

TOMBALL ECONOMIC DEVELOPMENT CORPORATION ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This Agreement (the “Agreement”) is made and entered into by and between the Tomball Economic Development Corporation, an industrial development corporation created pursuant to Chapter 501 et seq. of the Texas Local Government Code, located in Harris County, Texas (the “TEDC”), and CSE W-Industries, Inc. (the “Company”), for a proposed development to be located at NEC of 2920 and 2978, Tomball, Texas 77377 (the “Site”) (with the TEDC and the Company each being a “Party” and together the “Parties”), and is made effective by the Parties by the execution of this Agreement below by each Party’s authorized representative (the “Effective Date”).

RECITALS

WHEREAS, it is the established policy of the TEDC to adopt such reasonable measures from time-to-time as are permitted by law to endeavor to attract industry, create and retain primary jobs, expand the growth of the City of Tomball, Texas (the “City”), and thereby enhance the economic stability and growth of the City; and

WHEREAS, the Company is based in Spring proposes to relocate its corporate headquarters to the Property, and as part of the process, plans to make capital investments including building improvements, fixed machinery and equipment and tangible personal property (the “Improvements”) in an amount equal to at least twenty-eight million dollars (\$28,000,000) as are necessary to occupy the Property and grow the business; and

WHEREAS, the Company proposes to create at least three hundred (300) new employment positions at the Site (the “Jobs”), and to maintain the Jobs on the Site as provided herein, in conjunction with the development at the Site; and

WHEREAS, in consideration of the Company’s creation and maintenance of the Improvements and Jobs, the TEDC desires to provide a direct incentive to the Company of an amount not to exceed Six hundred sixty thousand dollars (\$660,000) (the “Incentive”), as more specifically described below, for the Company’s performance of creating and maintaining the Improvements and the Jobs at the Site; and

WHEREAS, this expenditure is found by the Board of Directors of the TEDC to be required or suitable for the promotion and development of new or expanded business enterprises as contemplated in Texas Local Government Code 505.158; and

WHEREAS, the Company has agreed, in exchange and as consideration for the Incentive, to satisfy and comply with the terms and conditions provided in this Agreement; and

NOW, THEREFORE, in consideration of the promises and the mutual benefits and obligations set forth herein, including the recitals set forth above, the Parties agree as follows:

AGREEMENT

1. The Company covenants and agrees that it will construct the Improvements and operate and maintain the proposed business on the Site for a term of at least five (5) years after the Effective Date (the “Term”), and will for the Term, create and maintain the Jobs on the Site at the prevailing wage. In conjunction with the development of the Site, the Company further agrees to construct the Improvements contemplated by this Agreement, in accordance with the requirements of the ordinances of the City and the plans and specifications approved by the City. The Company further represents and agrees that it will certify the costs of the construction of such Improvements to the TEDC prior to construction.

2. The Company also covenants and agrees that construction of the Improvements must commence within one hundred eighty (180) days from the Effective Date. The construction of the Improvements to the Site shall be completed, and all necessary occupancy permits from the City shall be obtained within five (5) years after the Effective Date. Extensions of these deadlines, due to any extenuating circumstance or uncontrollable delay, may be granted at the sole discretion of the Board of Directors of the TEDC.

3. The Company further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An “undocumented worker” shall mean an individual who, at the time of employment, is not: (a) lawfully admitted for permanent residence to the United States; or (b) authorized by law to be employed in that manner in the United States.

4. In consideration of the Company's representations, promises, and covenants regarding the Improvements and the Jobs, all of which is more specifically described in the attached “Exhibit A”, the TEDC agrees to grant to the Company the Incentive, to be paid as follows:

a. By December 31, 2027, the Company shall provide certification to the TEDC that it has created three hundred (300) jobs at the Site. The TEDC will provide to the Company seven hundred thirty-three dollars (\$733) for each of the Year One Jobs, which shall be two hundred twenty thousand dollars (\$220,000) (the “Year One Grant”). The TEDC shall provide the Year One Grant within sixty (60) days of the Company’s proof of the Year One Jobs.

b. By December 31, 2028, the Company shall provide certification to the TEDC that it has retained three hundred (300) jobs at the Site. The TEDC will provide to the Company seven hundred thirty-three dollars (\$733) for each of the 300 jobs retained, which shall be two hundred twenty thousand dollars (\$220,000) (the “Year Two Grant”). The TEDC shall provide the Year Two Grant within sixty (60) days of the Company’s proof of the Year Two Jobs.

c. By December 31, 2029, the Company shall provide certification to the TEDC that it has retained three hundred (300) jobs at the Site. The TEDC will provide to the Company seven hundred thirty-three dollars (\$733) for each of the 300 jobs retained, which shall be two hundred twenty thousand dollars (\$220,000) (the “Year Three Grant”). The TEDC shall provide the Year Three Grant within sixty (60) days of the Company’s proof of the Year Three Jobs.

d. Recapture. In the event the number of jobs originally projected in any given year of the Term is not met or maintained, then the amount of the funding provided to the Company by TEDC will be reduced on a pro-rata basis to reflect the actual number of jobs at the time of the request for disbursement of funds. Additionally, any unmet Year One Jobs or Year Two Jobs may be requested in the Year Three Grant Payment and closeout.

