City. Notwithstanding the foregoing, Business Developer understands and agrees that the City is subject to the Texas Public Information Act (the “Act”), Texas Government Code Chapter 552. In the event that the City receives an open records request for reports and information provided to the City, the City will promptly notify Business Developer of the request and cooperate with Business Developer to seek an Attorney General’s opinion as to whether the information must be produced to the requestor. Business Developer shall be responsible for asserting its rights under the Act and shall bear any costs and expenses incident to asserting its rights of confidentiality under the Act, including any legal fees, costs and expenses related to an appeal of the Attorney General’s opinion through the prosecution of a lawsuit or otherwise.

5. Economic Development Program and Incentive Payments.

(a) Establishment of 380 Economic Development Program. As consideration for Business Developer’s contractual obligations hereunder, the City establishes an economic development program pursuant to Chapter 380, Texas Local Government Code to be known as the “**Pulido’s Kitchen & Cantina Economic Development Program**”.

(b) Incentive Payment and Limitations. To provide an incentive to induce Business Developer to develop the Project in the City, the City will pay Business Developer an annual economic development incentive grant in an amount equal to the Sales Tax the City receives from the Project beginning on January 1, 2026 and ending three (3) years later on December 31, 2028 in accordance with the following percentages and schedule, subject to the limitation provided in subparagraph (d) of this Agreement:

SCHEDULE OF SALES TAX REBATES

YEAR	PERCENTAGE OF SALES TAX
01/01/26 - 12/31/26	50%
01/01/27 – 12/31/27	50%
01/01/28 – 12/31/28	50%

The annual payments will be based on Sales Tax Reports received from the Comptroller and the Business Developer regarding the Sales Tax generated by the Project. The City has no obligation to pay the annual payment unless the City receives (i) Sales Tax generated by the Project; (ii) Sales Tax Reports for the Project; and (iii) other sales or Sales Tax data from the Business Developer for the Project as provided in subparagraph (e) and required by State law.

(c) Time of Payments. Each annual payment to Business Developer will be made within thirty (30) days after January 31st (for sales from the preceding January 1 through December 31) if the City has received the Sales Tax Reports and any reports from Business Developer required by this Agreement. The due date for a payment will be extended by the number of days after January 31st that the City receives from the Business Developer, its Sales Tax Reports and/or any data used to compute the Performance–Based Incentive related to the preceding year. The Business Developer will be eligible to receive the first payment following January 31, 2027.

(d) Chapter 380 Payments Maximum. The amount paid in annual payments to Business Developer under this Agreement, collectively, shall not exceed One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) over the term of this Agreement, such amount to be referred to herein as the “Chapter 380 Payments Maximum”. In no event shall the payments made under this Agreement exceed the Chapter 380 Payments Maximum. The City’s obligations to pay the Business Developer the annual payments provided herein shall end upon the earlier of City’s payment to Business Developer of the Chapter 380 Payments Maximum, the expiration of the Term of this Agreement, or the termination of this Agreement.

(e) Sales Tax Reports. The City may request each year from the Comptroller Sales Tax Reports as provided in Section 321.3022, *Texas Tax Code*, establishing the annual amount of Sales Tax remitted by the Business Developer for the Project. The Business Developer will provide the Comptroller any permission required by section 321.3022(d), *Texas Tax Code*, in order for the City to obtain the Sales Tax Reports. In addition, the Business Developer shall provide its Sales Tax Reports filed with the Comptroller as provided herein and shall provide the City with a report or other information that shows the amount of Sales Tax attributable to the Project for the year upon which payment is sought. If the Business Developer disagrees with the amount of Sales Tax attributable to the Project as reflected in the Sales Tax Reports, or if for any reason the Comptroller does not or cannot provide the Sales Tax Reports to the City, the Business Developer shall have the obligation to submit to the City other evidence of the amount of Sales Tax the City receives for the Project. The City agrees to examine such reports and evidence in good faith and make payments or adjustments in payments based on such evidence, to the extent that the evidence is verifiable and correct.

(f) Repayment. If, for any reason, the City is required to refund to the State of Texas any of the Sales Tax revenues that it has received and are generated from the Project upon which the payments made by the City to Business Developer are calculated under this Agreement, the City shall adjust future payments to Business Developer to account for and remedy any such refund. In the event that the refund occurs following the expiration of the term of this Agreement or after the last required payment to Business Developer under this Agreement, Business Developer shall repay the City the amount of the refund no later than thirty (30) days after the City sends an invoice to Business Developer. This provision shall survive termination or expiration of this Agreement.

