

**AGENDA**  
**UNIVERSAL CITY ECONOMIC DEVELOPMENT CORPORATION MEETING**  
**WILL BE HELD IN UNIVERSAL CITY VIA VIDEOCONFERENCE**  
**2150 Universal City Blvd, Universal City, Texas 78148**  
**Special Meeting, Tuesday, April 28, 2020 at 5:00 P.M.**

*In accordance with order of the Office of the Governor issued March 16, 2020, the Universal City Economic Development Corporation will conduct a telephonic and videoconference meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19).*

*The meeting will be held on Tuesday, April 28, 2020 at 5:00 P.M.*

*The public may participate in this meeting by dialing US Toll-free to 888-788-0099 (Meeting ID: 998 3590 9250, Password: 910350) or by joining the Zoom meeting at <https://zoom.us/j/99835909250?pwd=REorUmRnY0lPYlNPUUxacEtLeGN4dz09>*

*The public will be permitted to offer public comments telephonically or via videostream as provided by the agenda and as permitted by the presiding officer during the meeting. Written questions or comments may be submitted up two hours before the meeting to Kristin Mueller, City Clerk at [kmueller@uctx.gov](mailto:kmueller@uctx.gov).*

*A recording of the telephonic and video meeting will be made and will be available to the public in accordance with the Texas Public Information Act upon written request.*

1. **CALL TO ORDER:** President Dick Crow
2. **QUORUM CHECK:** Secretary Lenny Dagg
3. **PURPOSE OF SPECIAL MEETING:**
  - A. **Public Hearing:** On the expenditure of funds for the Universal City Economic Development Corporation Small Business Stimulus Program.
  - B. **Consider:** Approval of Resolution 2020-2: A Resolution of the Universal City Economic Development Corporation, a Type B Economic Development Corporation, approving a project authorized by section 505.158 of the Texas Local Government Code, authorizing certain financial assistance up to \$250,000 for the Universal City Economic Development Corporation Small Business Stimulus Program, a grant program for businesses located within the City of Universal City, Texas; and providing for an immediate effective date.
4. **ADJOURNMENT:**

This facility is wheelchair accessible & accessible parking spaces are available. Request for accommodations or interpretive services must be made 72 hours prior to this meeting. Please contact the city clerk’s office at (210) 659-0333 if these services are needed.

TO: EDC

FROM: Kristin Mueller, Economic Development Director

DATE: 24 April 2020

SUBJECT: Resolution 2020-2: A Resolution of the Universal City Economic Development Corporation, a Type B Economic Development Corporation, approving a project authorized by section 505.158 of the Texas Local Government Code, authorizing certain financial assistance up to \$250,000 for the Universal City Economic Development Corporation Small Business Stimulus Program, a grant program for businesses located within the City of Universal City, Texas; and providing for an immediate effective date.

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In response to COVID-19 (Coronavirus), consider authorizing the UCEDC Small Business Stimulus Program to assist businesses negatively affected by the COVID-19 pandemic. The UCEDC Small Business Stimulus Program would be a local economic development program authorized under Chapter 505.158 of the Texas Local Government Code to help reduce the resulting economic strain on local businesses.

The stimulus program would be designed to assist small Universal City businesses that are independently owned and operated with a maximum of 25 employees. Eligible industries may include retail (storefront), food and beverage; personal care (barber shop, nail salons, spas, etc.), automobile maintenance, education training, health/wellness, and small manufacturing businesses, personal services, etc. National chains, Regional chains, shopping center or strip mall owners, home-based businesses, permanently closed businesses, and non-profit organizations are not eligible for the grant.

Eligible expenses allowed under the grant program include:

- Rent/Mortgage for April-July 2020.
- Utilities (electricity/gas, water/sewer/garbage, cable/phone/internet, etc.) for April-July 2020.

