

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN ECONOMIC DEVELOPMENT PROGRAM GRANT AGREEMENT WITH AEROSPACE QUALITY RESEARCH AND DEVELOPMENT, INC., D/B/A AQRD TO PROMOTE ECONOMIC DEVELOPMENT WITHIN THE TOWN IN AN AMOUNT NOT TO EXCEED \$70,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the Town of Addison (“City”) is authorized and empowered pursuant to Section 380.001 of the Texas Local Government Code to establish and provide for the administration of one or more programs to promote local economic development; and

WHEREAS, the City Council has established a program under Section 380.001 of the Texas Local Government Code for making a grant of public money to promote local economic development and to stimulate business and commercial activity in the City; and

WHEREAS, the City Council has determined that the economic development grant program agreement approved by this Resolution (the “Agreement”) will further the objectives of the City and benefit the community by promoting local economic development and stimulating business and commercial activity in the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. The City Council hereby approves the Economic Development Program Grant Agreement between the Town of Addison and Aerospace Quality Research and Development, Inc., d/b/a AQRD, in an amount not to exceed \$70,000.00, a copy of which is attached hereto and incorporated herein as **Exhibit A**. The City Manager is authorized to execute the Agreement on behalf of the City and to take all steps necessary to carry out the terms thereof.

SECTION 2. This Resolution shall take effect immediately upon adoption.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the 22nd day of MARCH 2022.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

EXHIBIT A

ECONOMIC DEVELOPMENT PROGRAM GRANT AGREEMENT

This Economic Development Program Grant Agreement ("Agreement") is made and entered into by and between Aerospace Quality Research and Development, a Texas limited liability company, d/b/a as AQRD. ("Company"), and the Town of Addison, Texas ("Addison" or the "City"), a Texas home rule municipality, for the purposes and consideration stated below (Company and the City are sometimes referred to herein together as the "parties" and individually as a "party").

WHEREAS, Company desires to maintain its current administrative headquarters at 4600 Claire Chennault Street in Addison (the "Existing Area") and lease approximately 30,000 square feet of additional space adjacent to the Existing Area (the "Additional Area") for use as a corporate campus (collectively, the "Premises"); and

WHEREAS, Company intends to spend an estimated at least \$2.8 million in tenant improvements and other office space expenditures within the Premises (the "Improvements"); and

WHEREAS, during the term of this Agreement and as set forth herein, Company intends to and will use the Premises as the primary location of its administrative headquarters (the "Required Use"); and

WHEREAS, Company anticipates that, from and after the date of occupation of the Additional Area with the Premises, and at all times thereafter relevant to, this Agreement, it will employ at least 90 full time equivalent employment positions with an average annual wage of \$83,325.00 whose home base for work is the Premises; and

WHEREAS, in connection with its lease and occupancy of the Premises, Company has asked the City to provide an economic development grant that will help it defray a portion of the costs it will incur in commencing the Improvements and occupying the Additional Area within the Premises; and

WHEREAS, the City is authorized by Section 380.001, Tex. Loc. Gov. Code, to establish and provide for the administration of programs for making loans and grants of public money to promote state or local economic development and to stimulate business and commercial activity in the City, and this Agreement constitutes such a program for promoting and retaining economic development within the City; and

WHEREAS, the City has determined that making an economic development grant to Company in accordance with this Agreement will further the objectives of the City, will benefit the City and the City's inhabitants, and will promote local economic development and stimulate business and commercial activity within the City.

NOW, THEREFORE, for and in consideration of the foregoing, and on the terms and conditions hereinafter set forth, the City and Company do hereby agree as follows:

Economic Development Program Grant Agreement

Page 1 of 11

Section 1. Findings.

The findings set forth above are incorporated as if fully set forth herein.

Section 2. Term.

This Agreement shall be effective as of the last date of execution of this Agreement (the "Effective Date") and will continue in effect through the fifth (5th) anniversary of the date of City's issuance of the final certificate(s) of occupancy to Company for the entire Premises; subject to the earlier termination of this Agreement in accordance with the terms of this Agreement (the "Term").

Section 3. Program Grant.

Subject to Company's satisfaction of and compliance with all of the terms and conditions of this Agreement, including without limitation the requirements set forth in Section 4 below, the City agrees to pay to Company a program grant in an amount not to exceed Seventy Thousand and NO/100 Dollars (\$70,000.00) to be paid in conformance with this Agreement (the "Grant").

