

INTRODUCED BY:

ORDINANCE NO. 2022-39

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A JOB CREATION INCENTIVE GRANT AGREEMENT WITH CURRENT LIGHTING SOLUTIONS, LLC; AND DECLARING THIS TO BE AN URGENT MEASURE

WHEREAS, the City of Beachwood continues to pursue new and efficient economic development strategies that are fiscally responsible, support the creation of new jobs, and grow the City's economic tax base; and

WHEREAS, City Council passed Ordinance No. 2013-10 creating the Job Creation Incentive Grant Program using non-tax revenue to promote local businesses who create new full-time and full-time equivalent jobs and/or additional payroll within the City; and

WHEREAS, CURRENT LIGHTING SOLUTIONS, LLC has expressed an interest in participating in the City's Job Creation Incentive Grant Program; and

WHEREAS, CURRENT LIGHTING SOLUTIONS, LLC will bring Ninety (90) full-time jobs in the first year with an estimated Six Million Dollars (\$6,000,000.00) in new payroll; and

WHEREAS, such grant agreement provides for a reimbursable annual grant payment equal to no more than thirty percent (30%) of the total annual payroll taxes paid to the City of Beachwood during the six (6) year duration of the agreement; and

WHEREAS, this Council desires to authorize the Mayor to enter into a Job Creation Incentive Grant Agreement with CURRENT LIGHTING SOLUTIONS, LLC.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Beachwood, County of Cuyahoga and State of Ohio, that:

Section 1: The Mayor is hereby authorized to enter into a Job Creation Incentive Grant Agreement with CURRENT LIGHTING SOLUTIONS, LLC. The Agreement shall be in a form substantially similar to the Agreement attached hereto and incorporated herein.

Section 2: It is found and determined that all formal actions and deliberations of Council and its committees relating to the passage of this legislation that resulted in formal action were in meetings open to the public where required by Chapter 105 Codified Ordinances of the City.

Section 3: This Ordinance is hereby declared to be an urgent measure necessary for the immediate preservation of the public peace, health or safety or the efficient operation of the City, and for the further reason of authorizing a grant agreement will provide for the creation of new jobs within the City as soon as possible and, thereby, enhance the City's tax revenues; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

WHEREFORE, this Ordinance shall be in full force and effect from and after the earliest date permitted by law.

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Attest: I hereby certify this legislation was duly adopted on the 7<sup>th</sup> day of March, 2022, and presented to the Mayor for approval or rejection in accordance with Article III, Section 8 of the Charter on the 8<sup>th</sup> day of March, 2022.

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Clerk

Approval: I have approved this legislation this 8<sup>th</sup> day of March, 2022, and filed it with the Clerk.

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Mayor

## **JOB CREATION INCENTIVE GRANT AGREEMENT**

This Economic Development Agreement (the “Agreement”) is hereby entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between **Current Lighting Solutions, LLC**, a Delaware limited liability company (“Lighting Solutions”), **Current Lighting EmployeeCo, LLC**, a Delaware limited liability company (“Lighting EmployeeCo” and together with Lighting Solutions, “Current” or the “Company”) having a principal place of business at 1975 Noble Road, East Cleveland, Ohio 44112 and the **City of Beachwood**, an Ohio Municipal Corporation (the “City”), whose address is City Hall, 25325 Fairmount Blvd. Beachwood, Ohio 44122 (collectively “Parties”).

### **WITNESSED:**

**WHEREAS**, the retention and creation of jobs and employment opportunities is integral to the continued economic health of the City and its citizens; and

**WHEREAS**, Article XVIII, Section 3 of the Ohio Constitution gives municipalities the authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general laws; and

**WHEREAS**, Article I of the Charter of the City provides that the City shall have all powers that may lawfully be possessed or exercised by any city under the Constitution and laws of the State of Ohio and the Constitution and laws of the United States; and

**WHEREAS**, the use of governmental resources for the promotion of economic development in the community is in the public interest and is a proper exercise of municipal powers pursuant to Article VIII, Section 13 of the Ohio Constitution; and

**WHEREAS**, the Company, conditioned upon the granting by the City of certain economic development incentives as set forth in this Agreement, will relocate approximately 90 jobs with an annual payroll of approximately Six Million Dollars (\$6,000,000.00) to 25825 Science Park Drive, within the City (the “Site”); and

