

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS APPROVING AN ECONOMIC DEVELOPEMNT AND PERFORMANCE AGREEMENT WITH BACK YARD COME AS YOU ARE, LP AND BRAIN STORM SHELTER, LLC REGARDING THE BACKYARD DEVELOPMENT FOR PUBLIC AND PRIVATE IMPROVEMENTS TO PROPERTY WITHIN THE TAX INCREMENT REINVESTMENT ZONED NUMBER TWO; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on December 10, 2012, in accordance with the provisions of the Tax Increment Financing Act, V.T.C.A. Tax Code, Chapter 311 (the “Act”), the Mansfield City Council approved Ordinance No. 1861-12, creating and designating Tax Increment Financing Reinvestment Zone Number Two (hereinafter called the “TIF District”); and

**WHEREAS**, the Act authorizes the expenditure of Tax Increment Funds derived within the TIF District for the payment of expenditures and monetary obligations by a municipality consistent with the Tax Increment Reinvestment Zone Project Plan; and

**WHEREAS**, on February 11, 2013, the Mansfield City Council approved the Tax Increment Reinvestment Zone Project Plan and the Financing Plan; and

**WHEREAS**, Backyard Come As You Are, LP (hereinafter called the “Backyard”) has contracted to acquire certain real property situated within the TIF District and intends to develop the property for use as a high quality first class urban commercial development, and has requested that the City grant certain economic development incentives and concessions to Backyard; and

**WHEREAS**, Brain Storm Shelter, LLC (hereinafter called the “BSS”) intends to operate restaurants on said real property and has also request that the City grant certain economic development incentives and concessions to BSS; and

**WHEREAS**, The City Council has determined that granting the requested economic incentives and concessions will serve the public interest by providing public amenities and parking, and by promoting the success of the Restaurants and other nearby businesses that provide needed economic development in the City; and

**WHEREAS**, The City Council has determined that substantial economic benefit and the creation of new opportunities of employment will accrue to the City as a result of Backyard’s capital investment in the property, desires to have Backyard make the capital investment to increase the taxable value of the property and have BSS open and operate the Restaurants, all of which will aid and promote economic development in the City; and

**WHEREAS**, the City Council recognizes the importance of its continued role in local economic development, and that the value of the benefits of the economic development

incentives and concessions will substantially outweigh the amount of expenditures required of the City; and

**WHEREAS**, the City Council desires to participate in the funding of the economic development incentives and concessions that are necessary in order for Backyard to make the capital investment in the property and for BSS to open and operate the Restaurants; and

**WHEREAS**, the Board of Directors for the TIF District has recommended the expenditure of Tax Increment Funds for the construction of the public improvements within the TIF District as set forth in the attached Economic Development and Performance Agreement (hereinafter called the "Agreement"), attached hereto as Exhibit One and made a part hereof for all purposes; and

**WHEREAS**, the City Council authorized the execution of this Agreement, for the construction of the public improvements to facilitate development of the property and the construction of the private improvements in accordance with the approved Project Plan and Financing Plan, and authorizing reimbursement to Backyard from the Tax Increment Fund for the construction of the Public Improvements under the conditions set forth in the agreement; and

**WHEREAS**, the public and private improvements are consistent with encouraging development of the TIF District in accordance with the purposes for its creation and are in compliance with the ordinance creating the TIF District adopted by the City and all applicable laws.

**WHEREAS**, The City and Board agree to reimburse funds advanced by Backyard for the cost of making the Public Improvements as contemplated in the Agreement and as contemplated by the Act and as is consistent with the Project Plan and Financing Plan; and

**WHEREAS**, the City is authorized by Article 52 of the Texas Constitution and Section 380.001 Texas Local Government Code to provide economic development grants to promote local economic development and stimulate business and commercial activities in the City; and

**WHEREAS**, the City Council finds that the development will promote local economic development and stimulate commercial and business activity; and

**WHEREAS**, The City Council also finds and determines that this Agreement is authorized by Chapter 311 of the Texas Tax Code and by Section 380.001 of the Texas Local Government Code, and hereby establishes a Program to stimulate commercial activity in the TIF District by bringing a first-class urban commercial development to Main Street and finds that this Agreement implements the Program; and

**WHEREAS**, The City may enter into an agreement with the TIF Board to loan funds sufficient to pay the incentives set forth herein, under Chapter 380 of the Texas Local Government Code, with repayment to the City made as TIF revenues accrue.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS:

**SECTION 1**

That the Agreement is hereby approved.

**SECTION 2**

That the City Manager is hereby authorized to execute the Agreement on behalf of the City of Mansfield, Texas.

**SECTION 3**

The resolution shall take effect immediately from and after its passage.

DULY RESOLVED by the City Council of the City of Mansfield, Texas on the 7<sup>th</sup> day of March, 2016.

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**David L. Cook, Mayor**

ATTEST:

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**Jeanne Heard, City Secretary**