

RESOLUTION NO. 2014-170R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING A CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH UNITED WELD OPERATIONS, L.L.C., AND ITS AFFILIATED ENTITIES, PROVIDING INCENTIVES IN THE FORM OF ANNUAL REFUNDS OF 80 PERCENT OF AD VALOREM TAXES GENERATED FROM NEWLY ADDED REAL AND PERSONAL PROPERTY OVER TEN YEARS TO LOCATE THE COMPANY'S MANUFACTURING OPERATIONS TO THE FORMER BUTLER MANUFACTURING FACILITY AT 2301 NORTH IH-35 AND ADJACENT LOTS OFF OF CARLSON CIRCLE; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; AND DECLARING AN EFFECTIVE DATE.


BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached Chapter 380 Economic Development Incentive Agreement (the "Agreement") is hereby approved.

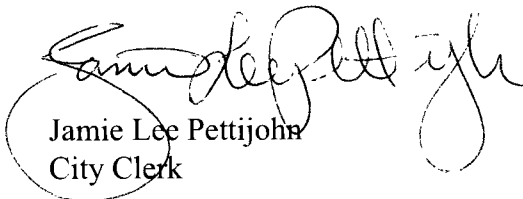
PART 2. The City Manager is authorized to execute the Agreement on behalf of the City.

PART 3. This Resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on December 16, 2014.


Daniel Guerrero
Mayor

Attest:


Jamie Lee Pettijohn
City Clerk

CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

As of December 16, 2014 (the “*Effective Date*”) this Chapter 380 Economic Development Incentive Agreement (the “*Agreement*”) is entered into between the City of San Marcos, Texas (the “*City*”), a Texas municipal corporation, and United WELD Operations, LLC, a Delaware limited liability company (“*UWO*”) and its affiliates (collectively, “*Company*”). The City and Company may also be referred to collectively as the “*Parties*” or individually as a “*Party*”.

PART 1. RECITALS

Section 1.01. Commencing on or after March 1, 2015, Company intends to manufacture products for the energy industry.

Section 1.02. Company proposes to establish its manufacturing plant in the City of San Marcos, subject to the granting of incentives from the City.

Section 1.03. The City wishes to induce Company to establish its manufacturing facility in the City, as doing so would benefit the City by creating new jobs and generating revenues for the City from the addition of personal property inventory and improvements to real property, each of which is subject to ad valorem tax assessment.

Section 1.04. The City is authorized under Chapter 380 of the Texas Local Government Code (“*Chapter 380*”) to offer certain economic development incentives for public purposes, including the promotion of local economic development and the stimulation of business and commercial activity in the City.

Section 1.05. The City has determined that providing economic development incentives under this Agreement will promote local economic development and stimulate business and commercial activity in the City.

Section 1.06. For the reasons stated in these Recitals, which are incorporated into and made a part of this Agreement, and in consideration of the mutual benefits to and promises of the Parties set forth herein, the Parties enter into this Agreement and agree to the terms and conditions set forth in this Agreement.

ARTICLE II DEFINITIONS

Section 2.01. “*Additional Property Taxes*” are the City’s share of the ad valorem taxes received from the Hays County Tax Assessor-Collector each calendar year during the Term on the value of all Personal Property and Real Property Improvements on the Project Site (defined below) attributable to the Business and added by the Company after the Effective Date in excess of the Base Tax Year Value.

Section 2.02. “*Base Tax Year Value*” means the ad valorem tax value, as established by the Hays County Appraisal District for calendar year 2014, of the Real Property Improvements and Personal Property on the Project Site as of January 1, 2014.

Section 2.03. “*Business*” means the business activities of Company conducted in the City of San Marcos, Texas on the Project Site, including, but not limited to the manufacturing of products for the energy industry, which business activities shall commence no earlier than March 1, 2015.

Section 2.04. “*Grant Payments*” means the City’s payments to Company once per calendar year of an amount equal to eighty percent (80%) of the Additional Property Taxes generated from the Project Site in each of the years 2016 through 2025.

