

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE LA PORTE DEVELOPMENT CORPORATION, AND NORTHERN SAFETY COMPANY, INC., A NEW YORK CORPORATION, FOR USE OF TYPE B DEVELOPMENT CORPORATION SALES TAX FUNDS

THIS AGREEMENT made by and entered into this 27th day of June 2016 between the La Porte Development Corporation, a Type B non-profit corporation operating under authority of Texas Local Government Code Chapters 501 and 505, hereinafter "LPDC", and Northern Safety Company, Inc., a New York Corporation, hereinafter referred to as "Recipient".

WITNESSETH:

WHEREAS, the voters of the City of La Porte authorized the levying of additional sales tax within the City for promotion of economic development and the LPDC is authorized to use such tax revenues for certain qualifying projects and other economic development related purposes; and

WHEREAS, Recipient is a New York based corporation, which is a national distributor of top quality safety and industrial supplies, and which employs positions classified as primary jobs, as the term "primary jobs" is defined in Chapter 501 of the Texas Local Government Code; and

WHEREAS, Recipient is currently identified in the Sales Tax Analysis and Reporting Service ("STARS Report") for Quarter #4 of 2015 as the "Northern Safety Company" at 301 E. Main Street in La Porte, TX; and

WHEREAS, Recipient currently utilizes facilities for its business operations at 301 E. Main Street in La Porte, Texas and at 1475 Sam Houston Parkway, Pasadena, Texas; and

WHEREAS, Recipient wishes to relocate and consolidate its current business operations in Pasadena and La Porte to a new site at 359 Pike Court, La Porte, Texas ("Business Site"), where it will make improvements of at least **\$140,000.00** to the Business Site, which it will lease for a minimum of **five (5) years**, to accommodate increasing business demand, creating an estimated increase to the business personal property tax base valuation in La Porte of **\$1,25,000.00**, generating a minimum of **\$2,500,000.00** in new, annual taxable sales at site, and which operation is anticipated to employ an estimated **one hundred and twenty (120)** full time employees; and

WHEREAS, Recipient has requested that LPDC provide financial incentives towards the proposed consolidation of Recipient's business operations to the Business Site, under a qualifying project of the LPDC for the creation and retention of primary jobs, as authorized by Texas Local Government Code Chapters 501 and 505, and it is the desire of LPDC to assist in the funding of same, finding that such expenditures will contribute to 1) the creation or retention of primary jobs, and 2) will be suitable for the development, retention, or expansion of manufacturing and industrial facilities, as well as regional or national corporate headquarters facilities.

WHEREAS, Texas law and the by-laws of the LPDC require that certain expenditures and projects by the LPDC be approved by the governing body of the City; and whereas the LPDC Board has duly approved such project and the expenditures for same have been authorized by the La Porte City Council; and

NOW THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of La Porte, Texas, the parties have agreed and do hereby agree as follows:

ARTICLE I

In consideration of Recipient consolidating its business operations at the Business Site, which proposal was considered in that certain public hearing authorizing a proposed project for the expenditure of LPDC funds for the creation and retention of primary jobs and the development, retention, or expansion of manufacturing and industrial facilities, held before the LPDC on 27 June 2016, LPDC agrees to provide Recipient an incentive package consisting of cash payments in a total sum not to exceed \$230,000.00, to be distributed in five increments of **\$50,000.00, \$50,000.00, \$40,000.00, \$40,000.00, and \$50,000.00**, with each distribution conditioned on the attainment of certain performance thresholds, more specifically outlined as follows:

- A. A cash incentive payment in an amount equal to **\$50,000.00** will be distributed to Recipient by LPDC, upon receipt by LPDC of all of the following items by **31 January 2017**:
- (1) Copy of a properly executed commercial lease agreement for Recipient's lease of at least 100,000 square feet of space at 359 Pike Court, La Porte, Texas for a minimum **five (5) year** primary term.
 - (2) Proof of Certificate of Occupancy issued by the City of La Porte, Texas to Recipient for completion of improvements at the Business Site.
 - (3) Proof of minimum capital investment in the amount of at least **\$140,000.00** toward real and/or business personal property improvements of the Business Site, which shall be verified by submission of proof of all of the following:
 - a) Copies all applicable invoices and receipts of payment;
 - b) Pictures showing proof of completed improvements;
 - c) Copies of all applicable certificates, permits, and final inspection reports required by the City of La Porte, Texas; and
 - (4) Proof of employment of at least **fifty-five (55)** full time employees at the Business Site, which shall be established by submission to LPDC, by the said deadline, of the following:

- a) Copies of Recipient's 941 Report to the Internal Revenue Service and C3 Report to the Texas Workforce Commission for each employee (but with social security numbers of each employee redacted), and
- b) A signed and notarized statement executed by any authorized officer or director of Recipient affirming that **fifty-five (55)** full time employees are employed by Recipient for positions permanently located at the Business Site.

