

TROTWOOD, OHIO 45426

3035 OLIVE ROAD

CITY OF TROTWOOD

RESOLUTION NO. R24-100

A RESOLUTION BY THE TROTWOOD CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AGREEMENT WITH WESTRAFO AMERICA, LLC, AND AUTHORIZING \$225,000.00 IN ECONOMIC DEVELOPMENT/GOVERNMENT EQUITY (ED/GE) PROGRAM FUNDS TO BE PROVIDED TO WESTRAFO AKA PROJECT SWIFTY FOR FUNDING SUPPORT.

WHEREAS, Westrafo America, LLC desires to develop a 230,000 square foot manufacturing building, creating 230 new jobs in the City of Trotwood; and

WHEREAS, the City applied for and was awarded from Montgomery County, an amount not to exceed \$225,000.00 from their 2024 Primary Economic Development Fund to provide funding support for the Westrafo AKA Project Swifty in the City of Trotwood; and

WHEREAS, the City Manager recommends City Council authorize the City Manager to enter into a Development Agreement with Gordon Foods.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROTWOOD, STATE OF OHIO:

SECTION I: City Council accepts the recommendation of the City Manager and hereby authorizes the City Manager to enter into a Development Agreement with Westrafo America, LLC that is substantially similar in form as the Agreement attached hereto and incorporated herein as Exhibit "A".

SECTION II: The City, with funds received from Montgomery County through the ED/GE Program, will provide funding support in the amount of \$225,000.00 to Westrafo America, LLC to develop a 230,000 square foot manufacturing building. This new facility will create 230 new jobs in the City of Trotwood.

SECTION III: This Resolution shall take effect and be in force from and after the date of its passage.

Passed on this 4th day of November, 2024.

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ATTEST:


KARA B. LANDIS
CLERK OF COUNCIL

APPROVED:


YVETTE F. PAGE
MAYOR


TYNA R. BROWN
VICE-MAYOR

CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify that the foregoing is a true and correct copy of Resolution No. **R24-100** adopted by the Trotwood City Council at a regular scheduled meeting held on the **4th** day of **November, 2024**, and that I am duly authorized to execute this certificate.

Signed this _____ day of _____, _____.

CLERK OF COUNCIL

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement"), is made and entered into this _____ day of _____, 2024 between **Westrafo America, LLC, a Delaware limited liability company** (hereinafter referred to as the "Company") and the **City of Trotwood, Ohio, an Ohio municipal corporation** (hereinafter referred to as the "City").

WITNESSETH THAT:

WHEREAS, the Trotwood City Council is committed to promoting economic development and the creation of jobs within its corporate limits; and

WHEREAS, the City desires to assist the Company with promoting the creation of jobs in the City of Trotwood; and

WHEREAS, the City desires to assist the Company in locating its first North American production facility within the City of Trotwood and the City further finds that the project will create jobs, encourage economic activity, attract new businesses to Trotwood, and will engage in other economic development activities; and

WHEREAS, the City and the Company desire to locate the Company's operation at 6214 Wolf Creek Pike, Trotwood, Ohio 45426 efficiently and cost effectively.

NOW, THEREFORE, the Company and the City, in consideration of the mutual promises and covenants set forth herein, do agree as follows:

ARTICLE 1. **COMPANY COMMITMENT**

The Company will ~~move and~~ expand its current operation to 6214 Wolf Creek Pike in the City of Trotwood. The Company will invest Fifteen Million Dollars (\$15,000,000.00) for the development of a 230,000 square foot manufacturing facility for its North American operations. The Company's improvements will include, but may not be limited to, site development, construction, fixed assets, parking, and landscaping.

The Company will create no less than 230 new jobs in the City of Trotwood. The average wages (less benefits) will be approximately Twenty-Eight Dollars (\$28.00) per hour. Total annual payroll will be in excess of Twelve Million Dollars (\$12,000,000.00) per year.

The Company commits to maintaining its operation at 6214 Wolf Creek Pike, Trotwood, Ohio, for at least fifteen (15) years.

The Company shall be responsible as the "Project Manager" for all aspects of this project. All work, specifically the construction, shall be performed in accordance with all federal, state, and local laws, and all zoning, building, and fire code requirements. The Company shall complete all project activities by January 1, 2026. The Company shall comply with the requirements of the building and use standards determined by mutual consent of the Company and the City.

The Company and the City acknowledge that equipment and machinery cannot be purchased or acquired with the grant funds. Only expenses eligible under the Montgomery County, Ohio Economic Development/Government Equity (ED/GE) Program are eligible for reimbursement through this agreement. This is largely defined as "fixed assets," such as tenant improvements to the facility.

