

**ECONOMIC DEVELOPMENT AND PERFORMANCE AGREEMENT BETWEEN
THE MANSFIELD ECONOMIC DEVELOPMENT CORPORATION AND REL
ENTERPRISE, LLC**

This Economic Development Agreement ("Agreement") is made and entered into by and between the MANSFIELD ECONOMIC DEVELOPMENT CORPORATION (the "Corporation"), a nonprofit corporation organized under Title 12, Subtitle C1, of the Texas Local Government Code, and REL ENTERPRISE, LLC ("REL Enterprise"), a Texas limited liability company, for the purposes and considerations stated below:

RECITALS:

1. REL Enterprise is the current owner of a certain tract of land located at 167 Sentry Dr. within the corporate limits of the City of Mansfield ("City") (hereafter referred to as the "Property").

2. REL Enterprise intends to make a capital investment in the Property of at least \$125,000 which will result in the upgrading and/or expansion of the facility located on the Property as well as the expansion of REL Enterprise's ability to attract new businesses to the Property and the creation of additional primary jobs at the Property.

3. The Corporation has determined and found that requested grant will be used to fund a "project" as defined in Section 501.101 of the Texas Local Government Code; specifically, that the expenditure of the Corporation will be used for land, buildings and improvements that are for the creation of primary jobs and that are required or suitable for the development, retention or expansion of a manufacturing and industrial facility.

4. The Corporation, which has determined that substantial economic benefit and the creation of new opportunities of employment will accrue to the City as a result of REL Enterprise's capital investment in the Property, desires to have REL Enterprise make the capital investment in the Property. This project will increase the taxable value of the Property and will directly result in the creation of Primary Jobs on the Property and will indirectly result in the creation of additional jobs throughout the City. As a consequence, the value of the benefits of the Project (as defined herein) will substantially outweigh the amount of expenditures required of the Corporation under this Agreement.

5. The Corporation, to encourage the development and operation of the Property and to obtain the benefits stated in this Agreement, desires to participate in the funding of the cost of certain improvements (hereinafter defined) which are necessary in order for REL Enterprise to make the capital investment in the Property and to operate the Facility as hereinafter set forth, which will aid and promote economic development in the City.

NOW THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Authorization.**

This Agreement is authorized by Title 12, Subtitle C1, Chapter 501 of the Texas Local Government Code.

2. **Definitions.**

CAPITAL INVESTMENT means the investment by REL Enterprise of a minimum of \$125,000 in the Facility on or before December 31, 2015 and the installation by a tenant of a minimum of \$250,000 of business personal property at the Facility within 18 months of the effective date of this Agreement.

CITY means the City of Mansfield, Texas.

FACILITY means the warehousing and industrial facility located on the Property.

IMPROVEMENTS mean a sprinkler system, the renovation and creation of additional office spaces and other code-related upgrades to the Facility.

PRIMARY JOBS means the type of jobs defined in Section 501.002 of the Texas Local Government Code.

PROJECT means the reimbursement by the Corporation of up to \$40,000 toward the cost of the construction and installation of the Improvements.

3 **Term.**

This Agreement shall be effective as of the date of execution of all parties. This Agreement will commence on the date that the Improvements are completed and accepted by the City of Mansfield and will continue to be in force and effect for a term of five years from the effective date.

4. **Covenants of REL Enterprise.**

a. In consideration of Corporation agreeing to reimburse REL Enterprise monies in accordance with the terms and conditions of this Agreement, REL Enterprise agrees to:

- (1) Make the Capital Investment in the Facility;
- (2) Sign a tenant to a minimum five year lease on or before December 31, 2015 which will create and retain a minimum of ten primary jobs for the term of this Agreement; and
- (3) Render the Property each year to the Tarrant County Appraisal District and remain current on all ad valorem taxes for the term of this Agreement.

b. Should REL Enterprise fail to comply with any term of this Agreement, REL Enterprise shall have thirty days after written notice from the Corporation to come into compliance. If the noncompliance is not cured within that period, or an agreement on a time frame to come into compliance is not reached with the Corporation, REL Enterprise will forfeit its right to reimbursement by the Corporation. In the event REL Enterprise's uncured noncompliance occurs after a grant of funds is received, REL Enterprise shall immediately upon demand repay the Corporation an amount equal to the difference between the total amount of the grant less a prorated portion of the grant as if amortized over the term of the Agreement, plus ten percent (10%) per annum from the date the payments were made until the date of full repayment. For example, if REL Enterprise were to default in the 30th month of the 60 month term, REL Enterprise would owe 50% of the total amount granted under this Agreement, plus the 10% interest.

c. REL Enterprise covenants and certifies that it does not and will not knowingly employ an undocumented worker as that term is defined by Section 2264.01(4) of the Texas Government Code. In accordance with Section 2265.052 of the Texas Government Code, if REL Enterprise is convicted of a violation under 8 U.S.C. Section 1324a (f), REL Enterprise shall repay to the Corporation the full amount of all payments made under Section 5 of this Agreement, plus ten percent (10%) per annum from the date such payment was made until the date of full repayment. Repayment shall be paid within one hundred twenty days after the date REL Enterprise receives a notice of violation from the Corporation.

5. Payments by Corporation.

The Corporation shall participate with REL Enterprise in the cost of the Project not to exceed Forty Thousand Dollars (\$40,000) to be reimbursed to REL Enterprise upon the acceptance of the Improvements by the City of Mansfield and the demonstration by REL Enterprise of proof of costs equaling or exceeding such sum.

6. Improvements.

REL Enterprise shall be solely responsible for the design and construction of the Improvements and shall comply with all building codes and other ordinances of the City of Mansfield applicable to the Improvements.