In no case will the **\$50,000.00** payment be made by LPDC if written proof of all aforementioned items are not delivered to and received by the LPDC by **31 January 2017**. In the case that written proof of all aforementioned items are presented to LPDC on or before said **31 January 2017** deadline, the LPDC shall convene a meeting of the LPDC Board of Directors for a date no later than forty-five (45) days after receipt of proof of said items outlined in this Section A, from Recipient. Upon verification of the completion of all three aforementioned items, as reflected by formal vote of the LPDC Board of Directors that Recipient has satisfied the requirements of this paragraph, LPDC will then remit the **\$50,000.00** to Recipient within a period not to exceed thirty (30) days.

B. A cash incentive payment in an amount equal to **\$50,000.00** will be distributed to Recipient by LPDC, upon receipt by LPDC of each of the following items by **31 October 2017**:

- (1) Receipt of documentation evidencing that the total taxable value of all property of Recipient, at the conclusion of Recipient's consolidation of its business operations at the Business Site, including interests in all business personal property owned by the Recipient, as well as equipment and inventory, is assessed at a minimum value of one and a quarter million dollars (**\$1,250,000.00**) by the Harris County Appraisal District for tax year 2017.
- (2) Proof of employment of at least **sixty-five (65)** full-time employees at the Business Site, which shall be established by submission to LPDC by the said deadline, of the following:
 - a) Copies of Recipient's 941 Report to the Internal Revenue Service and C3 Report to the Texas Workforce Commission for each employee (but with social security numbers of each employee redacted); and
 - b) A signed and notarized statement executed by any authorized officer or director of Recipient affirming that **sixty-five (65)** full time employees are employed by Recipient for positions permanently located at the Business Site.

In no case will the **\$50,000.00** payment be made by LPDC if written proof of all

aforementioned items is not delivered to and received by LPDC by **31 October 2017**. In the case that written proof of all aforementioned items is presented to LPDC on or before said **31 October 2017** deadline, the LPDC shall convene a meeting of the LPDC Board of Directors for a date no later than forty-five (45) days after receipt of proof of said items outlined in this Section B, by LPDC from Recipient. Upon verification of the completion of all aforementioned items, as reflected by formal vote of the LPDC Board of Directors that Recipient has satisfied the requirements of this paragraph, LPDC will then remit the **\$50,000.00** to Recipient within a period not to exceed thirty (30) days.

C. A cash incentive payment in an amount equal to **\$130,000.00** will be distributed to the Recipient by the LPDC, in three annual installments of **\$40,000.00**, **\$40,000.00** and **\$50,000.00**, based on the following criteria:

(1) For the twelve (12) month period beginning 1 July 2017 and ending 30 June 2018, (Year #1 of Operation), the first annual installment of **\$40,000.00** will be distributed to the Recipient by the LPDC, upon receipt by the LPDC of all required items as outlined below, by **31 October 2018**:

a) Documentation evidencing that the total taxable value of all property of the Recipient, at the Business Site, including interests in all business personal property owned by the Recipient, as well as equipment and inventory, is assessed at a minimum value of one and a quarter million dollars (**\$1,250,000.00**) by the Harris County Appraisal District for tax year 2018; and

b) Proof of employment of at least **seventy-five (75)** full-time employees at the Business Site, which shall be established by submission to LPDC, by the said deadline, of the following:

i. Copies of Recipient's 941 Report to the Internal Revenue Service and C3 Report to the Texas Workforce Commission for each employee (but with social security numbers of each employee redacted), and

A signed and notarized statement executed by any authorized officer or director of the Recipient affirming that **seventy-five(75)** full time employees are employed by Recipient for positions permanently located at the Business Site; and

c) Documentation evidencing that the Recipient generates taxable sales from the Business Site that is at least **\$1,500,000.00** more than the amount of taxable sales generated from the

beginning of the 1st Quarter of 2015 through and including the 4th Quarter of 2015 for activity at Recipient's business at 301 E. Main Street in La Porte, Texas ("Baseline Sales Tax Revenue Amount" herein) as reflected in the Sales Tax Analysis and Reporting Service (STARS Report for Quarter #4 of 2015).