Section 2.05. “*Job(s)*” means a full-time employment position at the Project Site resulting from the Project (defined below), which position provides 2,000 annual full-time hours of employment or equivalent, employer sponsored group health insurance, paid sick days, and annual

paid vacation based on length of service and paid holidays. Any position not meeting such criteria does not qualify as a “**Job**” for purposes of this Agreement.

Section 2.06. “*Personal Property*” means all materials, supplies, equipment, inventory or other personal property on the Project Site subject to ad valorem taxes.

Section 2.07. “*Project*” means the operation of the Business on the Project Site and includes, without limitation, the addition of Real Property Improvements (as defined below), Personal Property, and the creation of Jobs.

Section 2.08. “*Project Site*” means the real property within the city limits of the City of San Marcos, Texas upon which the Project shall be conducted, the legal description of which is shown in **Exhibit “A,”** attached hereto and made a part of this Agreement for all purposes.

Section 2.09. “*Real Property Improvements*” means such improvements to real property on the Project Site, other than Personal Property, subject to ad valorem tax assessment.

Section 2.10. The “*Term*” of this Agreement shall commence on the Effective Date and continue until December 31, 2025 (unless terminated sooner, as provided in this Agreement), except that Company’s obligation to submit a Compliance Certificate (as defined in Section 4.03(a) hereof) for the year 2025 as provided under Section 7.02 and the City’s obligation, if any, to complete the Grant Payments due under this Agreement for the year 2025 shall continue until satisfied, subject to the limitations of this Agreement.

ARTICLE III COMPANY’S OBLIGATIONS

Section 3.01. Operation of Business. Company shall begin operation of the Business on the Project Site on or after March 1, 2015, and in any event before April 1, 2015, and shall continuously operate, maintain and manage the Business for the duration of the Term.

Section 3.02. Job Creation. On or before December 31, 2016, Company shall employ, as determined below, a minimum of 140 persons in Jobs (the “**Minimum Jobs Requirement**”). Thereafter, the Minimum Jobs Requirement shall increase by 70 Jobs in each subsequent year until December 31, 2019, at which time the Minimum Jobs Requirement shall be, and the Company shall employ, a minimum of 350 Jobs. While the titles, personnel, or the classification of such Jobs may change, the Minimum Jobs Requirement shall be maintained through the end of the Term, provided that, the Minimum Jobs Requirement may vary depending on the date of determination (e.g., the Minimum Jobs Requirement as of December 31, 2017 shall be 210 Jobs, while the Minimum Jobs Requirement as of December 31, 2018 shall be 280 Jobs). For purposes of determining Company’s satisfaction of the Minimum Jobs Requirement as of December 31, 2020 and thereafter, an average of the number of Jobs held over the applicable period shall be used. For instance, to determine Company’s satisfaction of the Minimum Jobs Requirement for calendar year 2020, an average shall be taken of the Jobs filled during the period of January 1, 2020 through December 31, 2020. Company agrees that it will maintain, and shall use its best efforts to enforce, employment policies that prohibit discrimination from occurring in the creation of Jobs on the basis of race, creed, color, national origin, sex or disability or other characteristics for which protection is available under applicable local, state and federal anti-discrimination laws.

Section 3.03. Compliance with Laws. In performing its obligations under this Article, Company shall comply with all applicable laws, regulations and ordinances.

ARTICLE IV
GRANT PAYMENTS; EXPEDITED REVIEWS; WAIVERS; PUBLIC ROADWAYS

Section 4.01. Grant Payments. Subject to other terms and conditions of this Agreement and Company’s compliance with this Agreement, the City will make Grant Payments to Company in the manner set forth in this Article.

Section 4.02. Ten-Year Payment Period. Beginning in calendar year 2017, the City shall make up to ten (10) annual Grant Payments to Company, each in an amount equal to eighty percent (80%) of Additional Property Taxes generated by the Business on the Project Site during the calendar year immediately preceding the Grant Payment.