The Grant payments made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City. 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 portion of the Grant unless the City appropriates funds to make such payment during the budget year in which the Grant is payable; provided that during the Term of this Agreement the City will take such steps as necessary to appropriate funding for the Grant each fiscal year in an amount sufficient to satisfy the reasonably anticipated Grant payment(s) that will become due to Company during the ensuing fiscal year. City shall not be obligated to pay any commercial bank, lender or similar institution for any loan or credit agreement made by the Company. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

Section 4. Conditions to Grant Payments.

The City's obligation to make the Grant payments shall be conditioned upon Company's compliance with and satisfaction of all of the terms and conditions of this Agreement, including without limitation, each of the conditions set forth below (each being a condition precedent to payment of the Grant under this Agreement):

- (a) First Grant Payment: The First Grant Payment of Twenty-Three Thousand, Three Hundred Thirty-Three and 33/100 Dollars (\$23,333.33) shall be paid by the City to Company within 30 days after the submission of a request for payment and the delivery to the City of all of the following to the reasonable satisfaction of the City:

1. A fully executed copy of Company's lease for the Additional Area; and
2. A copy of the final certificate(s) of occupancy issued by City for the entire Premises; and
3. An executed affidavit on the affidavit form attached hereto as **Exhibit A**, attesting that the Company is occupying the Premises and has made a capital investment in the Improvements within the Existing Area (including tenant allowance, furniture, fixtures, and equipment) equal to or in excess of One Million, Seven Hundred Thousand and NO/100s Dollars (\$1,700,000.00) on and/or within the Premises; and
4. A copy of an official employee report submitted to the Texas Workforce Commission demonstrating that the Company currently employs 55 employees whose primary employment location is the Premises with an average annual wage of at least \$83,325.

(b) Second Grant Payment: The Second Grant Payment of Twenty-Three Thousand, Three Hundred, Thirty-Three and 33/100 Dollars (\$23,333.33) shall be paid by the City to Company within 30 days after Company's submission of a request for payment and the delivery to the City of the following completed documentation to the reasonable satisfaction of the City:

1. An executive affidavit in a form reasonably approved by the City attesting that the Company has occupied the Premises for at least twelve (12) consecutive months; and
2. A copy of an official employee report submitted to the Texas Workforce Commission demonstrating that the Company currently employs at least 70 employees whose primary employment location is the Premises with an average annual wage of at least \$83,325; and
3. An executed affidavit on the affidavit form attached hereto as **Exhibit A**, attesting that the Company is occupying the Premises and has made an additional capital investment in the Improvements within the Additional Area (including tenant allowance, furniture, fixtures, and equipment) equal to or in excess of One Million, One Hundred Thousand and NO/100s Dollars (\$1,100,000.00).

(c) Third Grant Payment: The Third Grant Payment of Twenty-Three Thousand, Three Hundred, Thirty-Three and 34/100 Dollars (\$23,333.34) shall be paid by the City to Company within 30 days after the submission of a request for payment and the delivery to the City of the following completed documentation to the reasonable satisfaction of the City:

1. An executive affidavit in a form reasonably approved by the City attesting that the Company has occupied the Premises for at least twenty-four (24) consecutive months; and
2. A copy of an official employee report submitted to the Texas Workforce Commission demonstrating that the Company currently employs 90 employees whose primary employment location is the Premises with an average annual wage of at least \$83,325.

Notwithstanding anything contained herein to the contrary or any other provision of this Agreement, the Grant payment (and/or any portions thereof) shall not be due and payable, and this Agreement may be terminated by the City (that is, without any opportunity for cure by Company), if Company fails to timely comply with and satisfy to the City's reasonable satisfaction any of the conditions to each of the Grant payments (and/or any portions thereof) as set forth in this Section 4, above. City shall not be obligated to fund or pay more than one installment payment set forth above during any City fiscal year (October 1st through September 30th). Company shall submit its written payment requests for Grant installment payments not later than August 31st of each year. In any year, if the Company fails to request the Grant payments as set forth above, the City shall have no obligation to make such payment to the Company and the Company will have forever forfeited the right to receive such payment.

Section 5. Default.