In no case will the **\$40,000.00** payment be made by LPDC if written proof of all aforementioned items is not delivered to and received by LPDC by **31 October 2018**. In the case that written proof of all aforementioned items is presented to LPDC on or before said **31 October 2018** deadline, the LPDC shall convene a meeting of the LPDC Board of Directors for a date no later than forty-five (45) days after receipt of proof by LPDC from Recipient. Upon verification of the completion of all aforementioned items, as reflected by formal vote of the LPDC Board of Directors that Recipient has satisfied the requirements of this paragraph, LPDC will then remit the **\$40,000.00** to Recipient within a period not to exceed thirty (30) days.

(2) For the twelve (12) month period beginning 1 July 2018 and ending 30 June 2019 (Year #2 of Operation) the second annual installment of **\$40,000.00** will be distributed to the Recipient by the LPDC, upon receipt by the LPDC of all required items as outlined below, by **31 October 2019**:

- a) Documentation evidencing that the total taxable value of all property of the Recipient at the Business Site, including interests in all business personal property owned by the Recipient, as well as equipment and inventory, is assessed at a minimum value of one and a quarter million dollars (**\$1,250,000.00**) by the Harris County Appraisal District for tax year 2019; and
- b) Proof of employment of at least **one hundred (100)** full-time employees at the Business Site, which shall be established by submission to LPDC, by the said deadline, of the following:
 - i. Copies of Recipient's 941 Report to the Internal Revenue Service and C3 Report to the Texas Workforce Commission for each employee (but with social security numbers of each employee redacted), and
 - ii. A signed and notarized statement executed by and authorized officer or director of the Recipient affirming that **one hundred and forty (140)** full time employees are employed by Recipient for positions permanently located at the Business Site; and

- c) Documentation evidencing that the Recipient generates taxable sales from the Business Site that is at least **\$2, 500,000.00** -more than the amount of taxable sales generated from the beginning of the 1st Quarter of 2015 through and including the 4th Quarter of 2015 for activity at Recipient's business at 301 E. Main Street in La Porte, Texas ("Baseline Sales Tax Revenue Amount" herein) as reflected in the Sales Tax Analysis and Reporting Service (STARS Report for Quarter #4 of 2015).

In no case will the **\$40,000.00** payment be made by LPDC if written proof of all aforementioned items is not delivered to and received by LPDC by **31 October 2019**. In the case that written proof of all aforementioned items is presented to LPDC on or before said **31 October 2019** deadline, the LPDC shall convene a meeting of the LPDC Board of Directors for a date no later than forty-five (45) days after receipt of proof by LPDC from Recipient. Upon verification of the completion of all aforementioned items, as reflected by formal vote of the LPDC Board of Directors that Recipient has satisfied the requirements of this paragraph, LPDC will then remit the **\$40,000.00** to Recipient within a period not to exceed thirty (30) days.

- 3) For the twelve (12) month period beginning 1 July 2019 and ending 30 June 2020 (Year #3 of Operation), the final annual installment of **\$50,000.00** will be distributed to the Recipient by the LPDC, upon receipt by the LPDC of all required items as outlined below, by **31 October 2020**:

- a) Documentation evidencing that the total taxable value of all property of the Recipient at the Business Site, including interests in all business personal property owned by the Recipient, as well as equipment and inventory, is assessed at a minimum value of one and a quarter million dollars (**\$1,250,000.00**) by the Harris County Appraisal District for tax year 2020; and

- b) Proof of employment of at least **one hundred and twenty (120)** full-time employees at the Business Site, which shall be established by submission to LPDC, by the said deadline, of the following:

- i. Copies of Recipient's 941 Report to the Internal Revenue Service and C3 Report to the Texas Workforce Commission for each employee (but with social security numbers of each employee redacted), and

- ii. A signed and notarized statement executed by an authorized officer or director of the Recipient affirming that **one hundred and twenty (120)** full time

employees are employed by Recipient for positions permanently located at the Business Site; and

- c) Documentation evidencing that the Recipient generates taxable sales from the Business Site that is at least **\$2,500,000.00** -more than the amount of taxable sales generated from the beginning of the 1st Quarter of 2015 through and including the 4th Quarter of 2015 for activity at Recipient's business at 301 E. Main Street in La Porte, Texas ("Baseline Sales Tax Revenue Amount" herein) as reflected in the Sales Tax Analysis and Reporting Service (STARS Report for Quarter #4 of 2015).