Section 4.03. Time for Payment. Grant Payments will be made by the City in the calendar year immediately following the full calendar year in which the Additional Property Taxes upon which the Grant Payment amount is based are generated. The first Grant Payment shall be made in 2017. The City shall not be required to make a Grant Payment during any applicable calendar year unless and until:

- (a) Company has submitted, in the form attached as **Exhibit “B”** hereto (the **“Compliance Certificate”**), together with all information required under Sections 7.02 and 7.03 of this Agreement necessary to verify its compliance with the terms of this Agreement;
- (b) Additional Property Taxes for the prior calendar year are received by the City from the Hays County Tax Assessor-Collector; and
- (c) Funds are appropriated by the San Marcos City Council for the specific purpose of making a Grant Payment under this Agreement as part of the City’s ordinary budget and appropriations approval process.

Provided the foregoing conditions have been satisfied and Company is otherwise in compliance with this Agreement, the City shall pay to Company any Grant Payments due within thirty (30) days after the last to occur of the events in subsections (a), (b) and (c) of this Section.

Section 4.04. Expedited Reviews; Waivers; Public Roadways.

- (a) **Expedited Reviews.** The City hereby further agrees that, in order to accommodate Company’s plans to design and build improvements on the Project Site in

preparation for its commencement of operations of the Business on or after March 1, 2015 (and in any event prior to April 1, 2015, as required hereunder), the City will expedite the review and approval process of specific required permit applications, including Site Preparation Permit Applications, Driveway Permit Applications, Floodplain Development Permit Applications, Demolition Permit Applications, Foundation Permit Applications, New Construction Building Permit Applications and Remodeling Building Permit Applications. Provided the applications are complete, the City hereby agrees to complete its review of each of the above specified applications submitted to it and respond to Company with respect thereto within seven (7) days of receipt of each application. The City acknowledges Company's availability and preference to "walk through" each application at the time of submission to the City and will use its best efforts to accommodate such preference. Any other required entitlement or permitting processes will be reviewed according to statutory timeframes and established City policy. The City's expedited review and approval under this paragraph is subject to any required procedures and minimum mandatory time limitations under applicable ordinances and laws. For example, the City may not waive the requirement for a public hearing and the minimum number of days required for notice of the public hearing.

(b) **Waivers.** The City hereby waives landscape requirements applicable to the Project Site, except for City of San Marcos Code of Ordinances Section 6.1.2.4 regarding general screening. The intent of this section is to provide for landscape screening of all loading spaces and docks, outside storage areas and mechanical equipment visible from the street or public rights-of-way. Additionally, the City authorizes the Company to use #57 limestone or gravel for parking, drive or yard areas and to put in place a "true grid" system.

(c) **Public Roadways.** In the event the Company elects to seek abandonment of all or part of Carlson Circle, the Company shall dedicate a Public Access Easement, in conjunction with the construction of a public roadway along the western perimeter of the Project Site. The City will guide the Company through the construction approval process in good faith. The Company may, at any time, notify the City of its election to seek such abandonment and realignment of Carlson Circle and initiate the design and construction of such public street realignment, at no cost to the City, through the City's public improvements construction plan review and approval process. Upon City's approval of the Company's public improvement construction plans, in accordance with applicable ordinances and street standards, the Company may initiate a request for street abandonment proceedings for that portion of Carlson Circle that is abutted on both sides by the Project Site in accordance with the requirements of applicable City ordinances and state law. The Company acknowledges and agrees that the approval of such abandonment is a legislative act of the San Marcos City Council and that this Agreement cannot and does not oblige the City Council to approve such abandonment. If the City Council does not approve such abandonment, the Company shall have no recourse against the City as a result of such non-approval. If the street abandonment is approved, the abandonment ordinance may provide for a delayed effective date contingent upon completion and acceptance by the City Engineer of the new section of Carlson Circle constructed for the realignment. Until such time as such portion of Carlson Circle may be permanently abandoned, the City shall coordinate with the Company to implement measures that create sufficient access to public rights-of-way adjacent to the Project Site to provide for the safe and efficient operation of the Project. Such measures may include, but are not limited to,

signage, striping and lighting systems to facilitate crossing the public roadway at designated locations.

