THE STATE OF TEXAS)
)
COUNTY OF SMITH)

[redacted]

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

THIS ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT (this "Agreement") is entered into by and between Tyler Economic Development Council, Inc., a Texas non-profit corporation ("TEDC"), whose address is 315 N. Broadway, Suite 300, Tyler, Texas 75702, and [redacted] ("Company"), whose address is [redacted], Tyler, Texas 75708.

RECITALS

WHEREAS, TEDC was formed in 1989 to diversify the economic base of the City of Tyler, Smith County, Texas ("Tyler"), and to create new job opportunities;

WHEREAS, Company is in the business of [redacted] ("Company's Business") and proposes to lease a facility at [redacted] in Tyler, Texas, (the "Facility") and to add or relocate up to 15 full-time employees to Tyler within 2 years of commencement of operations at the Facility (defined herein as Company's compliance with Paragraph 2 hereunder);

WHEREAS, the establishment of Company's Facility will encourage economic development in Tyler, and will add to the tax rolls of Tyler and the other local taxing entities; TEDC is willing to negotiate with Company for subsequent economic development incentives for the creation of new jobs and the addition of personal property in Tyler by Company; and

WHEREAS, the Board of Directors of TEDC has determined that it is in the best interest of Tyler that financial incentives be offered to Company in order to encourage it to expand its business in Tyler and to create jobs and invest in Tyler.

NOW, THEREFORE, in consideration of the sum of $10.00 and other good and valuable consideration and the mutual covenants and agreements contained herein, the parties agree as follows:

1. Upon the full execution of this Agreement by both parties and Company having entered into a five-year lease for the Facility, TEDC agrees to pay to Company a total cash incentive of [redacted] in accordance with the following schedule and additional requirements:

a. [redacted] due upon commencement of Company's Business at the Facility; and

b. [redacted] due upon the continued operation of Company's Business at the Facility and the creation of 15 new, full-time job positions with the Company at the Facility and the employ of 15 employees to fill said job positions.

c. Company will render all capital improvements, equipment, and inventory with the Smith County Appraisal District and will list Tyler as the taxable situs of all of the personal property utilized at the Facility.

2. Company agrees to create 15 new, full-time jobs in Tyler within a 2-year period from the commencement date of operations of Company's Business at the Facility.

If, at the end of 2 years from the date of commencing operations in the facility, Company has NOT created 15 new jobs, Company will reimburse TEDC at the rate of [redacted] per job for each job it has not created ([redacted]/15). For instance, if Company has created only 14 new jobs, it will reimburse TEDC [redacted]

Each job created must be a full-time job in Tyler and each job position must be filled by an employee (or employees) who has (have) worked a minimum of 1820 hours during the year. However, for purposes of Section 2 of this Agreement, Company will receive credit for jobs created in the third year of this Agreement for employees who have worked less than 1820 hours during the year, if they work 1820 hours in the 12-month period following their date of hire. The audit for jobs created in the third year of this Agreement can be extended an additional 12 months after the end of the third year of this Agreement.

Company will provide proof of its capital investment by providing TEDC with a copy of its rendition to the Smith County Appraisal District or allowing TEDC access to its books and records, and a detail of non-taxable investments.

Company, during normal business hours, shall provide adequate information or shall allow, or cause its contractor(s) to allow, TEDC reasonable access to its employment records to verify employment, but the confidentiality of such records will be maintained.

3. Company agrees to use its best effort to commence operation of Company's Business at the Facility and to employ and maintain employment of 15 new employees in Tyler.

4. Company shall pay all real property and/or ad valorem taxes due and owing by it to Tyler and all other taxing authorities having jurisdiction and any and all sewer and water bills owing to Tyler. During the 5 year period commencing upon the date of this Agreement, Company will (i) annually provide TEDC with paid ad valorem receipts for both its real and personal property located in Tyler, and (ii) pay all employment, income, franchise and all other taxes due and owing by it to all local, state, and federal government entities. Company shall have the right to contest in good faith and with reasonable diligence the validity of any such tax incurred and any sewer or water charges incurred. In the event Company should fail to pay any such uncontested taxes owing to Tyler or any other taxing entity and such taxes should become delinquent or its uncontested sewer and water bills should become delinquent, this Agreement shall immediately terminate, and TEDC will have no further obligations under this Agreement.

In addition, if Company's operations cause Tyler or TEDC to be fined by any governmental entity, TEDC may terminate its obligations to Company under this Agreement if Company fails to cure the problem that caused the fine after 30 days notice by TEDC to Company. If, through no fault of Company, such problem is unable to be cured within said 30 day period, Company shall be given an additional 60 days to cure such problem, provided Company promptly commenced and is diligently attempting to cure such problem. Company agrees to repay Tyler or TEDC for any such fines, penalties and expenses (including attorney's fees) incurred within 30 days.

5. Company hereby warrants to TEDC that (i) it has or will obtain all necessary insurance and all necessary rights, licenses, permits, and authorities to carry on Company's business at the Facility, (ii) there are no bankruptcy proceedings currently pending or contemplated by Company, and (iii) the party executing this Agreement on behalf of Company is duly authorized by Company.