In no case will the **\$50,000.00** payment be made by LPDC if written proof of all aforementioned items is not delivered to and received by LPDC by **31st October 2020**. In the case that written proof of all aforementioned items is presented to LPDC on or before said **31st October 2020**, the LPDC shall convene a meeting of the LPDC Board of Directors for a date no later than forty-five (45) days after receipt of proof by LPDC from Recipient. Upon verification of the completion of all aforementioned items, as reflected by formal vote of the LPDC Board of Directors that Recipient has satisfied the requirements of this paragraph, LPDC will then remit the **\$50,000.00** to Recipient within a period not to exceed thirty (30) days.

- D. Notwithstanding the foregoing, if for any Year of Operation, as that term is defined in this Section, Recipient provides proof that all business personal property owned by the Recipient at the Business Site, including equipment and inventory, is assessed at a minimum value of one and a quarter million dollars (**\$1,250,000.00**) by the Harris County Appraisal District for the given tax year; and Recipient employs at least **minimum employees as laid out above of 55 year one, 65 year two, 75 year three, 100 year four and 120 in the final year** of full-time employees at the Business Site; and the Recipient generates taxable sales that do not meet or exceed the Baseline Sales Tax Revenue Amount by **\$2,500,000.00**, then the Recipient will only be eligible for a pro rata share of the proposed annual payment based on the percentage of the achieved sales tax. but the Recipient's annual taxable sales do meet or exceed the Baseline Sales Tax Revenue Amount by at least **80% of the taxable sales identified in each payment under this Section**, then in that case Recipient shall be entitled to a pro rata share of the installment payment made at the end of the applicable Year of Operation. However, in the case that Recipient fails to meet or exceed the Baseline Sales Tax Revenue Amount by at least **80%** in a given Year of Operation, then Recipient shall be entitled to no portion of the installment, for that Year of Operation.

In accordance with the preceding paragraph, if after the conclusion of a Year of Operation, but no later than 120 days after the conclusion of the Year of Operation, the Recipient submits proof that it exceeded the Baseline Sales Tax Revenue Amount as reflected in the Sales Tax Analysis and Reporting Service (STARS Report for Quarter #4 of 2015) by at least **\$2,000,000.00**, but less than **\$2,500,000.00**, then in that event the LPDC shall convene a meeting of the

LPDC Board of Directors for a date no later than forty-five (45) days after receipt of proof of such sales tax revenue data. Upon verification of same, for qualification of pro rata payment, as reflected by formal vote of the LPDC Board of Directors that Recipient has satisfied the requirements of this paragraph, LPDC will then remit a pro rata share of the **proposed payment for that year** an amount as applicable, to Recipient within a period not to exceed thirty (30) days.

ARTICLE II

All funds received as herein provided shall be solely for the purpose of reimbursing Recipient in the consolidation of its business operations at its La Porte site, and Recipient further acknowledges that the incentive grant provided for herein is tied to a project of the LPDC for the creation and retention of primary jobs, and that Recipient's proposed expansion at its La Porte site will be suitable for the development, retention, or expansion of manufacturing and industrial facilities, as authorized by Texas Local Government Code chapters 501 and 505.

ARTICLE III

Disbursement and/or retention of the cash incentive identified in Article I of this Agreement shall be made as follows:

- A. Disbursement shall be made to Recipient, subject to the satisfaction of the conditions precedent or conditions subsequent contained within Article I of this Agreement.
- B. LPDC's obligation to Recipient shall not exceed **\$230,000.00**, nor shall LPDC be obligated to reimburse Recipient for requests delivered to LPDC after the termination of this Agreement.

ARTICLE IV

Recipient understands that the funds paid to Recipient by the LPDC are derived from tax revenues collected under Texas Local Government Code 505.252, and that LPDC has estimated the tax revenues to be collected during the term of this Agreement. Recipient further understands, acknowledges, and agrees that if the tax revenue actually collected is less than 90% of the estimated tax revenues to be collected in any fiscal year during the term of this Agreement, LPDC will be under no obligation to provide funding to Recipient for any payment or payments during or after the fiscal year for which there is a revenue shortfall. Upon execution of the Agreement, funds will be placed in a City of La Porte designated commitment account for purposes of this Agreement.

ARTICLE V

In the event of any default by Recipient hereunder, including, but not limited to, use of the funds provided herein for purposes other than those stated in Article I of this Agreement, LPDC may cease all future payments hereunder and terminate this

Agreement. In addition, LPDC shall have the right to reclaim and recapture, and Recipient shall refund, any funds that are not spent in accordance with the terms of this Agreement, including 1) LPDC funds spent by Recipient in contravention of this Agreement and 2) any unspent and unobligated LPDC funds previously paid to Recipient. In each such case, the previously paid cash payment or payments shall be remitted to the LPDC within sixty (60) of receipt of written demand for same.