If either party commits material breach of any provision hereof, or materially fails to perform or delays in performing any obligation hereunder, such breach or failure or delay shall constitute a default under this Agreement and the other party shall be entitled to demand the defaulting party cure such default in conformance with Section 6(c) of this Agreement.

Section 6. Termination; Reimbursement.

This Agreement shall terminate without notice or demand upon the occurrence of any one of the following:

- (a) upon mutual written agreement of the parties terminating this Agreement; or
- (b) the expiration of the Term; or
- (c) at the option of either party (provided the party is not in default of this Agreement) in the event the other party is in default of this Agreement and such default is not cured or remedied to the reasonable satisfaction of the other party within sixty (60) days after written notice of such default; provided, that if, though no fault of the defaulting party, such default cannot reasonably be cured in 60 days, then the non-defaulting party may, at its sole option and upon written request by the defaulting party, grant the defaulting party up to an additional 30 days to cure such default so long as it has commenced to cure within the initial 60 days and continues to use commercially reasonable efforts to

diligently cure the default;

(d) if Company suffers an event of Bankruptcy or Insolvency which is not dismissed within 90 days. As used herein, "Bankruptcy or Insolvency" shall mean the dissolution or termination of Company's existence, insolvency, employment of receiver for any part of Company's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against Company and such proceedings are not dismissed within ninety (90) days after the filing thereof; or

(e) at the City's option, if any taxes or fees, owed by Company to the City or the State of Texas shall become delinquent after all notice and cure periods provided above (provided, however, that Company retains the right to timely and properly protest and contest any such taxes or fees, and the City's right to terminate this Agreement shall be suspended during such protest and contest period).

In the event the Agreement is terminated by City pursuant to Section 5(c), (d), or (e) above, Company shall immediately repay to the City an amount equal to the total amount of the Grant previously paid by City to Company, plus interest at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank reasonably selected by City) as its prime or base commercial lending rate, which shall accrue from the date that the initial payment of the Grant, or any portion thereof, was paid to Company. In the event this Agreement is terminated by Company pursuant to Section 5(c), Company acknowledges that its sole and exclusive remedy shall be to seek specific performance of this Agreement.

City may at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to City from the Company, regardless of whether the amount due arises pursuant to the terms of this Agreement or otherwise and regardless of whether or not the debt due the City has been reduced to judgment by a court.

Section 7. Representations by the City.

The City represents that the City is a home rule Texas municipal corporation, and it has the power to enter into this Agreement and to carry out its obligations hereunder. However, notwithstanding any other provision of this Agreement, it is understood and expressly agreed by Company that the City does not warrant or guarantee that payment of the Grant (or any portion thereof) as described herein will be upheld as valid, lawful, enforceable or constitutional in the event the statutory or other authority for the same or the City's use thereof is challenged by court action or other action or proceeding (including any action or proceeding involving the Texas Attorney General). In the event such court or other action or proceeding related to the legality of this Agreement and the providing of the Grant (or any part thereof) is instituted, the parties shall

defend or respond to such action or proceeding at their respective expense. Should such litigation, action or other proceeding result in a determination that this Agreement or payment of the Grant (or any part thereof) was or is prohibited under federal, state or local law (including any constitutional or charter provision), rule or regulation, and so result in the loss of the Grant as provided herein, Company shall have no recourse against the City or any of its officials, officers, employees, agents, or volunteers, past or present, and Company shall promptly repay to City the total amount of the Grant previously paid to Company. This Section 7 shall survive termination of this Agreement.

Section 8. Representations and Warranties by Company

Company represents and warrants, as of the Effective Date, that:

- (a) Company is qualified to do business in the State of Texas, has the legal capacity and the authority to enter into and perform its obligations under this Agreement, and the same shall be true and accurate throughout the Term of this Agreement;
- (b) The execution and delivery of this Agreement and Company's performance of all terms, conditions and obligations has been duly and validly authorized by all necessary action on its part to make this Agreement, and this Agreement is not in contravention of Company's articles of formation or regulations, or any agreement or instrument to which Company is a party or by which it may be bound as of the date hereof;
- (c) Company has the necessary legal ability to perform its obligations under this Agreement;
- (d) No litigation or governmental proceeding is pending, against Company which may result in a material adverse change in Company's business, assets, or operations to the extent that such change jeopardizes Company as a going concern; and
- (e) This Agreement constitutes a valid and binding obligation of Company, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

Section 9. Entire Agreement; Changes and Amendments.