**ARTICLE V
REPRESENTATIONS AND WARRANTIES OF UWO**

As of the Effective Date, UWO represents and warrants to the City, as follows:

Section 5.01. UWO's Affiliates. City acknowledges that the Project Site may be purchased and wholly-owned by San Marcos Development Company, LLC, a Delaware limited liability company ("SMDC") and an affiliate of UWO that is under common ownership and control as UWO, and that ad valorem tax assessments on real property may be under the name of SMDC or another affiliate of UWO under common ownership and management. UWO represents that, upon request by the City, UWO will provide, or cause to be provided, to the City any records or information of SMDC and/or UWO related to Company's obligations under this Agreement.

Section 5.02. Organization. UWO is duly organized, validly existing and in good standing under the laws of the State of Delaware and is authorized to conduct business or own real property in the State of Texas. The activities that Company proposes to carry on at the Project Site may lawfully be conducted by Company.

Section 5.03. Authority. The execution, delivery and performance by UWO of this Agreement are within UWO's powers and have been duly authorized.

Section 5.04. Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of UWO, enforceable against UWO in accordance with its terms except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

Section 5.05. No Defaults. UWO is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party or by which it or any of its property is bound that would have any material adverse effect on UWO's ability to perform under this Agreement.

Section 5.06. Full Disclosure. Neither this Agreement nor any schedule or Exhibit attached hereto in connection with the negotiation of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary to keep the statements contained herein or therein, in the light of the circumstances in which they were made, from being misleading.

**ARTICLE VI
PERSONAL LIABILITY OF PUBLIC OFFICIALS
AND LIMITATIONS ON CITY OBLIGATIONS**

Section 6.01. Personal Liability of Public Officials. No employee or elected official of the City shall be personally responsible for any liability arising under or growing out of this Agreement.

Section 6.02. Limitations on City Obligations. The Grant Payments made and any other financial obligation of the City hereunder shall be paid solely from lawfully available funds that have been budgeted and appropriated each fiscal year during the Term by the City as provided in this Agreement. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Consequently, notwithstanding any other provision of this Agreement, the City shall have no obligation or liability to pay any Grant Payments or other payments unless the City budgets and appropriates funds to make such payments during the City's fiscal year in which such Grant Payment(s) or other payments are payable under this Agreement. If the City fails to appropriate funds for a Grant

Payment, Company may at its option terminate this Agreement effective upon written notice to the City, subject to any unpaid Grant Payment properly due to Company for which a lawful appropriation of funds has occurred.

Section 6.03. No Recourse. Company shall have no recourse against the City for the City's failure to budget and appropriate funds during any fiscal year to meet the purposes and satisfy its obligations under this Agreement.

ARTICLE VII INFORMATION

Section 7.01. Information. Company shall, at such times and in such form as the City may reasonably request from Company, provide information concerning the performance of Company's obligations under this Agreement.

Section 7.02. Annual Certification Related to Minimum Jobs Requirement and Compliance With Agreement. Beginning in calendar year 2016 and continuing each calendar year thereafter during the Term, Company shall submit to the City, on or before January 30 of each such year, a certified Compliance Certificate, acceptable to the city manager of the City and signed by an authorized officer or employee of Company, that Company is in full compliance with its obligations under this Agreement or, if not in full compliance, a statement disclosing the nature of any non-compliance and any reasons therefor. Beginning in calendar year 2017, each Compliance Certificate shall also include information regarding Company's satisfaction of the Minimum Jobs Requirement as of the end of the preceding calendar year, as determined in accordance with Section 3.02 hereof. After receiving a timely submitted Compliance Certificate, the City shall have thirty (30) days to notify Company in writing of any questions that the City may have concerning any of the information provided by Company in its Compliance Certificate, and

Company shall diligently work in good faith to respond to such questions to the City's reasonable satisfaction.

Section 7.03. Review of Company Records. Company agrees that the City will have the right to review the business records of Company that relate to the Project and this Agreement in order to determine Company's compliance with the terms of this Agreement. Such review shall occur at any reasonable time and upon at least 30 days' prior notice to Company. To the extent reasonably possible, Company shall make all such records available in electronic form or otherwise available to be accessed through the internet.