Any breach of this covenant shall be grounds for immediate termination of the distribution of funds.

ARTICLE VI

The term of this Agreement is for a period beginning on the date of approval by LPDC and ending **five (5) years** later.

ARTICLE VII

All funds provided by the LPDC pursuant to this Agreement may be used only for the purposes authorized by this Agreement. Notwithstanding Article I, above, City shall be under no obligation to make any fund disbursements if the reports required under this Article have not been delivered to the LPDC.

ARTICLE VIII

This Agreement does not create any joint venture, partnership, or agency relationship between the LPDC and Recipient. Recipient shall have exclusive control of, and the exclusive right to control the details of the work to be performed by Recipient hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of Recipient's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the LPDC.

ARTICLE IX

Recipient agrees to assume and does hereby assume all responsibility and liability for damages sustained by persons or property, whether real or asserted, by or from the

carrying on of work by Recipient or in the performance of services performed and to be performed by Recipient hereunder. Recipient covenants and agrees to, and does hereby indemnify, defend, and hold harmless LPDC and all their respective officers, agents, and employees from all suits, actions, claims, and expenses of any character, including attorney's fees, brought for or incurred on account of any injuries or damages, whether real or asserted, sustained by any person or property by or in consequence of any intentional or negligent act, omission, or conduct of Recipient, its agents, servants or employees.

ARTICLE X

This Agreement may be amended by the mutual agreement of the Parties hereto in writing to be attached to and incorporated into this Agreement.

ARTICLE XI

Recipient shall adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and shall maintain in effect during the term of this Agreement any and all federal, state, and local licenses and permits which may be required of Recipients generally.

ARTICLE XII

Recipient may not assign this Agreement without the written consent of LPDC.

ARTICLE XIII

The waiver by LPDC of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

ARTICLE XIV

The obligations of the Parties to this Agreement are performable in Harris County, Texas and if legal action is necessary to enforce same, venue shall lie in Harris County, Texas.

ARTICLE XV

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

ARTICLE XVI

This Agreement may be executed in triplicate, each of which shall be deemed an original and constitute one and the same instrument.

ARTICLE XVII

Neither LPDC nor Participant shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean Acts of God, civil riots, floods, and any other cause not reasonably within the control of LPDC or Recipient except as herein provided, and which by the exercise of due diligence LPDC or Recipient is unable, wholly or in part, to prevent or overcome.

ARTICLE XVIII

In submitting this application, the applicant whose signature appears below affirms its intent and commitment to comply in full with Section 2264.052 of the Government Code and certifies that it does not and will not knowingly employ an undocumented worker during any time period associated with the public subsidy for which the application is being submitted. The applicant further certifies its understanding and agreement that if it is convicted of a violation of 8 U.S.C. Section 1324a(f), providing for civil and/or criminal penalties for engaging in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens, it shall repay the amount of the public subsidy with interest, at the rate and according to the terms of the agreement signed under Section 2264.053 of the Government Code, not later than the 120th day after the date the city notifies the business of the violation.

ARTICLE XIX

The Agreement embodies the complete agreement of the parties hereto, superceding all oral or written pervious and contemporary agreements between the Parties, which relate to matters in this Agreement.

SIGNED AND AGREED to by LPDC and Recipient on the dates indicated below.

LA PORTE DEVELOPMENT CORPORTION



Richard Warren, President

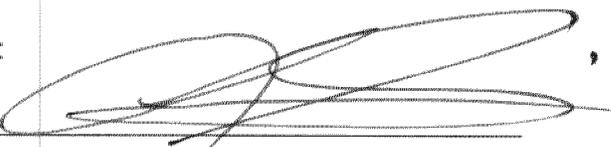
6-27-16
Date

ATTEST



Secretary of the Corporation

NORTHERN SAFETY COMPANY, INC., a New York Corporation

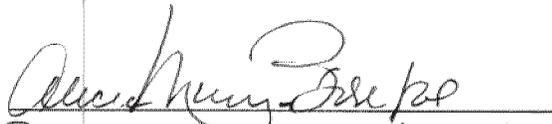
By: 

Luis Garcia, President of Gulf Coast Region

Date

7/5/2016

ATTEST

A handwritten signature in cursive script, appearing to read "Alec Murray".

Director of Operations - Gulf Coast