

**ECONOMIC DEVELOPMENT AND PERFORMANCE AGREEMENT BETWEEN THE
MANSFIELD ECONOMIC DEVELOPMENT CORPORATION AND
FTI INDUSTRIES, LP**

This Economic Development Agreement (“**Agreement**”) is made and entered into by and between the MANSFIELD ECONOMIC DEVELOPMENT CORPORATION (“**Corporation**”), a nonprofit corporation organized under Title 12, Subtitle C1, of the Texas Local Government Code (“**Act**”), and FTI INDUSTRIES, LP (“**FTI**”), a Georgia limited partnership. FTI and the Corporation may sometimes hereafter be referred to individually as a “party” or collectively as the “parties.”

RECITALS:

WHEREAS, FTI operates its business on property at 1213 Antler Drive (“**Antler Property**”) on which an existing 36,000 square foot industrial office/warehouse building is located (“**Antler Facility**”);

WHEREAS, FTI also operates its business on property at 155 Sentry Drive (“**Sentry Property**”) on which an existing 25,000 square foot industrial office/warehouse building is located (“**Sentry Facility**”);

WHEREAS, the Antler Facility and the Sentry Facility are owned by an affiliate of FTI, UNAM Corporation, a Georgia corporation;

WHEREAS, FTI, with the assistance of its affiliate, intends to expand the Antler Facility by 11,000 square feet (“**Antler Addition**”) and remodel both the Antler Facility and the Sentry Facility in order to update and modernize each facility (“**Facilities Remodel**”);

WHEREAS, Once the Antler Addition and the Facilities Remodel are completed, FTI intends on installing and operating a flow lab in the Sentry Facility to test FTI products (“**Flow Lab**”);

WHEREAS, as a component of the Facilities Remodel, FTI or an affiliate will be making the Eligible Improvements (as defined below) in order to provide the facilities with capable and code compliant fire suppression abilities;

WHEREAS, FTI has requested financial assistance from the Corporation for a portion of the foregoing improvements and expenditures, and the Corporation has determined and found that the requested grant will be used to fund a “project” as defined in Section 501.101 of the Act; specifically, that the expenditure of the Corporation is required or suitable for manufacturing, industrial or warehouse use, or other qualifying use under Section 501.101 of the Act;

WHEREAS, the Corporation also finds that the requested grant will be used to fund a “project” as defined in Section 501.103 of the Act and that such grant is required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises.

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:

ARTICLE 1 DEFINITIONS

“Agreement,” “Corporation,” “FTI,” “Antler Property,” “Antler Facility,” “Sentry Property,” “Sentry Facility,” “Antler Addition,” “Facilities Remodel,” and “Flow Lab” have the meanings set forth above in the preamble and recitals of this Agreement.

“Capital Investment” means the actual cost incurred by FTI or its affiliate attributable to the construction and installation of the Improvements.

“Certificate of Occupancy” means the document issued by the City of Mansfield certifying a building’s compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupying.

“Director” means the Corporation’s Economic Development Director.

“Effective Date” means the date this Agreement is fully executed by both the Corporation and FTI.

“Eligible Improvements” are a component of the Improvements and mean the fire protection, building fire protections systems, fire alarm systems, and fire lanes constructed and installed at the Sentry Property and Antler Property, and as listed on the attached Exhibit A.

“Grant” means the payment to be made by the Corporation to FTI pursuant to this Agreement as a partial reimbursement for the cost of the Eligible Improvements and upon the terms, conditions and provisions set forth herein, such payment to a sum calculated as follows: the lesser of: (i) 100% of the actual costs of the Eligible Improvements, or (ii) \$300,000.

“Impositions” mean all taxes, assessments, use and occupancy taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, general and special, ordinary and extraordinary, foreseen and unforeseen, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on FTI or any property or any business owned by FTI within the City of Mansfield, including, regardless of ownership, the Antler Property and Sentry Property.

“Improvements” mean the Antler Addition, the Facilities Remodel, and the Eligible Improvements.