Section 7.04. Confidentiality. Nothing contained herein shall require Company to disclose or make available to the City any information relating to its employees that would violate the privacy rights of its employees or would violate applicable law, or to disclose or make available proprietary or other confidential information of the Company, except as required under applicable laws or court order. The Company acknowledges and agrees that as a recipient of public funds, the City has a special right of access to information and certain information relating to the expenditure of public funds and the Company's obligations under this Agreement may be subject to disclosure under the Texas Public Information Act. While the City may notify the Company of certain requests for information from third parties, the City shall have no obligation to assert exceptions to disclosure of such information to the Texas Attorney General or other authority having jurisdiction on behalf of the Company. Until March 1, 2015, the City will not promote this Agreement without the expressed, written permission of the Company. This includes press releases and news bulletins, but does not include furnishing a copy of this Agreement or responding to media questions regarding the terms of this Agreement.

**ARTICLE VIII
DEFAULT, TERMINATION AND REMEDIES**

Section 8.01. Default and Termination Generally.

(a) Except as otherwise provided herein, at any time during the Term of this Agreement that Company is not in material compliance with its obligations under this Agreement, the City may send written notice of such non-compliance to Company. If such non-compliance is not cured within thirty (30) days after Company's receipt of such notice or, if non-compliance is not reasonably susceptible to cure within thirty (30) days and a cure is not begun within such 30-day period and thereafter continuously and diligently pursued to completion on a schedule approved by the City (in either event, a "**Cure**"), then the City may, at its sole discretion, terminate this Agreement or withhold Grant Payments otherwise due for the calendar year or years in which the non-compliance occurs. Notwithstanding the foregoing, a ten percent (10%) or less deviation by Company in satisfying the Minimum Jobs Requirement for any applicable year shall not constitute non-compliance by Company, nor allow the City to terminate this Agreement or constitute a basis upon which the City can withhold Grant Payments.

(b) **Non-Termination Election by City.** If the City elects to withhold Grant Payments under this Section rather than to terminate the Agreement, then, upon a Cure by Company, Company will be eligible to receive Grant Payments in future years (provided it is otherwise in compliance and subject to other limitations of this Agreement) for the remainder of the Term. However, except as contemplated by Section 8.01(a) above, the Grant Payment withheld by the City for any year during which Company was not in compliance, and did not cure such noncompliance as permitted hereby, shall be deemed forfeited by Company and the City shall not be liable for later payment of such forfeited

Grant Payments. For example, if Company fails to satisfy the Minimum Jobs Requirement by more than ten percent (10%) in the year 2017, Company will not receive a Grant Payment in 2018. Company will, however, be eligible to receive a Grant Payment in 2019 for compliance in 2018. Except as to circumstances arising from an event of *force majeure*, the Term shall not be extended as a result of any cure period agreed to by the City under this Section.

(c) **Other Termination.** In the event SMDC does not acquire title to the Project Site, this Agreement shall immediately terminate upon Company's written notice to the City advising the City thereof. In such event, the Parties shall have no further obligations hereunder.

Section 8.02. Termination for Misrepresentation. Notwithstanding any provision for notice of default and any opportunity to cure under Section 8.01, the City may terminate the Agreement immediately by providing written notice to Company if Company, its officers or signatories to this Agreement misrepresented or misrepresents any material fact or information: (i) upon which the City relied in entering into this Agreement; (ii) upon which the City relies in making a Grant Payment to Company; or (iii) as an inducement for the City to make a Grant Payment to Company.

Section 8.03. Other Remedies. Upon breach of any obligation under this Agreement, in addition to any other remedies expressly set forth in this Agreement with respect to such breach, the City may pursue such remedies as are available at law or in equity for breach of contract.

Section 8.04. Offset. The City may deduct from any Grant Payments, as an offset, any delinquent and unpaid fees, sums of money or other fees, charges or taxes assessed and owed to

or for the benefit of the City by Company or other affiliated entities under the same common ownership and control as Company.

