

City of Scottsbluff, Nebraska

Monday, August 30, 2021

Regular Meeting

Item Reports1

Council to discuss and consider action on the Second Amendment to the Economic Development Assistance Agreement for McKinney Manufacturing and Sales, LLC.

Staff Contact: Starr Lehl, Economic Development Director

Second Amendment to the Economic Development Assistance Agreement

This “Second Amendment” to the Economic Development Assistance Agreement (the “Agreement”) is made Effective May 1, 2021 and is by and between the City of Scottsbluff, Nebraska (the “City”) and McKiney Manufacturing and Sales, LLC, a Nebraska limited liability company (the “Applicant”).

RECITALS:

- a. The City and the Applicant are parties to the Agreement dated December 2, 2019. The Agreement was made under the Economic Development Program of the City (the “Program”).
- b. Effective April 1, 2020, the City and the Applicant are parties to an “Amendment to the Economic Development Assistance Agreement” (the “Amendment”). The Amendment modified the terms and conditions of the Agreement for purposes of address the economic down-turn related to the COVID-19 pandemic. Pursuant to the Amendment, the Applicant executed an Amended and Restated Note (the “Note”) dated April 1, 2020.
- c. Following the Amendment, the Applicant has requested an extension of payment due under the Note, in order to address a business down-turn related to loss of whole contracts for oil and gas customers. The Applicant is in the process of identify new industries and retrofitting its operations for new product lines, and the Applicant has requested that monthly payment due under the Note be extended during that time.
- d. The Applicant’s request has been presented to the Program’s Application Review Committee (the “Committee”), and the Committee has recommended approval of the extension request. Accordingly, the parties enter into this Second Amendment under the following terms and conditions:

SECOND AMENDMENT:

1. Extension of Payments: The “Assistance” obligations as defined in paragraph 2.d of the Agreement modified in paragraph 1 of the Amendment, are hereby amended as follows:
 - a. The balance of the Note owed on April 1, 2020 shall become payable in 118 monthly installments of principal and interest, payable under a Second Amended and Restated Note, carrying interest at the rate set forth in the Note. Interest on the Note is waived from April 1, 2020 to June 30, 2020. The first monthly payment due under the Second Amended and Restated Note shall be due and payable on October 1, 2020, and shall continue until May 1, 2021, at which time monthly payments shall be extended and not due again until August 1, 2022 following the May 1, 2021 payment. After the August 1, 2022 payment, the remaining 109 monthly payments shall be due on the first month thereafter until

paid in full. Job credits will continue to be applied to the Second Amended and Restated Note.

2. Modified Non-Forgivable Note: The terms, conditions, and obligations of the Note effective April 1, 2020 shall be incorporated into a Second Amended and Restated Note executed by the Applicant, in the form of the attached Exhibit A, the terms of which are incorporated herein by reference.

3. All other terms and conditions of the Agreement and the Amendment shall continue in full force and effect, and shall be amended only as set forth in this Second Amendment. The “Term” of the Agreement shall mean the same as set forth in the Agreement.

4. This Second Amendment shall be executed in any number of counterparts, each of which shall be deemed an original, but which together shall constitute on single instrument. This Second Amendment shall be covered by the laws of Nebraska. This Second Amendment shall be binding upon all successors and assigns of the parties.

City of Scottsbluff, Nebraska

McKinney Manufacturing and Sales, LLC

By: _____
Dustin Rief
Program Administrator

By: _____
Roger McKinney,
Member