This Agreement represents the entire and integrated agreement between the City and Company with regard to the matters set forth herein and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by authorized representatives of each of the City and Company.

Section 10. Successors and Assigns; No Third-Party Beneficiaries.

Company shall not, and has no authority to, assign, sell, pledge, transfer, encumber, or

otherwise convey (any of the foregoing, and the occurrence of any of the foregoing, a “Conveyance”) in any manner or form whatsoever (including by operation of law, by merger, or otherwise) all or part of its rights and obligations hereunder without the prior written approval of the City, which may be withheld in the City's sole discretion. Any Conveyance of any kind or by any method without the City's prior written consent shall be null and void; provided, that a merger or sale of substantially all of Company's assets to another entity that continues the Required Use of the Premises in compliance with this Agreement is permitted and shall not require the City's consent so long as Company gives City prior notice of any such merger or sale and promptly provides City with an Assumption Agreement (defined below) upon completion of the same.

Any Conveyance approved by the City shall be expressly subject to all of the terms, conditions and provisions of this Agreement. In the event of any such Conveyance approved by the City, Company shall obtain a written agreement (the “Assumption Agreement”) from each such assignee, transferee, buyer, pledgee, or other person or entity to whom this Agreement is otherwise conveyed whereby each such assignee, transferee, buyer, pledgee, or other person or entity to whom this Agreement is otherwise conveyed agrees to be bound by the terms and provisions of this Agreement.

This Agreement shall be binding on and inure to the benefit of the parties, their respective permitted successors and permitted assigns. This Agreement and all of its provisions are solely for the benefit of the parties hereto and do not and are not intended to create or grant any rights, contractual or otherwise, to any third person or entity.

Section 11. Notice.

Any notice, statement and/or report required or permitted to be given or delivered shall be in writing and shall be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the third business day following the date of mailing. Addresses for any such notice, statement and/or report hereunder are as follows:

To the City:

Town of Addison, Texas
Attn: City Manager
5300 Belt Line Road
Dallas, Texas 75254

To Company:

Aerospace Quality Research and Development
d/b/a AQRD
Attn: V. Raj Narayanan, Chief Executive Officer
4600 Claire Chennault Street
Addison, Texas 75001

Section 12. Applicable Law; Venue.

This Agreement is subject to the provisions of the Charter and ordinances of the City, as may be amended or modified from time to time. This Agreement shall be construed under, governed by and subject to the laws of the State of Texas, without regard to choice of law rules, and all obligations of Company and the City created by this Agreement are performable in Dallas County, Texas. Venue for any suit, action or proceeding under this Agreement shall lie exclusively in Dallas County, Texas. Each party hereby submits to the exclusive jurisdiction of the courts in Dallas County, Texas for purposes of any such suit, action, or proceeding hereunder. Each party waives any claim that any such suit, action, or legal proceeding has been brought in an inconvenient forum or that the venue of that proceeding is improper.

Section 13. Legal Construction/Partial Invalidity of Agreement.

The terms, conditions and provisions of this Agreement are severable, and in case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

Section 14. Miscellaneous.

(a) The recitals to this Agreement are incorporated into this Agreement and made a part hereof for all purposes.

(b) Pursuant to Texas Government Code, Chapter 2264 (entitled "Restrictions on Use of Certain Public Subsidies"), Company certifies that neither Company, nor any branch, division, or department of Company, knowingly employs, or will knowingly employ, an undocumented worker (as the term "undocumented worker" is defined in Section 2264.001 of the said Chapter 2264, Tex. Gov. Code) in connection with the Premises, the Services provided by Company at the Premises, or this Agreement. Company agrees that if, during the term of this agreement and after it receives any payment or funds from the City pursuant to this Agreement, Company, or a branch, division, or department of Company, is convicted of a violation under 8 U.S.C. Section 1324a(f), Company shall repay the amount of all Grant funds paid by the City to Company not later than the 120th day after the date the City notifies Company of the violation.

(c) Notwithstanding any other provision of this Agreement, nothing in this Agreement shall or may be deemed to be, or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or tort limitation to which the City, its officials, officers, employees, representatives, and agents are or may be entitled, including, without limitation, any waiver of immunity to suit.