Section 8.05. Force Majeure. An event of *force majeure* means an event beyond the reasonable control of a Party obligated to perform an act or take some action under this Agreement including, but not limited to, acts of God, earthquake, fire, explosion, war, civil insurrection, acts of the public enemy, act of civil or military authority, sabotage, terrorism, floods, lightning, hurricanes, tornadoes, severe snow storms or utility disruption, strikes, lockouts, major equipment failure or the failure of any major supplier to perform its obligations. If a *force majeure* event occurs and such event prevents a Party from fulfilling its obligations hereunder, the applicable time period for performing such obligations shall be extended by the period of delay resulting from the *force majeure*.

Section 8.06. Indemnification. The City shall not be obligated to pay any indebtedness or obligations of Company, other than those arising out of the negligence or intentional misconduct of the City or any of its elected officials or employees. Company hereby agrees to indemnify and hold the City, and the City's elected officials and employees, harmless from and against (i) any indebtedness or obligations of Company; (ii) any other loss, claim, demand, lawsuit, liability or damages arising from the negligence or intentional misconduct of Company in the performance of its obligations under this Agreement, or (iii) breach of any representation, warranty, covenant or agreement of Company contained in this Agreement, without regard to any notice or cure provisions. Company's indemnification obligation hereunder shall include payment of the City's reasonable attorneys' fees, costs and expenses with respect thereto.

**ARTICLE IX
MISCELLANEOUS**

Section 9.01. Entire Agreement. This Agreement, including the Recitals and the Exhibits hereto, contains the entire agreement between the Parties with respect to the transactions contemplated herein.

Section 9.02. Amendments. This Agreement may only be amended, altered, or terminated by written instrument signed by all Parties.

Section 9.03. Assignment; Successors. Company may not assign any of its rights, or delegate or subcontract any of its duties under this Agreement, in whole or in part, without the prior written consent of the City; provided that no such consent shall be required with respect to an assignment of this Agreement by Company to either or both of SMDC or UWO. This Agreement shall be binding on and inure to the benefit of the permitted assigns and successors of Company.

Section 9.04. Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provision of this Agreement, except by written instrument of the party charged with such waiver or estoppel.

Section 9.05. Notices. Any notice, statement and/or communication required and/or permitted to be delivered hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered by hand, messenger, telecopy, or reputable overnight carrier, and shall be deemed delivered when received at the respective address of the recipient Party set forth below, or at such other address furnished in writing to the other Party hereto:

Company: United WELD Operations, LLC
2301 North IH-35
San Marcos, Texas 78666
Attn: Chief Financial Officer

With a copy to: Kantrow, Spaht, Weaver & Blitzer (APLC)
445 North Blvd., Suite 300
Baton Rouge, LA 70802
Attn: Lucie R. Kantrow, Esq.
Telephone: (225) 383-4703
Facsimile: (225) 343-0630

City: City of San Marcos
630 E. Hopkins
San Marcos, Texas 78666
Attn: City Manager
Telephone: (512) 393-8101
Facsimile: (855) 759-2844

Section 9.06. Applicable Law and Venue. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in State courts located in Hays County, Texas. Venue for any matters in federal court will be in the United States District Court for the Western District of Texas.

Section 9.07. Severability. In the event any provision of this Agreement is illegal, invalid, or unenforceability under the applicable present or future laws, then, and in that event, it is the intention of the Parties that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceability and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

Section 9.08. Third Parties. The City and Company intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third-party beneficiary, or any individual or entity other than the City and Company or permitted assignees or successors of the City and Company, except that the indemnification and hold harmless obligations by Company provided for in this Agreement shall inure to the benefit of the indemnitees named therein.

Section 9.09. No Joint Venture. Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Except as otherwise specifically provided herein, neither party shall in any way assume any of the liability of the other for acts of the other or obligations of the other.

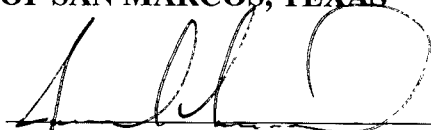
Section 9.10. Immunity. The City, in entering this Agreement does not waive its immunity from suit or any other limitations on its liability, contractual or otherwise, as granted by the Texas Constitution or applicable laws of the State of Texas.