“Primary Jobs” means any employee on a forty (40) hour or more per week schedule or the combination of two (2) or more employees on part-time schedules equaling at least forty (40) hours and falling under the definition of primary jobs in Section 501.002(12) of the Act.

“**Term**” means the term of this Agreement as described in Article 2 of this Agreement.

**ARTICLE 2
TERM**

The Term of this Agreement will begin on the Effective Date and continue until December 31, 2021, unless terminated earlier under the terms of this Agreement.

**ARTICLE 3
COVENANTS OF FTI**

3.01 FTI Obligations. In consideration of Corporation agreeing to pay FTI the Grant in accordance with the terms and conditions of this Agreement, FTI, with the assistance of an affiliate company, agrees to:

- (a) Make a total Capital Investment in an amount of no less than \$5,400,000 on or before March 18, 2018;
- (b) Make the Improvements;
- (c) Obtain a Certificate of Occupancy for the Flow Lab within the Sentry Facility no later than March 31, 2018;
- (d) Create a minimum of twenty (20) Primary Jobs at the Antler Facility and Sentry Facility by December 31, 2021 and retain them for the Term of this Agreement according to the following schedule:

<u>No later than</u>	<u>Number of Primary Jobs</u>
12-31-2017	3
12-31-2018	6
12-31-2019	5
12-31-2020	5
12-31-2021	1

- (e) Provide documentation to the Corporation evidencing the achievement of the Capital Investment (including separate detailed evidence of the actual cost of the Eligible Improvements) in a manner acceptable to the Corporation.

3.02 Undocumented Workers. FTI covenants and certifies that it does not and will not knowingly employ an undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if FTI is convicted of a violation under 8 U.S.C. Section 1324a (f), FTI shall repay to the Corporation the full amount of all payments made under Section 5 of this Agreement, plus ten percent (10%) interest per annum from the date such payment was made until the date of full repayment. Repayment shall be paid within one hundred twenty (120) days after the date FTI receives a notice of violation from the Corporation.

**ARTICLE 4
GRANT BY CORPORATION**

Provided that FTI is in compliance with the terms of this Agreement, and upon full satisfaction by FTI of the conditions set forth above in Section 3.01 (a), (b), (c), and (e), FTI may send a written request to the Corporation for the Grant, whereupon the Corporation shall pay the Grant to FTI within thirty (30) days.

**ARTICLE 5
IMPROVEMENTS**

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

**ARTICLE 6
TERMINATION AND REPAYMENT**

6.01 Termination. This Agreement may be terminated upon any one or more of the following:

- (a) by mutual written agreement of the parties;
- (b) upon written notice by either party, if the other party defaults or breaches any of the terms or conditions of this Agreement and such default or breach is not cured within thirty (30) days after written notice thereof;
- (c) upon written notice by Corporation, if FTI suffers an event of bankruptcy or insolvency;
- (d) upon written notice by Corporation, if any Impositions owed to the City of Mansfield by Company become delinquent; or
- (e) upon written notice by either party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction renders this Agreement invalid, illegal, or unenforceable.

6.02 Repayment. In the event the Agreement is terminated by Corporation pursuant to Section 6.01(b), (c), or (d), FTI shall immediately refund to Corporation an amount equal to the amount of the Grant that has been provided by Corporation to FTI prior to the date of such termination, plus interest at the rate of interest periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by Corporation) as its prime or base commercial lending rate, from the Effective Date until paid.

6.03 Offset. Corporation may at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City of Mansfield by FTI or the owner of the Antler Property or Sentry Property, regardless of whether the amount due arises pursuant to the terms of this Agreement, or otherwise, and regardless of whether or not the debt due to the City of Mansfield has been reduced to judgment by a court.

ARTICLE 7 INDEMNIFICATION

FTI, 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 ANTLER PROPERTY, SENTRY PROPERTY OR THE IMPROVEMENTS. FTI AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CORPORATION, ITS DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, AND VOLUNTEERS IN BOTH THEIR OFFICIAL AND INDIVIDUAL 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 FTI OF THE OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING ANY ERRORS OR OMISSIONS, OR NEGLIGENT ACT OR OMISSION OF FTI, OR ITS OFFICERS, AGENTS, EMPLOYEES, OR CONTRACTORS.