ARTICLE 2.
CITY COMMITMENT

The Montgomery County, Ohio Economic Development/Government Equity (ED/GE) Program approved funding in the amount of Two-Hundred Twenty-Five Thousand Dollars (\$225,000.00) to the City to assist in funding the project.

ARTICLE 3.
TERM AND TERMINATION

This Agreement shall commence on the date of complete execution by the parties, and shall terminate on January 1, 2026, unless extended to a later date or earlier terminated.

Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party. Such notice shall specify the reasons for termination, if any, and state the date such termination is effective. In the event of termination, the City shall not be obligated to pay for any services performed subsequent to the effective date of termination. The Contractor will remit all services according to a schedule acceptable to the City. Upon such termination, the parties shall be relieved of their respective obligations.

ARTICLE 4.
NOTICES AND DEMANDS

Any notice, demand, or other communication required under the Agreement by one party to the other party shall be sufficiently given if it is sent by certified U.S. mail, postage prepaid, return receipt requested or delivered personally, and:

- (A) in the case of the City, is addressed to:
Quincy E. Pope, Sr., City Manager
City of Trotwood
3035 Olive Road
Trotwood, OH 45426

(B) in the case of the Company, is addressed to:

ARTICLE 5.
AMENDMENT

The parties may amend this Agreement, provided that no such amendment shall be effective unless it is reduced to a writing, which makes specific reference to this Agreement, executed by a duly authorized representative of each party to this Agreement.

ARTICLE 6.
INDEMNIFICATION

The Company agrees to defend, indemnify, and hold harmless the City, its elected officials, officers, employees, and agents from and against all liability for any claims, losses, damages, and expenses (including reasonable attorney's fees) of whatsoever kind and nature, to the extent that such claims, losses, damages, or expenses are caused by or arise out of the performance or nonperformance of the Agreement and/or the acts, omissions or conduct of the Company, its agents, employees, and representatives, including any acts and omissions related to the financing, preparation of plans, specifications, design and construction of the project.

During the entire period of project construction and renovation, the Company will maintain and/or require all contractors and sub-contractors for the project to maintain adequate and reasonable comprehensive general liability.

ARTICLE 7.
ENTIRE AGREEMENT/INTEGRATION

This Agreement represents the entire and integrated Agreement between the parties. This Agreement supersedes all prior and contemporaneous communications, representations, understandings, agreements or contracts, whether oral or written, relating to the subject matter of this Agreement.

ARTICLE 8.
SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any provision of this Agreement void shall in no way affect the validity or enforceability of any other provision of this Agreement. Any void, unenforceable, invalid, or illegal provision shall be deemed severed from this Agreement and the balance of this Agreement shall be construed and enforced as if the Agreement did not contain the particular provision.

ARTICLE 9.
GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without giving effect to the principles thereof relating to conflicts or choice of laws.

ARTICLE 10.
EEO/ NON-DISCRIMINATION

The Company shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, ancestry, national origin, place of birth, age, marital status, or handicap with respect to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, lay-off determination, rates of pay, or other forms of compensation, or selection for training, including apprenticeship.

ARTICLE 11.
RECORDS AND RETENTION

The Company shall use Generally Accepted Accounting Principles ("GAAP") in recording and documenting all costs and expenditures for the development activities under this Agreement. Such costs and expenditures pertaining in whole or in part to this Agreement and the development activities shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other accounting documents and shall be clearly identified and readily accessible to the City or its designees. At any time during normal business hours and as often as the City may deem necessary, the Company shall make available to the City or its designees, all of its records with respect to all matters covered under this Agreement. The Company will permit the City or its designees to audit, examine, and make excerpts or transcripts from such records.

The Company shall retain all records relating in whole or in part to this Agreement and the development activities for a period of three (3) years from the date this Agreement is terminated.

ARTICLE 12.
GENERAL TERMS AND CONDITIONS

- A. The Company acknowledges that the project will be receiving financial assistance from the City in the form of a grant. Accordingly, the Company agrees to comply with the rules, regulations, terms, and conditions for the use and expenditure of such municipal funds, including, but not limited to, applicable bidding, procurement, record keeping, accounting, disbursement, and administration requirements; provided that the City advises the Company of same.

- B. The Company shall meet with the City at such times as the City may request to discuss and review progress of the development activities and/or performance of this Agreement. The Company shall furnish the City such status reports and information as the City may request from time to time.

IN WITNESS WHEREOF, the Company and the City, each by a duly authorized representative, have executed this Agreement as of the date set forth above.

Witnessed by:

WESTRAFO AMERICA, LLC

Its:

Witnessed by:

CITY OF TROTWOOD, OHIO

Quincy E. Pope, Sr.
City Manager

APPROVED AS TO FORM CORRECTNESS
AND LEGAL SUFFICIENCY:

City of Trotwood Law Director