(g) Funding Source. While the amount of the performance-based incentive grant for the Project shall be measured as a percentage of the Sales Tax generated from the Project, the City may use any available and legally permissible funding source, other than ad valorem tax revenue, to make the payments required hereunder. Should any legal impediment arise during the term of this Agreement, including a change in law, that prevents or prohibits the City from complying with or making future payments under this Agreement, the City may, in its sole and absolute discretion, amend and reform this Agreement, to the extent legally permissible, to give effect to the terms of this Agreement. In the event that the City determines not to reform this Agreement, it may terminate the Agreement without further liability to Business Developer.

(h) Not Subject to Annual Appropriation. In accord with Article III §52-a of the *Texas Constitution*, the program created and the grant made as provided by this Agreement does not

constitute or create a debt for the purpose of any provision of the Texas Constitution and this Agreement is therefore not subject to annual appropriation of the City Council.

6. Term. This Agreement is effective on the date of approval by the City Council and terminates on December 31, 2028. The last payment under this Agreement by the City shall be due after January 31, 2029, for calendar year 2028 in accordance and as provided in Section 5, unless the Agreement is terminated earlier as provided herein or has expired.

7. Termination; Remedies.

(a) Default; Notice. Either party may terminate this Agreement during its term as provided in this paragraph if the other party defaults in the performance of its obligations under this Agreement, including without limitation, those obligations set forth in Paragraph 7(c) of this Agreement. The Party alleging the default will give the other Party notice of the default in writing as required by Paragraph 8(c) of this Agreement. If the defaulting Party fails to cure the default within sixty (60) days of the date of the notice (the "Cure Period"), this Agreement shall terminate immediately upon expiration of the Cure Period unless the Parties agree in writing to extend the Cure Period.

(b) Force Majeure. No party may be deemed to be in default of this Agreement if performance of this Agreement is delayed, disrupted, or becomes impossible because of any act of God, war, earthquake, fire, strike, accident, civil commotion, epidemic, act of government, its agencies or offices, or any other cause beyond the control of the parties during the time, but only for so long as the event of force majeure reasonably prevents performance. Notwithstanding the foregoing, within three (3) business days after the occurrence of a force majeure event, the Party claiming the right to temporarily suspend its performance, shall give notice to the other Party, including a detailed explanation of the force majeure and a description of the action that will be taken to remedy the force majeure and resume full performance at the earliest possible time. A Party that fails to provide timely notice of an event of force majeure will be deemed to be able to resume full performance within thirty (30) days of such event.

(c) Conditions of Default. Subject to the applicable Cure Period stated above in paragraph (a), the following conditions, occurrences, or actions will constitute a default by the Business Developer during the term of this Agreement:

- (1) Business Developer's insolvency, the appointment of a receiver for the Business Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Business Developer; or
- (2) Foreclosure of any lien against all or a portion of the Business Developer's restaurant located in Willow Park, Texas, which may materially and adversely affect the continuance by Business Developer of its operations in Willow Park, Texas; or
- (3) The Pulido's Kitchen & Cantina ceases to maintain its lease at the Project address and do business in Willow Park, Texas or fails to stay open for the minimum number of hours provided in this Agreement; or

(4) The Business Developer's failure to timely comply with any term, provision or covenant of this Agreement.

(d) In the event of a default by the City or the Business Developer for any reason other than the payment of money owed under this Agreement (pursuant to Paragraph 5), termination shall be the only remedy (in lieu of damages or any other remedy). If at any time during the term of this Agreement, the City terminates the Agreement because of a default by Business Developer's default, the City's obligations to make payment under Paragraph 5 shall automatically terminate and City shall not owe any performance-based incentive grant payment to Business Developer regardless of the time remaining in the Term of this Agreement.

(e) Attorney's Fees. In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Agreement as a consequence of any default by the other party of its obligations under this Agreement, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorney's fees and out-of-pocket expenditures paid by the losing party. All such fees shall be deemed to have accrued upon the commencement of such action.

8. Miscellaneous Provisions.

(a) Remedies Cumulative. The rights and remedies provided in this Agreement or under other laws are cumulative and the exercise of any particular right or remedy does not preclude the exercise of any other right or remedy.

(b) Law Governing and Venue. This Agreement is governed by the laws of the State of Texas, and a lawsuit may only be prosecuted on this Agreement in a State District Court in Parker County, Texas.