Section 9.11. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which constitute one instrument, and facsimile or electronic (in PDF) copies of this Agreement and facsimile or electronic (in PDF) signatures to this Agreement shall be authorized and deemed effective.

EXECUTED in duplicate originals to be effective as of the Effective Date.

CITY OF SAN MARCOS, TEXAS

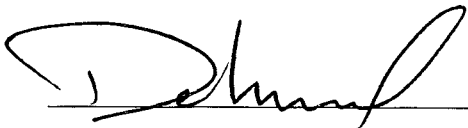
By:



Jared Miller, City Manager

UNITED WELD OPERATIONS, LLC

By:



Print Name:

H. David delarrel

Title of Authorized Representative:

Authorized Signatory

EXHIBIT "A"

Legal Description of the Project Site

Tract 1:

28.67 acres of land, more or less, out of the J.M. VERAMENDI SURVEY NO. 2, Hays County, Texas, being more particularly described in attached Exhibit "A-1".

Tract 2:

Lots 10 & 11, RIVER RIDGE SUBDIVISION, according to the map or plat thereof, recorded in Volume 4, Page 212, Plat Records, Hays County, Texas.

EXHIBIT "A-1"

28.67 ACRES, MORE OR LESS, OF LAND AREA IN THE J. M. VERAMENDI SURVEY NUMBER 2, CITY OF SAN MARCOS, HAYS COUNTY, TEXAS, BEING THE REMAINING PORTION OF THAT TRACT DESCRIBED AS 166.61 ACRES IN A DEED FROM SAN MARCOS INDUSTRIAL FOUNDATION, INC. TO BUTLER MANUFACTURING COMPANY, DATED SEPTEMBER 14, 1979 AND RECORDED IN VOLUME 331, PAGE 573 OF THE HAYS COUNTY DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found in the southeast line of Carlson Circle (a variable width roadway shown on the plat of River Ridge, recorded in Volume 4, Page 212 of the Hays County Plat Records), for the common north corner of Lot 12, River Ridge and the west corner of this description;

THENCE leaving Lot 12 and **PLACE OF BEGINNING** as shown on that plat numbered 27077-14-d, dated June 5, 2014 prepared for BlueScope Buildings North America by Byrn & Associates, Inc., of San Marcos, Texas with the southeast line of Carlson Circle, the following six courses:

1. With a left breaking curve having the following characteristics: Radius = 340.00 feet, Central Angle = 38°16'42", Arc Length = 227.15 feet and a **Chord which bears N 19°06'33" E 222.95 feet** to a ½" iron rod found,
2. **N 00°01'21" W 119.23 feet** to a concrete nail set,
3. With a right breaking curve having the following characteristics: Radius = 397.05 feet, Central Angle = 38°11'57", Arc Length = 264.71 feet and a **Chord which bears N 19°04'00" E 259.84 feet** to a concrete nail set,
4. **N 38°10'08" E 230.44 feet** to a cotton spindle found,
5. With a left breaking curve having the following characteristics: Radius = 535.52 feet, Central Angle = 33°03'18", Arc Length = 308.95 feet and a **Chord which bears N 21°39'20" E 304.69 feet** to a ½" iron rod found, and

6. **N 07°26'31" E 97.80 feet** to a ½" iron rod found for the common west corner of Lot 7, River Ridge and the north corner of this description;

THENCE leaving Carlson Circle, with the southwest line of Lots 7 and 8, River Ridge, **S 66°22'33" E 868.20 feet** to a ½" iron rod found for the south corner of Lot 8 and an interior corner in the northwest line of Lot 9, River Ridge;

THENCE leaving Lot 8, with the common west line of Lot 9 and the east line of this description, the following two courses:

1. **S 23°37'39" W 191.44 feet** to a ½" iron rod found, and
2. With a right breaking curve having the following characteristics: Radius = 346.29 feet, Central Angle = 97°17'47", Arc Length = 588.05 feet and a **Chord which bears S 22°21'16" E 519.90 feet** to a ½" iron rod found for the common southwest corner of Lot 9 and the northeast corner of Lot 13, River Ridge;

