

Amendment to Economic Development Incentive Grant/Loan And Performance Amendment

WHEREAS, the **Town of Horizon City 4B Economic Development Corporation (“EDC”)** a Texas corporation organized and existing pursuant to Chapter 501 and 505 of the Texas Local Government Code known as the Development Corporation Act entered into an Economic Development Incentive Grant/Loan Performance Agreement (“Agreement”) with **PSC Custom, LLC (“PSC”)** a Texas limited liability company on July 24, 2020, to provide monetary incentives specified therein in return for PSC’s expansion in the Town of Horizon City, Texas, substantial financial investment in the community and the creation of jobs;

WHEREAS, pursuant to the terms of the Agreement, PSC signed and delivered a promissory note made payable to the EDC in the amount of \$140,000.00 to evidence a forgivable loan between the parties;

WHEREAS, the effects of the COVID-19 global pandemic seriously negatively affected the ability of the EDC and PSC to perform their respective obligations arising from the Agreement;

WHEREAS, the EDC never advanced the \$140,000.00 intended to provide funding for hard and soft costs required for the expansion of PSC’s business in the Town of Horizon City and to mitigate the effects of certain ordinances and regulations;

WHEREAS, PSC endeavored in good faith to expand its business in the Town of Horizon City and meet the benchmarks provided for in the Agreement which would have resulted in forgiveness of the \$140,000.00 loan; even though it had not received the funding;

WHEREAS, PSC managed to meet most of the obligations which would have resulted in loan forgiveness;

WHEREAS, both parties acknowledge the force majeure clause in the Agreement and the fact neither party was able to perform as was expected before the intensification of the COVID-19 global pandemic during 2020; and

WHEREAS, rather than discard the Agreement in its entirety the parties would like to reform the Agreement and act in good faith to recognize the efforts of each to respect the terms of the deal sought to be memorialized in the Agreement;

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Promissory Note Voided.** Despite the fact PSC executed and delivered a Promissory Note dated July 24, 2020, (“Note”) in the amount of \$140,000.00 made payable to the EDC pursuant to the terms set forth therein, the EDC did not provide the funds to PSC. By signing this Amendment both parties acknowledge the funds were never advanced and the Note is hereby cancelled. Upon execution of this document, the EDC will deliver the original Note to PSC marked “VOID” and signed by the EDC Executive Director. By signing this Amendment, PSC acknowledges the cancellation of the forgivable loan and agrees it will not seek further action from the EDC concerning the loan.



2. **Conversion of Incentive Package.** In recognition of the fact the EDC did not advance the forgivable loan and PSC expanded the business into the Town of Horizon City, made the investments required and created some of the jobs required to receive incentives from the EDC, the EDC is converting the incentive package to a grant.
3. **Reduction of Incentives Related to Job Creation.** Recognizing the fact PSC was not able to hire the requisite number of employees within the first 12 months of the Agreement because of the COVID-19 Global Pandemic and will likely not be able to meet the baseline of 36 FTEs in 24 months because of the continuing economic downturn and effects of the pandemic; the EDC will reduce the incentives paid for job creation in a proportionate amount. The sum of \$70,000.00 was proposed for 36 FTE's. Only 13 jobs have been created. Therefore, the amount of the grant related to job creation will be reduced to $13/36 \times \$70,000.00 = \$25,278.00$. This amount will be due and payable to PSC upon proof that all ad valorem taxes have been timely paid and receipt of sufficient documentation in form and substance approved by the Executive Director of the EDC to evidence the fact PSC has at least 13 fulltime employees working at the Town of Horizon City PSC facility who meet the qualifications set forth in the Agreement. Failure to provide sufficient evidence within 60 days of the execution of the Amendment will be considered an event of default and may at the discretion of the EDC, result in revocation of this portion of the incentive package.
4. **Incentives Related to Investment and Construction of Facility.** The Agreement in its original form provided for an additional \$70,000.00 in incentives upon completion of the metrics set forth in Exhibit "C" captioned, "Schedule of Capital Investment and Jobs for Facility to Qualify for Disbursement of Payments". Schedule "C" is replaced by the schedule set forth below. PSC shall be entitled to disbursement of the remaining amount as set forth below:
 - \$30,000.00 - upon providing documentation of \$1 million of site development expenses paid. Failure to provide necessary documentation within 90 days of the signing of this Amendment will be an event of default and may at the discretion of the EDC, result in revocation of this portion of the incentive package.
 - \$20,000.00 - upon obtaining Certificate of Occupancy and providing proof of two months sales tax collected and remitted to the State. Failure to provide necessary documentation by March 24, 2022 (20 months from signing the Agreement) will be an event of default and may at the discretion of the EDC, result in revocation of this portion of the incentive package.
 - \$20,000.00 - upon providing documentation of \$700,000.00 of additional of site development, improvements, furniture, equipment, and tools expenses paid. Failure to provide necessary documentation by July 24, 2022 (24 months from the execution of the Agreement) will be an event of default and may at the discretion of the EDC, result in revocation of this portion of the incentive package.



5. **Total Revised Incentive Package.** The total amount PSC shall be entitled to receive pursuant to the Agreement as revised by this Amendment shall not exceed \$95,278.00. The EDC shall be under no obligation to grant more than \$95,278.00 pursuant to the terms of the Agreement and Amendment to PSC. The payment of any grant funds is expressly contingent upon PSC meeting the terms and conditions of the Agreement and this Amendment. Failure to meet any of the qualifying terms will be an event of default and may result in revocation of all or any part of the incentive package. Time is of the essence and PSC required to perform in accordance with the schedule set forth.
6. **Ratification of Agreement.** Except as expressly modified in writing herein, all other terms and conditions of the Agreement remain in full force and effect.

Executed and effective the _____ day of December 2021.

**Town of Horizon City 4B Economic
Development Corporation**

By: _____
Walter Miller, President

PSC Custom, LLC

By: 
Jerry Cignarella, President

Approved as to Content:

By: _____
Eduardo Garcia
Executive Director

Approved as to Form:

By: _____
Sylvia Borunda Firth
Board Attorney