All applications must include the following supporting documentation:

- 1.) Signed W-9 form
- 2.) Copy of the lease agreement or mortgage loan document
- 3.) Copy of the Feb 2020 utility bill for each utility type paid
- 4.) Texas Comptroller of Public Accounts sales tax statement for either February 2020 or most recent filing (not applicable for businesses that do not pay sales tax)
- 5.) Copy of IRS Form 941 for 4th Quarter 2019 or 1st Quarter 2020

Those businesses awarded will be required to submit documentation demonstrating that 100% of the awarded funds were spent on eligible expenses.

**Proposed Project Timeline:**

April 28, 2020	UCEDC approves Resolution 2020-2
May 5, 2020	City Council ratifies the EDC decision
May 6, 2020	UCEDC Small Business Stimulus Program Application period opens
May 6-8, 2020	UCEDC staff push information via social media, website, site visits, e-mail
May 21, 2020	First round of applications to be considered at a May 21, 2020 EDC meeting.

**PROJECTED REV/EXPENSES for remainder of FY2020**

Savings Balance 4/1/2020	\$1,340,000	
<b>CK Beginning Balance 4/1/2020</b>		<b>\$ 1,260,000</b>
<b>Revenues for Remainder 2020</b>		
Sales Tax next 6 months		240,000
Interest Income next 6 months		12,000
Northlake Signage next 6 months		2,000
<b>Total Revenues for next 6 months</b>		<b>\$ 254,000</b>
 Projected TOTAL REVENUES through 9/30/2020		 \$ 1,514,000

**Projected Expenditures 4/1/2020 through 9/30/2020**

Printing		1,000
Advertising/Ads		8,000
Legal Services		15,000
Audit Services		4,000
ED Sponsorships		3,000
2016 Bond Debt Service (Northlake)		165,000
Officer Insurance		800
Office Supplies/Equipment		1,000
Newsletter		18,000
Promotional items		2,000
Web Page Hosting/Admin/Emails		10,400
		<b>228,200</b>

**Economic Development Projects**

Landscape Maint. - PBR		25,000
NL Signage Landscape		4,600
NL Engineering Fees		0
<b>JJ Feasibility Study</b>		<b>150,000</b>
E Aviation Feasibility Study		40,000
Events		48,811
Storefront Architect Fees		4,500
Storefront Improvement Program		13,500
Carrera Optical	13,500	
Retail Attraction		671,189
Rush Fun Park	** 286,000	
Triangle Shop Center	185,189	
Gather Brewing Company	200,000	
		<b>957,600</b>

TOTAL EXPENDITURES 4/1/2020-9/30/2020		<b>1,185,800</b>
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Contingency		<b>100,000</b>
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<b>Total Expenditures</b>		<b>\$ 1,514,000</b>
<b>Ending Balance</b>		<b>\$ -</b>

## UCEDC Small Business Stimulus Program Application

The Universal City Economic Development Corporation developed this stimulus program to assist small Universal City businesses that are independently owned and operated with a maximum of 25 employees. Eligible industries may include retail (storefront), food and beverage; personal care (barber shop, nail salons, spas, etc.), education training, health/wellness, and small manufacturing businesses. National chains, Regional chains, shopping center or strip center owners, home-based businesses, permanently closed businesses, and non-profit organizations are not eligible for the grant.

The Universal City Economic Development Corporation (UCEDC) will review all applications to ensure completeness and eligibility. All applications must include the following supporting documentation:

- 1.) a signed W-9 form
- 2.) a copy of the lease agreement or bank loan
- 3.) a copy of the February 2020 utility bill for each utility type paid (Electric/Water/Sewer/Garbage/Cable/Phone/Internet)
- 4.) a copy of the Texas Comptroller of Public Accounts sales tax statement for either February 2020 or most recent filing (not applicable for businesses that do not pay sales tax)
- 5.) a copy of IRS Form 491 for 4th Quarter 2019 or 1st Quarter 2020

Each applicant may request up to \$10,000. If granted, payments will be made directly to the applicant to be utilized for eligible expenses. Eligible expenses are business rent/mortgage and utility expenses for April - July 2020. Award is actual rent/mortgage expenses and utility expenses for April-July 2020 up to \$10,000.