ARTICLE 8 ACCESS TO INFORMATION

Upon the corporation's request, FTI agrees to provide the Corporation access to information, documents, invoices, receipts or other records to verify FTI's compliance with this Agreement.

ARTICLE 9 GENERAL PROVISIONS

9.01 Mutual Assistance. FTI 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.

9.02 Representations and Warranties. FTI represents and warrants to the Corporation that it has the requisite authority to enter into this Agreement. FTI 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.

9.03 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.

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

9.05 Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by FTI and the Corporation.

9.06 Successors and Assigns.

(a) Assignment. This Agreement shall be binding on and insure to the benefit of the parties, their respective successors and assigns. FTI may assign all or part of its rights and obligations hereunder only upon prior written approval of the Corporation.

(b) Collateral Assignment. Notwithstanding Section 9.06(a), FTI shall have the right to collaterally assign, pledge, or encumber, in whole or in part, to any lender as security for any loan in connection with construction of the Improvements, all rights, title, and interests of FTI to receive the Grant under this Agreement. Such collateral assignments: (i) shall require the prior written consent of the Corporation, which shall not be unreasonably delayed or withheld, and Corporation agrees to execute such reasonable consent forms as may be required to evidence such consent, (ii) shall require notice to the Corporation together with full contact information for such lenders, (iii) shall not create any liability for any lender under this Agreement by reason of such collateral assignment unless the lender agrees, in writing, to be bound by this Agreement; and (iv) may give lenders the right, but not the obligation, to cure any failure of FTI to perform under this Agreement. No collateral assignment may relieve FTI from any obligations or liabilities under this Agreement. The Director has the authority to give the written consent under this subsection after review and consultation with the Corporation's legal counsel; provided, however, the Director may, in his or her sole discretion, present the assignment request to the Corporation's board of directors for approval.

9.07 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:

FTI:	Steve McCullough Chief Financial Officer WIKA Americas 1000 Wiegand Blvd. Lawrenceville, GA 30043
------	---

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

With a copy to: Drew Larkin
Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107

9.08 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.

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

9.10 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.

9.11 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.

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

9.13 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.

9.14 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.

9.15 Limitation of Liability. The parties further agree that neither party will be liable to the other under this Agreement for consequential damages (including lost profits) or exemplary damages.

**MANSFIELD ECONOMIC
DEVELOPMENT CORPORATION**

By: _____
Larry Klos, Board President

Date: _____

ATTEST:

Board Secretary

FTI INDUSTRIES, LP,
a Georgia limited partnership

By: WIKA Management, Inc., its general partner

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A
The Eligible Improvements



Proposed Fluidic Techniques Life Safety Upgrades

6/10/2016

1	Fire Protection (Site Work)	\$ 36,168.75
	New 6" Tap at ROW for Fireline	1 EA
	6" Fire Line to Building	165 LF
	Onsite Fire Connection Stand Pipe (4" Wet)	1 EA
	4" Site Fire Line to Standpipe	45 LF
	New FDC @ BFP	1 EA
	6" Fire Line BFP	1 EA
2	Building Fire Protection Systems	\$ 107,368.88
	New Machine Shop (Wet) Ordinary Hazard System	10,350 SF
	Existing Buildings (Wet) Ordinary Hazard System	15,430 SF
	Existing Building (Canopy) (Dry) Ordinary Hazard System	14,300 SF
3	Fire Alarm Systems	\$ 41,836.50
	New Machine Shop	10,350 SF
	Existing Buildings	35,430 SF
	Existing Building (Canopy)	14,300 SF
4	Fire Lines	\$ 166,700.00
	Install Fire Line (7" thick reinforced concrete)	23,900 SF
Total Upgrades During Construction for Life Safety		\$ 352,074.13