5. The TEDC agrees to distribute the payments of the Year One, Two, and Three Grants to the Company within sixty (60) days of receipt of a letter from the Company certifying the creation of each year's Jobs and the investment on the Site of the value of the Improvements (the "Certification Letter"). The Certification Letter shall include: (a) proof that the Company has added the number of employees indicated above to its business operations on the Site, as evidenced by copies of Texas Workforce Commission form C-3 or Internal Revenue Service Form 941; (b) certification of the actual costs of constructing the Improvements; (c) a copy of the City's occupancy permit for the Improvements; (d) verification from the City acknowledging that all necessary plats, permits, plans, and specifications have been received, reviewed, and approved; (e) verification that the Improvements have been constructed in accordance with the approved plans and specifications; (f) an affidavit stating that all contractors and subcontractors providing work and/or materials in the construction of the Improvements have been paid and any and all liens and claims regarding such work have been released; and, (g) proof of payment to all contractors and subcontractors providing work and/or materials in the construction of the Improvements, proof of payment must include copies of canceled checks and/or credit card receipts and copies of paid invoices from all contractors and subcontractors. Each year thereafter throughout the Term.

6. It is understood and agreed by the Parties that, if the Company fails to provide proof to the TEDC through the Certification Letter or any other means, that by the end of the Term, that the Company has not caused the appropriate number of Jobs or value of the Improvements to be maintained at the Site (i.e. that three hundred (300) jobs have been created at the Site, and that twenty-eight million dollars (\$28,000,000) has been invested in the Site), then the Company will be in default of this Agreement. In the event of a default by the Company on any of its obligations under this Agreement, the Company shall reimburse the TEDC the full amount paid to the Company by the TEDC, with interest at the rate equal to the 90-day Treasury Bill plus one-half percent ($\frac{1}{2}\%$) per annum, within thirty (30) days after the TEDC notifies the Company of the default. It is further understood and agreed by the Parties that if the Company, or any owner or lessee of the Improvements, is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company will reimburse the TEDC the full amount paid to the Company, with interest at the rate equal to the 90-day Treasury Bill plus one-half percent ($\frac{1}{2}\%$) per annum, within thirty (30) days after the TEDC notifies the Company of the violation. The Company shall also reimburse the TEDC for any and all reasonable attorney's fees and costs incurred by the TEDC as a result of any action required to obtain reimbursement of such funds. Such reimbursement shall be due and payable thirty (30) days after the Company receives written notice of default. It is understood and agreed by the parties that, in the event of a default by the TEDC on any of its obligations under this Agreement, the Company's sole and exclusive remedy shall be limited to either: a) the termination of this Agreement; or, b) a suit for specific performance. Nothing in this Agreement prohibits the TEDC from working with the Company to find an alternate remedy to a default by the Company, including, but not limited to, the Company remitting to the TEDC two thousand two hundred dollars (\$2,200) for every job that is not created and maintained as required by Section 4.

7. This Agreement shall inure to the benefit of and be binding upon the TEDC and the Company, and upon the Company's successors and assigns, lessees, affiliates, and subsidiaries and shall remain in force whether the Company sells, leases, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the Site.

8. Any notice provided or permitted to be given under this Agreement must be in writing and may be served by (i) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, registered or certified mail, return receipt requested; or (ii) by delivering the same in person to such party; or (iii) by overnight or messenger delivery service that retains regular records of delivery and receipt; or (iv) by facsimile; provided a copy of such notice is sent within one (1) day thereafter by another method provided above. This Agreement shall be performable and enforceable in Harris County, Texas, and shall be construed in accordance with the laws of the State of Texas. The initial addresses of the parties for the purpose of notice under this Agreement shall be as follows:

If to City:
Tomball Economic Development Corporation
Attn: President, Board of Directors
401 W. Market Street
Tomball, Texas 77375

If to Company:
CSE W-Industries, Inc
Attn: Donnie Smith
8303 Thora Lane
Spring, Texas 77379

10. Except as otherwise provided in this Agreement, this Agreement shall be subject to change, amendment, or modification only in writing, and by the signatures and mutual consent of the Parties.

11. The failure of any Party to insist in any one or more instances on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

12. This Agreement shall bind and benefit the respective Parties and their legal successors and shall not be assignable, in whole or in part, by any Party without first obtaining written consent of the other Party.

13. In the event any one or more words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement, or the application thereof to any person, firm, corporation, or circumstance, shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, or other parts of this Agreement shall be deemed to be independent of and severable from the remainder of this Agreement, and the validity of the remaining parts of this Agreement shall not be affected thereby.

14. Personal Liability of Public Officials: To the extent permitted by law, no director, officer, employee or agent of the TEDC, and no officer, employee or agent of the City, shall be personally responsible for any liability arising under or growing out of this Agreement.

THE PARTIES HEREBY ACKNOWLEDGE AND AGREE TO THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED IN THIS AGREEMENT, AND BY THE EXECUTION OF THIS AGREEMENT BELOW THROUGH THE SIGNATURES OF EACH PARTY'S AUTHORIZED REPRESENTATIVE, EACH PARTY BINDS ITSELF TO THE TERMS OF THIS AGREEMENT.

In TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties on this ____ day of _____ 2025 (the "Effective Date")

CSE W-Industries, Inc.

By: _____

Name: Donnie Smith

Title: CEO

ATTEST:

By: _____

Name: _____

Title: _____

TOMBALL ECONOMIC DEVELOPMENT CORPORATION

By: _____

Name: Lisa Covington

Title: President, Board of Directors

ATTEST:

By: _____

Name: Bill Sumner Jr.

Title: Secretary, Board of Directors

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _____
2025, by Donnie Smith, CEO, CSE W-Industries, Inc., for and on behalf of said company.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _____
2025, Lisa Covington, President of the Board of Directors of the Tomball Economic Development
Corporation, for and on behalf of said Corporation.

Notary Public in and for the State of Texas

My Commission Expires: _____

(SEAL)

Exhibit A
Description of Property

Property Address: 72.8008 AC at the NEC of 2920 and 2978

Exhibit B
Description of Improvements