(c) Notices. Any notice required to be given by one party to another must be given in writing addressed to the party to be notified at the address set forth below, (1) by delivering the notice in person, (2) by depositing the notice in the U. S. Mail, certified or registered, return receipt requested, postage prepaid, or (3) by depositing the notice with Federal Express or another nationally recognized courier service for next day delivery. Notice deposited in the U.S. Mail is deemed effective on the date of deposit. Notice given in any other manner is effective when received by the party to be notified. For the purposes of notice, the addresses of the parties to whom notice is to be given, until changed by giving notice to the other as provided herein, are as follows:

If to the City: City of Willow Park, Texas
 City Manager

120 El Chico Trail, Suite A
Willow Park, Texas 76087
Telephone: (817) 441-7108
Email:

If to Business Developer:

Pulido's Westland Willow Park, LLC
Attention: Bourke Harvey
104 S. Ranch House Rd.
Willow Park, Texas 76087
Telephone: 817-946-3044
Email: Harvey@delipartners.com

(d) Assignment. This Agreement shall not be assigned without the prior written consent of the City; such consent to be within the sole and absolute discretion of the City. Notwithstanding the foregoing, Business Developer may assign its rights and obligations under this Agreement to any entity affiliated with or under common control with the Business Developer provided that such assignment requires the assignee to comply with the terms of this Agreement. The City expressly consents to any assignment described in the preceding sentence and agrees that no further consent of the City to such an assignment will be required so long as the Project continues to be operated as a Pulido's Kitchen & Cantina. The Business Developer agrees to provide the City with written notice of any such assignment.

(e) Severability. If any provision of this Agreement is declared void or illegal by any court or administrative agency having jurisdiction, the remaining provisions continue in effect.

(f) Recitals. 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 Council of the City; and (d) reflect the final intent of the Parties with regard to the subject matter of this Agreement.

9. Statutory Verifications. The Business Developer makes the following representation and verifications to enable the City to comply with Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Business Developer within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification prior to the expiration or earlier termination of this Agreement shall survive until barred by the applicable statute of limitations and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

(a) Not a Sanctioned Company. The Business Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(b) No Boycott of Israel. The Business Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, "boycott Israel" has the meaning provided in Section 2271.001, Government Code.

(c) No Discrimination Against Firearm Entities. The Business Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the meaning provided in Section 2274.001(3), Government Code.

(d) No Boycott of Energy Companies. The Business Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 2276.001(1), Government Code.

10. Form 1295. Submitted herewith is a completed Form 1295 in connection with the Business Developer's participation in the execution of this Agreement generated by the Texas Ethics Commission's (the "TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Government Code and the rules promulgated by the TEC (the "Form 1295"). The City hereby confirms receipt of the Form 1295 from the Business Developer, and the City agrees to acknowledge such form with the TEC through its electronic filing application not later than the 30th day after the receipt of such form. The Business Developer and the City understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by the Business Developer; and, neither the City nor its consultants have verified such information.

11. Verification Regarding Undocumented Workers. In accordance with Chapter 2264 of the Government Code, the Business Developer represents and certifies that it does not and will not knowingly employ any undocumented worker on the Project who is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in the United States. If, after receiving any public subsidy from the City under this Agreement, the Business Developer is convicted of a violation under 8 U.S.C. § 1324a(f), the Business Developer shall repay to the City an amount equal to all grant payments or other public subsidies provided to the Business Developer under this Agreement and any

other funds received by the Business Developer from the City under this Agreement plus interest, at the rate of four percent (4%), not later than the 120th day after the date the public agency, state or local taxing jurisdiction notifies the Business Developer of the violation. Pursuant to Section 2264.101(c) of the Government Code, a business is not liable for a violation of Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

12. Chapter 380 Reporting. The City agrees to timely report this Agreement to the State Comptroller in accordance with Section 403.0246 of the Texas Government Code and Chapter 380 of the Texas Local Government Code.

13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by the Parties.

14. Non-Waiver. Any failure by a Party to insist upon strict performance by the other 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.

15. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

CITY OF WILLOW PARK

PULIDO'S WESTLAND WILLOW PARK, LLC

By: _____
Teresa Palmer, Mayor

By: _____
Bourke Harvey, Member

Date: _____

Date: _____

ATTEST:

Deana McMullen, City Secretary

Approved as to form and legality:

Wm. Andrew Messer, City Attorney