**WHEREAS**, to promote economic development in the community, the City Council of the City approved Ordinance No. 2022-[ ] granting the Company a Job Creation Incentive Grant, all pursuant to the terms of this Agreement; and

**WHEREAS**, the Parties desire to memorialize their understanding and agreements with respect to such cooperation.

**NOW THEREFORE**, in exchange for the mutual commitments and obligations contained herein, the Parties agree as set forth below:

**Section 1. Company's Commitments to the City.** The Company will relocate its Cleveland offices to the Site, which will include approximately 90 employees with at least an annual payroll of \$6,000,000.00 no later than April 1, 2023 (the "Job Creation"). The Company shall maintain the Job Creation within the City, pursuant to the terms of this Agreement. The Job Creation is not limited to the Company's original site so long as it is in Beachwood, but not located in the Chagrin Highlands.

**Section 2. City's Commitments to the Company.**

**Job Creation Incentive Grant.** Pursuant to the Job Creation Incentive Grant as described in Exhibit A, attached hereto and made a part hereof (except as modified by this Agreement) the City shall pay to Lighting EmployeeCo an amount equal to 30% of the municipal income tax withheld from Company Employees at the Site and paid to the City, for a period of six years (6) beginning with the employee payroll for calendar year 2022 with the first year of the grant to be paid annually starting in 2023 (the "Incentive Grant"). For the avoidance of doubt, the Parties intend for the Incentive Grant to apply for Six full years (72 months), meaning in the first and final year of the Agreement a prorated calendar year payment will be calculated and due.

Years Two through Six will be paid in one lump sum at the end of the six year term on or around July 1, 2028 so long as Lighting EmployeeCo's annual payroll averages Six million dollars (\$6,000,000.00) over the previous five-year period taking into account any prorated year.

**Section 3. Annual Reporting.** The Company must submit an annual Job Creation Grant report documenting new employment and payroll. This report will be required annually during each year of this Agreement.

**Section 4. Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns (including successive, as well as immediate, successors and assignees) of the Parties. The Company may not assign this Agreement to any person without the written consent of the City, which consent will not be unreasonably withheld.

**Section 5. Governing Law and Forum.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and the Company, their contractors, subcontractors and agents arising out of or relating to this agreement or its breach will be decided in a court of competent jurisdiction within the County of Cuyahoga, State of Ohio.

**Section 6. Severability.** Any provisions of this Agreement are severable and in the event that one or more of the provisions are found to be inconsistent with legal requirements upon any party, and therefore unenforceable, the remaining provisions shall remain in full force and effect.

**Section 7. No Personal Liability.** All covenants, obligations and agreements of the Parties contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or employee of the City or the Company other than in his or her official capacity, and neither the members of the legislative body of the City nor any City or Company official executing this Agreement shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of the execution thereof or by reason of the covenants, obligations or agreements of the City and the Company contained in this Agreement.

**Section 8. Duplicate Originals.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which, taken together, shall constitute a single instrument.

**Section 9. Headings.** The headings contained in this Agreement are included only for convenience of reference and do not define, limit, explain or modify this Agreement or its interpretation, construction or meaning and are in no way to be construed as a part of this Agreement.

**Section 10. Term.** This Agreement will expire six years after the first Incentive Grant payment pursuant to this Agreement.

[Signature Pages to Follow]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first set forth above.

**Current Lighting Solutions, LLC**

\_\_\_\_\_

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

Its: \_\_\_\_\_

**Current Lighting EmployeeCo, LLC**

\_\_\_\_\_

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

Its: \_\_\_\_\_

**City of Beachwood**

\_\_\_\_\_

By: Justin Berns

Its: Mayor

Approved as to Form:

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L. Stewart Hastings, Law Director

### **FISCAL OFFICER'S CERTIFICATE**

The undersigned, fiscal officer of the City of Beachwood (the "City"), hereby certifies that the moneys required to meet the obligations of the City during the year 2022 under the aforesaid Agreement have been lawfully appropriated by the legislative body of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Dated: \_\_\_\_\_, 2022

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Larry Heiser, Finance Director