6. Should any litigation be commenced between the parties to this Agreement, concerning this Agreement or the rights and duties of each party under this Agreement, the party prevailing in such litigation shall be entitled, in addition to any other relief granted, to recover its attorney's fees and other expenses incurred in such litigation. Venue for any lawsuit arising in connection with this Agreement shall be in the appropriate Court in Smith County, Texas.

7. All representations, warranties, covenants and agreements, as well as rights and benefits of the parties to this Agreement shall survive the original execution date of this Agreement and the termination date of this Agreement, if it should be terminated. If at any time during the term of this Agreement Company violates any material representation, warranty, covenant or agreement contained herein, TEDC may terminate this Agreement if Company fails to cure such obligation within 30 days after its receipt of notification by TEDC of Company's violation of this Agreement, and TEDC shall thereafter be relieved of any further obligations hereunder.

8. Company shall not assign this Agreement without the prior written consent of TEDC which consent shall not be unreasonably withheld, delayed, or denied. No such assignment shall relieve Company of any of its obligations under this Agreement.

9. Company represents and warrants to TEDC that:

a. Company is a corporation duly authorized to do business in the State of Texas and has requisite power and authority, corporate or otherwise, to conduct its business and to own its present assets, and to execute and deliver all of its obligations under this Agreement.

b. The execution, delivery and performance by Company of this Agreement have been duly authorized by all necessary action, corporate or otherwise, and does not and will not violate any provision of the existing law, rule, regulation, contract or lien by which Company or its property or assets is bound or affected.

c. Company will operate Company's Business in compliance with all federal, state, and local laws, regulations, rules, statutes, codes, and ordinances.

d. Except as previously disclosed to TEDC there are no mortgages, deeds of trust, pledges, liens, security interests or other charges or other encumbrances of any nature whatsoever on the Company's property.

e. No litigation or governmental proceeding is pending or to the knowledge of Company or Company's officers, threatened against or affecting Company which may result in any material adverse change in Company's business properties or operation. No consent, approval or authorization of or registration or declaration with any governmental authority is required in connection with the execution and delivery of this Agreement or the transactions contemplated hereby.

f. During the course of this Agreement, Company will continue to carry on Company's Business. If Company should make a formal announcement of a Company closure, if Company ceases to do business, dissolves itself, is dissolved, loses its franchise, or enters into a receivership or bankruptcy, Company shall be in default under the terms and conditions of this Agreement, and any monies due to TEDC shall immediately become due and payable, and TEDC will be relieved of any further obligations under this Agreement.

10. This Agreement contains the entire agreement of the parties. This Agreement may not be amended, modified, altered, or changed unless in writing, signed by both parties to this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, administrators and assigns.

11. **NEITHER TEDC OR TYLER SHALL BE LIABLE TO COMPANY OR TO COMPANY'S EMPLOYEES, PATRONS, OR VISITORS, OR TO ANY OTHER PERSON, FOR ANY DAMAGE TO PERSON OR PROPERTY CAUSED BY ANY ACT, OMISSION, OR THE NEGLIGENCE OF COMPANY OR COMPANY'S AGENTS, EMPLOYEES, CONTRACTORS, PATRONS, VISITORS, AND ASSIGNS; AND COMPANY AGREES TO INDEMNIFY AND HOLD TEDC AND TYLER HARMLESS FROM ALL CLAIMS FOR ANY SUCH DAMAGE AND FROM ANY AND ALL EXPENSE ARISING FROM SUCH CLAIMS, INCLUDING COURT COSTS AND ATTORNEYS' FEES. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

12. The laws of the State of Texas shall govern the validity, performance, and enforcement of this Agreement.

13. Except as otherwise provided, any notice required or permitted to be given under this Agreement shall be in writing and shall be sent by a nationally recognized courier company or by United States mail, registered or certified mail, postage prepaid, return receipt requested, to the respective addresses first above written, or such other address as either party may from time to time specify in writing to the other. Such notices shall be deemed delivered and received by the

respective party upon delivery or refusal to accept delivery as indicated in the U.S. Postal Service return receipt or similar advice from the courier company.

14. One or more waivers of any covenant, term, or condition of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term, or condition. The consent or approval by either party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

15. This Agreement may be executed in multiple counterparts, and each counterpart shall be deemed an original document, all of which when taken together shall constitute one Agreement.

16. If any provision herein contained shall be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Executed and effective on the latest date shown opposite the signatures below.

[SIGNATURE PAGE FOLLOWS]

TEDC:

TYLER ECONOMIC DEVELOPMENT COUNCIL, INC., a Texas non-profit corporation

By: Thomas G. Mullins   Dated: Nov. 8, 2011

Name: Tom Mullins

Title: President/CEO

COMPANY:

[redacted]

a Texas Corporation [redacted]

By: [redacted]   Dated: [redacted]

Name: [redacted]

Title: [redacted]