Name of Business:\*

Business Address:\*

Name of Business Owner(s):\*

Phone Number:\*

E-mail Address:\*

Business Category/NAICS Code:

Date business was established in Universal City, Texas:\*

Grant Amount Requested:

(Maximum Request = \$10,000)\*

Does the business have disaster/disruption insurance?\*

Yes

No

Is the business physically located and publicly accessible within the City of Universal City?  
(Home-based businesses are not eligible)\*

Yes

No

Did the business experience a decrease in employment or revenue as a direct result of COVID-19?\*

Yes

No

Impacts to your business from COVID-19:  
Please check all that apply. \*

- Temporary Business Closure
- Permanent Business Closure
- Reduced Hours of Operation
- Employee Layoffs/Furloughs
- Restricted Access to Capital to Address Costs
- Revenue Decline
- Interrupted Supply/Deliveries from Vendors
- Inability to Serve Customers
- Increased Operating Costs
- Decreased Customers

Briefly describe how your business has been impacted by COVID-19 and the intended use of the grant funds. \*

How many Full Time Employees did the business have on March 1, 2020?\*

How many Full Time Employees did the business have on April 15, 2020?\*

How many Full Time Employees do you anticipate the business having 3 months after COVID-19 restrictions are lifted?\*

How many Part Time Employees did the business have on March 1, 2020?\*

How many Part Time Employees did the business have on April 15, 2020?\*

How many Part Time Employees do you anticipate the business having 3 months after COVID-19 restrictions are lifted?\*

Attach completed W-9.\*

 No file chosen

Attach copy of Lease Agreement.\*

 No file chosen

Attach copies of the February 2020 bills for the utility services that you would like considered for the grant.

(Electric, Water/Sewer, Phone/Internet, Cable, Garbage, Etc). \*

 No file chosen

If applicable, attach the Texas Comptroller of Public Accounts sales tax statement for either February 2020 or most recent filing.

 No file chosen

Attach a copy of IRS Form 941 for 4th Quarter 2019 or 1st Quarter 2020:\*

 No file chosen

All the information provided is true and accurate and financial information has not been manipulated to exaggerate the financial duress of this business. I understand the information submitted in this application may require additional supporting documentation and will be shared with the Universal City Economic Development Corporation and subject to open records request, if applicable. I understand the Universal City Economic Development Corporation will not accept and/or evaluate incomplete applications. I understand the Universal City Economic Development Corporation may

grant or deny applications at its sole discretion and does not discriminate on the basis of race, color, religion, sex, age, national origin, veteran status, sexual orientation, gender identity, disability, or any other basis of discrimination prohibited by law. I understand that my business is not entitled to a grant. \*

- I agree to the above statement.
- I am authorized to submit this application on behalf of the business.

- If awarded a grant, I will provide documentation to the UCEDC demonstrating 100% of awarded funds were spent on eligible expenses.

Digital Signature.\*

\* indicates required fields.

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**RESOLUTION NO. 2020-02**

**A RESOLUTION OF THE UNIVERSAL CITY ECONOMIC DEVELOPMENT CORPORATION, A TYPE B ECONOMIC DEVELOPMENT CORPORATION, APPROVING A PROJECT AUTHORIZED BY SECTION 505.158 OF THE TEXAS LOCAL GOVERNMENT CODE, AUTHORIZING CERTAIN FINANCIAL ASSISTANCE UP TO \$250,000.00 AS A SMALL BUSINESS GRANT PROGRAM TO BE USED FOR BUSINESSES LOCATED WITHIN THE CITY OF UNIVERSAL CITY, TEXAS; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, on March 13, 2020, the President of the United States declared the COVID-19 outbreak a national health emergency beginning on March 1, 2020; and

**WHEREAS**, on March 13, 2020, the Governor of the State of Texas declared a state of disaster for all counties in Texas in response to the COVID-19 outbreak; and

**WHEREAS**, the Universal City Economic Development Corporation (hereinafter referred to as the "UCEDC"), is an economic development corporation operating pursuant to Chapter 505 of the Texas Local Government Code, as amended (also referred to as the "Act"), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