7. Indemnification.

REL ENTERPRISE, IN PERFORMING THE OBLIGATIONS UNDER THIS AGREEMENT, IS ACTING INDEPENDENTLY, AND THE CORPORATION ASSUMES NO RESPONSIBILITIES OR LIABILITIES TO THIRD PARTIES IN CONNECTION WITH THE PROPERTY OR IMPROVEMENTS. REL ENTERPRISE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CORPORATION, ITS OFFICERS, AGENTS, EMPLOYEES, AND

VOLUNTEERS IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST CLAIMS, SUITS, DEMANDS, LOSSES, DAMAGES, CAUSES OF ACTION, AND LIABILITY OF EVERY KIND, INCLUDING, BUT NOT LIMITED TO, EXPENSES OF LITIGATION OR SETTLEMENT, COURT COSTS, AND ATTORNEYS FEES WHICH MAY ARISE DUE TO ANY DEATH OR INJURY TO A PERSON OR THE LOSS OF USE, OR DAMAGE TO PROPERTY, ARISING OUT OF OR OCCURRING AS A CONSEQUENCE OF THE PERFORMANCE BY REL ENTERPRISE OF THE OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING ANY ERRORS OR OMISSIONS, OR NEGLIGENT ACT OR OMISSION OF REL ENTERPRISE, OR THE OFFICERS, AGENTS OR EMPLOYEES.

8. **Access to Information.**

REL Enterprise agrees to provide the Corporation access to information related to the Project during regular business hours upon reasonable notice. The Corporation shall have the right to require REL Enterprise to submit any reasonably necessary information, documents, invoices, receipts or other records to verify the capital expenditures related to the Improvements, the Facility or the Property.

9. **General Provisions.**

a. **Mutual Assistance.** REL Enterprise and the Corporation shall do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

b. **Representations and Warranties.** REL Enterprise represents and warrants to the Corporation that it has the requisite authority to enter into this Agreement. REL Enterprise represents and warrants to the Corporation that it will not violate any federal, state or local laws in operating the business, that all proposed Improvements shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations.

c. **Section or Other Headings.** Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

d. **Entire Agreement.** This Agreement contains the entire agreement between the parties with respect to the transaction contemplated herein.

e. **Amendment.** This Agreement may only be amended, altered, or revoked by written instrument signed by REL Enterprise and the Corporation.

f. **Successors and Assigns.** This Agreement shall be binding on and insure to the benefit of the parties, their respective successors and assigns. REL Enterprise may assign all or part of its rights and obligations hereunder only upon prior written approval of the Corporation, which approval shall not be

unreasonably withheld or delayed provided reasonably satisfactory guaranties are provided to insure compliance with all terms of this Agreement. Upon written approval by Corporation of such assumption, assignment or transfer, REL Enterprise shall thereafter be released from its obligations hereunder.

g. **Notice.** Any notice required or permitted to be delivered by this Agreement shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses, or at such other addresses provided by the parties in writing:

REL ENTERPRISE: REL ENTERPRISE, INC.
167 Sentry Dr.
Mansfield, Texas 76063

CORPORATION: Mansfield Economic Development Corporation
301 South Main Street
Mansfield, Texas 76063
Attn: Director

With a copy to: City Attorney
City of Mansfield
1200 East Broad Street
Mansfield, Texas 76063

h. **Interpretation.** Regardless of the actual drafter of this Agreement, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any party.

i. **Applicable Law/Venue.** This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas; venue for any legal action regarding this Agreement shall lie in Tarrant County, Texas.

j. **Severability.** In the event any provision of this Agreement is ruled illegal, invalid, or unenforceable by any court of proper jurisdiction, under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

k. **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.

l. **No Joint Venture.** Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.

m. **Default.** If a party should default (the "Defaulting Party") with respect to any of its obligations hereunder and should fail, within thirty days after delivery of written notice of such default from the other party (the "Complaining Party") to cure such default, the Complaining Party, by action or proceeding at law or in equity, may be awarded its actual but not consequential damages and/or specific performance for such default.

n. **Covenant Running with the Land.** All rights, covenants, restrictions, burdens, privileges and charges, set forth in this Agreement shall exist at all times as long as this Agreement is in effect, among all parties having any right, title or interest in any portion of all of the Property.

o. **Force Majeure.** If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder (other than the payment of money) by reason of strikes, lockouts, inability to procure materials, failure of power, governmental moratorium or other governmental action or inaction (including, failure, refusal or delay in issuing permits, approvals or authorizations), injunction or court order, terrorist attacks, riots, insurrection, war, fire, earthquake, flood or other natural disaster or other reason of a like nature not the fault of the party delaying in performing work or doing acts required under the terms of this Agreement (but excluding delays due to financial inability), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided that the foregoing shall not be applicable to any payment obligation of either party under this Agreement.

p. **Attorney's Fees.** In the event it should become necessary to take legal action to interpret or enforce the terms of this Agreement, the prevailing party in such action shall be entitled to recover from the non-prevailing party reasonable attorney's fees and costs of court.

**MANSFIELD ECONOMIC
DEVELOPMENT CORPORATION**

By: _____
Larry Klos, Board President

Date: _____

ATTEST:

Board Secretary

APPROVED AS TO FORM AND LEGALITY:

Attorney for the Corporation

REL ENTERPRISE, L.L.C.

By:_____
Linda Cooper, Managing Member

Date:_____

ACKNOWLEDGEMENT

BEFORE ME, the undersigned authority, on this date personally appeared Linda Cooper, who after being duly sworn stated that she is the Managing Member of REL ENTERPRISE, L.L.C., and that she signed the foregoing instrument on behalf of said entity for the purposes expressed therein.

Notary Public, in and for the State of Texas

My commission expires: _____

Date:_____