(d) Except as set forth in or otherwise limited by this Agreement, the remedies and rights set forth in this Agreement: (i) are and shall be in addition to any and all other remedies and rights either party may have at law, in equity, or otherwise, (ii) shall be

cumulative, and (iii) may be pursued successively or concurrently as either party may elect. The exercise of any remedy or right by either party shall not be deemed an election of remedies or rights or preclude that party from exercising any other remedies or rights in the future. All waivers must be in writing and signed by the waiving party, and the City's waiver of any right, or of Company's breach, on one or more occasions will not be deemed a waiver on any other occasion. The City's failure to enforce or pursue any of its rights under or any provision of this Agreement shall not be or constitute a waiver of its rights or provision and shall not prevent the City from enforcing or pursuing that right or provision or any other right under or provision of this Agreement in the future. No custom or practice arising during the administration of this Agreement will waive, or diminish, the City's rights hereunder or to diminish the City's right to insist upon strict compliance by Company with this Agreement.

(e) This Agreement is not confidential information and may be disclosed to the public.

(f) Any of the representations, covenants, and obligations of the parties hereto, as well as any rights and benefits of the parties, pertaining to a period of time following the termination or expiration of this Agreement shall survive termination or expiration.

(g) It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership, joint venture, joint enterprise, or other relationship between or among the parties.

(h) The undersigned officers and/or agents of the parties hereto are the properly authorized persons and have the necessary authority to execute this Agreement on behalf of the parties hereto.

(i) The City agrees that with respect to this Agreement, no liability shall arise in favor of the City against any officer, director, member, agent or employee of Company, but the City shall look solely to the assets of Company for satisfaction of Company's duties, obligations and liabilities arising under or in connection with the Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -
SIGNATURE PAGE FOLLOWS]

EXECUTED this ____ day of March, 2022.

TOWN OF ADDISON

Wesley Pierson, City Manager

ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

Whitt L. Wyatt, City Attorney

STATE OF TEXAS §

§

COUNTY OF DALLAS §

This instrument was acknowledged before me on the ____ day of March 2022, by Wesley S. Pierson, City Manager of the Town of Addison, Texas, on behalf of the Town.

Notary Public, State of Texas

EXECUTED this ____ day of March, 2022.

Economic Development Program Grant Agreement

Page 10 of 12

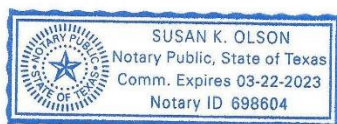
EXHIBIT A

Aerospace Quality Research and Development d/b/a AQRD

By: [Signature]
Name: V. Raj Narayanan
Title: CEO
Date: 3/8/2022

STATE OF TEXAS §
 §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 8 day of March 2022, by V. Raj Narayanan, CEO of AQRD on behalf of the corporation.



[Signature]
Notary Public, State of Texas

Economic Development Program Grant Agreement – EXHIBIT A

EXHIBIT A

**AFFIDAVIT OF COMPANY OFFICER
CONCERNING PERSONAL PROPERTY**

The undersigned, _____, first being duly sworn by a person authorized by law to administer oaths, deposes and states as follows (capitalized terms used but not defined herein have the same meaning as set forth in the Agreement):

I am an officer of Aerospace Quality Research and Development (d/b/a AQRD), a Texas limited liability company (the "Company"), and I am authorized by the Company to submit this Affidavit to the Town of Addison (the "City") on behalf of the Company with respect to the Economic Development Program Grant Agreement (the "Agreement") dated as of _____, 202__ by and among the City and the Company.

As such, I do certify that I have either prepared the attached Schedule, or reviewed the attached Schedule which has been prepared under my supervision, that lists all of the Tangible Personal Property to equip and outfit the Lease Premises for the purpose of operating and conducting the Headquarters and AQRD business and that was located at and within the Lease Premises as of _____, The Company has made a capital investment of at least \$ _____ (including tenant allowance, furniture, fixtures, and equipment) for business personal property and tenant improvements for the lease of real property for headquarter location.

I hereby certify under oath that the above statement, and the attached Schedule, are true and correct in all respects.

Aerospace Quality Research and Development d/b/a AQRD

By: _____
Name: _____
Title: _____
Date: _____

**STATE OF TEXAS §
 §
COUNTY OF DALLAS §**

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the _____ day of _____, 202__.

[SEAL]

Notary Public, State of Texas

Print Name: _____

My commission expires: _____

Economic Development Program Grant Agreement – EXHIBIT A