**WHEREAS**, Section 505.158 of the Texas Local Government Code provides that "[f]or a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, "project" also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation's board of directors to promote new or expanded business development." Further, the statute provides that "[a] Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings"; and

**WHEREAS**, the Board of Directors of the UCEDC find and determine that providing financial assistance in the form of a small business grant program in a total amount not to exceed **Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) with no individual grant to exceed Ten Thousand and No/100 Dollars (\$10,000)** for businesses located within the City of Universal City, Texas, is consistent with and meets the definition of "project" as that term is defined in Section 505.158 of the Act; and the definition of "cost" as that term is defined by Section 501.152 of the Act; and

**WHEREAS**, the Board of Directors of the UCEDC find and determine that providing financial assistance in the form of a small business grant program in a total amount not to exceed **Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) with no individual grant to exceed Ten Thousand and No/100 Dollars (\$10,000)** for businesses located within the City of Universal City, Texas, is consistent with Act, nonetheless the UCEDC must still following the

requirements of the Act including the following: the public hearing requirement mandated by Section 505.159 of the Act; the 60-day wait requirement pursuant to Section 505.160 of the Act; and the performance agreement requirement required by Section 501.158 of the Act.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE UNIVERSAL CITY ECONOMIC DEVELOPMENT CORPORATION, AS FOLLOWS:**

**Section 1.** That the foregoing recitals are hereby found to be true and correct findings of the Board of Directors of the Universal City Economic Development Corporation and are fully incorporated into the body of this Resolution.

**Section 2.** That the Board of Directors of the UCEDC find and determine that providing financial assistance in the form of a small business grant program in a total amount not to exceed **Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) with no individual grant to exceed Ten Thousand and No/100 Dollars (\$10,000)** for businesses located within the City of Universal City, Texas, will promote new and expanded business development, and is otherwise consistent with Section 505.158 of the Act.

**Section 3.** That the Board of Directors of the Universal City Economic Development Corporation find and determine that recipients of a small business grant of other form of financial assistance will have to comply with the requirements of the Act, including the execution of a performance agreement required by Section 501.158 of the Act, unless such requirements are subsequently suspended by the Governor of the State of Texas.

**Section 4.** That the Board of Directors of the Universal City Economic Development Corporation authorize the project and authorize the President of the UCEDC to execute this Resolution.

**Section 5.** That this Resolution shall become effective from and after its passage.

**DULY RESOLVED** by the Board of Directors of the Universal City Economic Development Corporation on this the 27<sup>th</sup> day of April 2020.

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Richard Crow, President  
Universal City Economic Development Corporation

## PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** by and between [REDACTED], a Texas [REDACTED] (hereinafter referred to as “Business Owner”), and the **UNIVERSAL CITY ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation (hereinafter referred to as the “EDC”), is made and executed on the following recitals, terms and conditions.

**WHEREAS**, on March 13, 2020, the President of the United States declared the COVID-19 outbreak a national health emergency beginning on March 1, 2020; and

**WHEREAS**, on March 13, 2020, the Governor of the State of Texas declared a state of disaster for all counties in Texas in response to the COVID-19 outbreak; and

**WHEREAS**, the Universal City Economic Development Corporation (hereinafter referred to as the “EDC”) is a Type B economic development corporation, created pursuant to Chapter 505 of the Texas Local Government Code, as amended; and

**WHEREAS**, Section 505.103 of the Texas Local Government Code provides that “[a] Type B corporation may spend not more than 10 percent of the corporate revenues for promotional purposes”; and

**WHEREAS**, Section 505.158 of the Texas Local Government Code provides that “[f]or a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, “project” also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation’s board of directors to promote new or expanded business development.” Further, the statute provides that “[a] Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation’s authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings”; and

**WHEREAS**, Business Owner has applied to EDC for financial assistance to operate their business located on the Property, as defined herein, which is located within the City of Universal City, Texas; and

**WHEREAS**, the EDC’s Board of Directors have determined the financial assistance provided to Business Owner pursuant to this Agreement is consistent and meets the definition of “project” or “promotional purposes” as those terms are defined in Chapters 501 and 505 of the Texas Local Government Code, and in particular Sections 505.103 and 505.158 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section 501.152 of the Texas Local Government Code.

