

City of Scottsbluff, Nebraska

Monday, June 6, 2022

Regular Meeting

Item Reports1

Council to discuss and consider action on the Amendment to Economic Development Assistance Agreement with Original Equipment Co. and authorize the Economic Development Program Administrator to sign the Agreement.

Staff Contact: Starr Lehl, Economic Development Director

AMENDMENT TO ECONOMIC DEVELOPMENT ASSISTANCE AGREEMENT

This Amendment to the Economic Development Assistance Agreement (the “Amendment”) is made on June ____, 2022, between the City of Scottsbluff, Nebraska (the “City”) and Original Equipment Co. (the “Applicant”).

Recitals:

- a. The City has adopted an Economic Development Plan pursuant to the Nebraska Local Option Municipal Economic Development Act (the “Plan”). Pursuant to the Plan, the City has implemented an Economic Development Program (the “Program”).
- b. The Applicant has made application for assistance from the Program (the “Application”);
- c. The Application was granted, and the parties executed an Economic Development Assistance Agreement dated September 21, 2020 (the “Agreement”);
- d. The Applicant has requested a modification and amendment to the Agreement, and the City Economic Development Application Review Committee (the “Committee”) has reviewed and recommended to the City Council (the “Council”) that modification and amendment be made as requested by the Applicant. The City Council has approved the Committee’s recommendation.
- e. The parties now desire to enter into this Amendment for the purpose of setting out the terms and conditions of the Loan.

Amendment:

1. Modification to Loan Repayment Obligations:

- a. The Loan, as defined in the Agreement, was in the amount of \$750,000, carrying interest at the rate of 1% per annum from January 1, 2021 and repayable over 10 equal annual amortized payment of principal and interest, with the first payment due within 45 days after January 1, 2022 (which was elected as the Job Credit Effective Date by the Applicant per the terms of the Agreement).
- b. Job Credits, as defined in the Agreement, were determined after each Year of the Agreement, with the first Year beginning January 1, 2021 and ending December 31, 2021. Per the terms of the Agreement, the Job Credits earned for each Year were applied to the amount of the following annual amortized payment due, and the balance of the annual amortized payment was then due and payable.
- c. Job Credits were originally anticipated by the parties to earn most, if not all, of the following annual amortized payment. The Applicant, however, has found the labor market to be difficult, and the Applicant has earned Job Credits in the amount originally anticipated. The

Applicant has therefore requested the annual payment obligation of the Agreement be eliminated, and that Job Credits be applied annually to the outstanding balance of the Loan for the remaining nine (9) Years of the Term. Any balance remaining on the Loan and unearned through Job Credits at the end of the Term will be repaid by the Applicant.

d. Accordingly, the following amendments are made to the Agreement:

i. Effective January 1, 2022, the balance of the Loan as of January 1, 2022 after applying 2021 Job Credits (\$696,000) shall not carry interest during the Term unless default occurs.

ii. No payment shall be due on the Loan during the remaining Term. The Loan shall earn Job Credits for the next nine (9) Years, with the first Year beginning January 1, 2022. After the ninth (9th) Year of earning Job Credits, the balance due on the Loan, if any, shall be repaid by the Applicant to the Fund within 30 days of demand.

iii. Base Annual Job Credits shall continue to be earned as set forth in the Agreement, with the first Year of this Amendment beginning January 1, 2022 and ending December 31, 2022. For determining Additional Annual Credits under paragraph 5.b of the Agreement, the Applicant shall identify in each Annual Report for the City which Eligible FTEs are associated (although not necessarily located) with the expanded truck fabrication and production facility at 709 South Beltline Highway West in Scottsbluff.

e. The Applicant shall execute an Amended and Restated Promissory Note, the form of which is attached as Exhibit A hereto and incorporated herein by reference, reflecting changes as set forth in this Amendment.

2. Miscellaneous:

a. All other terms and conditions of the Agreement shall continue in full force and effect, and shall be amended only as set forth in this Amendment.

b. This Amendment can be executed in any number of counterparts, each of which shall be deemed an original, but which together shall constitute one single instrument.

c. This Amendment shall be covered by the law of Nebraska.

d. This Amendment shall be binding upon all successors and assigns of the parties.

[Signature page to follow]

**Signature Page to Amendment to Economic Development Assistance Agreement between
the City of Scottsbluff, Nebraska and Original Equipment Co.**

City of Scottsbluff, Nebraska

Original Equipment Co.

By: _____
Economic Development
Program Administrator

By: _____
Vinc Aulick, President