THENCE leaving Lot 9, with the common north line of Lot 13 and the south line of this description, the following two courses:

1. With a right breaking curve having the following characteristics: Radius = 346.29 feet, Central Angle = 82°24'52", Arc Length = 498.10 feet and a **Chord which bears S 67°31'32" W 456.26 feet** to a ½" iron rod found, and
2. **S 23°39'12" W 312.45 feet** to a crows foot found etched in concrete, in the northeast line of Market Boulevard, for the west corner of Lot 13;

THENCE leaving Lot 13, with the northeast line of Market Boulevard with a left breaking curve having the following characteristics: Radius = 70.00 feet, Central Angle = 31°03'43", Arc Length = 37.95 feet and a **Chord which bears S 84°40'58" W 37.49 feet** to a ½" iron rod set for the east corner of that tract described as 0.005 of an acre in a Deed from Butler Manufacturing Company to River Ridge Joint Venture, dated October 21, 1986 and recorded in Volume 731, Page 54 of the Hays County Real Property Records;

THENCE leaving Market Boulevard, with the northeast line of the River Ridge Joint Venture 0.005 of an acre tract and Lot 12, River Ridge,
N 66°22'10" W 826.82 feet to the **PLACE OF BEGINNING**. Pass at 32.31 feet a ½" iron rod found for the common north corner of the River Ridge Joint Venture 0.005 of an acre tract and an east corner of Lot 12, River Ridge.

There are contained within these metes and bounds 28.67 acres, more or less, as prepared from public records and a survey made on the ground on June 5, 2014 by Byrn & Associates, Inc., of San Marcos, Texas. All ½" iron rods set are capped with a plastic cap stamped "Byrn Survey". The BEARING BASIS for this description was determined from GPS observations and refers to Grid North of the Texas State Plane Coordinate System, NAD 83, South Central Zone.

Kyle Smith, R.P.L.S. #5307

Client: BlueScope Buildings North America
Date: June 5, 2014
Survey: Veramendi, J. M.
County: Hays, Texas
Job No: 27077-14
End28.67

EXHIBIT "B"
Form of Compliance Certificate

CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT
 ANNUAL COMPLIANCE CERTIFICATE

From: [Name of Company]

To: City of San Marcos
 Attn: City Manager
 630 East Hopkins Street
 San Marcos, TX 78666

Report Date:

Reporting Period: _____ to _____

Real Property Improvements:

	Base Tax Year Value	Reporting Period Value of all Improvements	New Improvements Value
Taxes Paid			

Personal Property:

	Base Tax Year Value	Reporting Period Value of All Personal Property	Added Personal Property Value
Taxes Paid			

	Additional Property Taxes
Sum of Taxes Paid on New Improvements Value and Added Personal Property Value	
Grant Payment (.80 x Additional Property Taxes)	

- Total Jobs at beginning of reporting period: _____
- Total Jobs at end of reporting period: _____
- Please list any claims or lawsuits regarding unlawful employment practices: [attach separate sheet]

The City Manager may agree to an amendment to this form from time to time, provided such amended form shall be substantially similar in reporting the information necessary to confirm compliance with the Chapter 380 Agreement and to calculate the Grant Payments.

Upon request of the City Manager, the Company shall supplement this form with such information as is reasonably necessary for the City to audit or verify the information reported by the Company, including such things as jobs reports submitted to state and federal agencies, tax forms and personnel records, subject to the protection of personal information of individual employees protected by applicable laws.

The Company acknowledges and agrees that it is a recipient of public funds. As such, the City has a special right of access to information related to the Company's performance under the Chapter 380 Agreement. Certain information of the Company may be subject to disclosure under the Texas Public Information Act. While the City may notify the Company of certain requests for information from third parties, the City shall have no obligation to assert exceptions to disclosure of such information to the Texas Attorney General or other authority having jurisdiction on behalf of the Company.

I, _____ [Insert name and title], certify that the foregoing information is true and correct and that the Company has complied with all terms and conditions of the Chapter 380 Agreement.

[Name and Title]

Date

Email: _____

Phone: _____