**NOW, THEREFORE**, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the EDC and Business Owner agree as follows:

## SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

## SECTION 2. TERM.

This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter for one (1) year from the Effective Date of this Agreement unless terminated sooner under the provisions hereof.

## SECTION 3. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this Performance Agreement, together with all exhibits and schedules attached to this Agreement from time to time, if any.
- (c) **Business Owner.** The words “Business Owner” mean [REDACTED], a Texas [limited partnership] [corporation] [limited liability company], its successors and assigns, whose address for the purposes of this Agreement is [REDACTED].
- (d) **EDC.** The term “EDC” means the Universal City Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is 2150 Universal City Blvd, Universal City, Texas, 78148.
- (e) **Effective Date.** The words “Effective Date” mean the date of the latter to execute this Agreement by and between the Business Owner and the EDC.
- (f) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (g) **Full-Time Employment Positions.** The words “Full-Time Employment Position” or “Full-Time Employment Positions” mean and include a job requiring a minimum of One Thousand Nine Hundred Twenty (1,920) hours of work averaged over a twelve (12) month period.
- (h) **Property.** The word “Property” means the property generally located at [REDACTED] [REDACTED] City of Universal City, Bexar County, Texas.
- (i) **Qualified Expenditures.** The words “Qualified Expenditures” mean those costs which meet the definition of “project” as that term is defined in Chapters 501 and 505 of the Act,

and in particular Section 505.158 of the Act, and meet the definition of “cost” as that term is defined in Section 501.152 of the Act.

- (j) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

#### **SECTION 4. AFFIRMATIVE COVENANTS OF BUSINESS OWNER**

Business Owner covenants and agrees with EDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Operate Business.** Business Owner agrees during the Term of this Agreement to maintain and keep open the business located on the Property.
- (b) **Job Creation and Retention.** Business Owner agrees during the Term of this Agreement, the Business Owner shall employ and maintain a minimum of ( ) Full-Time Employment Positions working at the Business Owner’s facility located on the Property. Business Owner covenants and agrees within three (3) months of the Effective Date of this Agreement, and during the Term of this Agreement, Business Owner shall deliver to EDC a quarterly compliance verification signed by a duly authorized representative of Business Owner that shall certify the number of Full-Time Equivalent Employment Positions, and shall disclose and certify the average wage for all Full-Time Equivalent Employment Positions (the “Quarterly Compliance Verification”). The Business Owner covenants and agrees beginning within three (3) months of the Effective Date of this Agreement, and quarterly thereafter during the Term of this Agreement, there will be a total of 4 (four ) Quarterly Compliance Verifications due and submitted to the EDC covering the Full-Time Equivalent Employment Positions created and maintained during the Term of this Agreement. All Quarterly Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports.
- (c) **Performance Conditions.** Business Owner agrees to make, execute and deliver to EDC such other instruments, documents and other agreements as EDC or its attorneys may reasonably request to evidence this Agreement.
- (d) **Performance.** Business Owner agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between the Business Owner and EDC.

#### **SECTION 5. AFFIRMATIVE COVENANTS OF EDC.**

EDC covenants and agrees with Business Owner that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Financial Assistance for Qualified Expenditures.** EDC covenants and agrees to provide financial assistance in the amount of to Business Owner within

fifteen (15) days of the Effective Date of this Agreement to be used by Business Owner for Qualified Expenditures.

- (b) **Performance.** EDC agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between Business Owner and EDC.

## **SECTION 6. CESSATION OF ADVANCES.**

If the EDC has made any commitment to provide any financial assistance to Business Owner, whether under this Agreement or under any other agreement, the EDC shall have no obligation to advance or disburse the financial assistance if: (i) Business Owner becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs.

## **SECTION 7. EVENTS OF DEFAULT.**

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **General Event of Default.** Failure of Business Owner or EDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Business Owner or EDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Business Owner and EDC is an Event of Default.
- (b) **False Statements.** Any warranty, representation, or statement made or furnished to the EDC by or on behalf of Business Owner under this Agreement that is false or misleading in any material respect, either now or at the time made or furnished is an Event of Default.
- (c) **Insolvency.** Business Owner's insolvency, appointment of receiver for any part of Business Owner's property, any assignment for the benefit of creditors of Business Owner, any type of creditor workout for Business Owner, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Business Owner is an Event of Default.

## **SECTION 8. EFFECT OF AN EVENT OF DEFAULT.**

In the event of default under Section 7 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure said default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement. In the event, Business Owner defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by the EDC to Business Owner pursuant to Section 5(a) of this Agreement shall become immediately due and payable by Business Owner to the EDC.

## SECTION 9. INDEMNIFICATION.

Business Owner shall indemnify, save, and hold harmless EDC, its directors, officers, agents, attorneys, and employees (collectively, the “Indemnitees”) from and against: (i) any and all claims, demands, actions or causes of action that are asserted against any Indemnatee if the claim, demand, action or cause of action directly or indirectly relates to tortious interference with contract or business interference, or wrongful or negligent use of EDC’s loan advances by Business Owner or its agents and employees; (ii) any administrative or investigative proceeding by any governmental authority directly or indirectly related, to a claim, demand, action or cause of action in which EDC is a disinterested party; (iii) any claim, demand, action or cause of action which directly or indirectly contests or challenges the legal authority of EDC or Business Owner to enter into this Agreement; and (iv) any and all liabilities, losses, costs, or expenses (including reasonable attorneys’ fees and disbursements) that any Indemnatee suffers or incurs as a result of any of the foregoing; provided, however, that Business Owner shall have no obligation under this Section to EDC with respect to any of the foregoing arising out of the gross negligence or willful misconduct of EDC or the breach by EDC of this Agreement. If any claim, demand, action or cause of action is asserted against any Indemnatee, such Indemnatee shall promptly notify Business Owner, but the failure to so promptly notify Business Owner shall not affect Business Owner’s obligations under this Section unless such failure materially prejudices Business Owner’s right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. If requested by Business Owner in writing, as so long as no Default or Event of Default shall have occurred and be continuing, such Indemnatee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit Business Owner to participate in such contest. Any Indemnatee that proposes to settle or compromise any claim, demand, action, cause of action or proceeding for which Business Owner may be liable for payment of indemnity hereunder shall give Business Owner written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain Business Owner’s concurrence thereto.

## SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Bexar County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Bexar County, Texas.

- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Business Owner warrants and represents that the individual or individuals executing this Agreement on behalf of Business Owner has full authority to execute this Agreement and bind Business Owner to the same. EDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown in Section 3 of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Business Owner agrees to keep EDC informed at all times of Business Owner's current address.
- (h) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- (i) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (j) **Undocumented Workers.** Business Owner certifies that the Business Owner does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Business Owner is convicted of a violation under 8 U.S.C. § 1324a(f), Business Owner shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120<sup>th</sup> day after the date the EDC notifies Business Owner of the violation.

- (k) **Compliance with the Act.** Business Owner covenants and agrees to immediately repay to the EDC any financial assistance provided pursuant to this Agreement, if any, in the event of a petition received by the City of Universal City, Texas, pursuant to Section 505.160 of the Act.

**[The Remainder of this Page Intentionally Left Blank]**

**THE PARTIES ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS PERFORMANCE AGREEMENT, AND THE PARTIES AGREE TO ITS TERMS. THIS AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS IS PROVIDED HEREIN.**

**UCEDC:**

**UNIVERSAL CITY ECONOMIC  
DEVELOPMENT CORPORATION,**  
a Texas non-profit corporation

By: \_\_\_\_\_  
\_\_\_\_\_, President

Date Signed: \_\_\_\_\_

**BUSINESS OWNER:**

\_\_\_\_\_,  
a Texas [limited partnership] [limited liability  
company] [corporation]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_