

TAX ABATEMENT AGREEMENT BETWEEN HIDALGO COUNTY, TEXAS

AND

MERASTAR INSURANCE COMPANY [or other Kemper Corporation subsidiary]

This Tax Abatement Agreement (the "Agreement") is entered into effective as of _____, 2020, by and between **HIDALGO COUNTY, TEXAS, a political subdivision of the State of Texas** (the "County"), acting herein by and through its duly-authorized representatives pursuant to an order dated _____, 2020, by the **HIDALGO COUNTY COMMISSIONERS COURT** (the "Commissioners Court"), and **MERASTAR INSURANCE COMPANY** ("Kemper").

RECITALS

WHEREAS, on the 22nd day of December, 2020, the County adopted Guidelines and Criteria for Granting Tax Abatements in Hidalgo County, Texas, which are attached hereto as **Exhibit "A"** and incorporated here for all purposes (the "Guidelines and Criteria");

WHEREAS, the Land (as hereinafter defined) is within an area designated as Reinvestment Zone No. 3 by the City of McAllen, Texas pursuant to an order adopted by the City Commission of the City of McAllen, Texas, at a meeting held June 8, 2020 (the "Zone");

WHEREAS, the Guidelines and Criteria govern tax abatement agreements to be entered into by the County under the Property Redevelopment and Tax Abatement Act, Title 3, Subtitle B, Chapter 312, Texas Tax Code, as amended (the "Act");

WHEREAS, in order to maintain and enhance the commercial and industrial economic and employment base of the County, it is in the best interests of the County to enter into this Agreement in accordance with the Act;

WHEREAS, Kemper has submitted an Application for Economic Incentive to the County that evidences an intent by Kemper to acquire land and construct an approximately 35,000 to 70,000 square-foot customer service facility in McAllen, Texas (the "Project"), on the Land, as shown on the map attached hereto as **Exhibit "B"**;

WHEREAS, based on the information presented by Kemper, the Commissioners Court finds that the contemplated use of the Land, the contemplated improvements that Kemper will construct on the Land, which will require expenditures by Kemper in the minimum amount as set forth in this Agreement and projected expenditures by Kemper within the County in excess of **SIXTEEN MILLION AND NO/100THS DOLLARS (\$16,000,000.00)**, and the other terms hereof are consistent with encouraging development of the Zone in accordance with the purposes for its creation and are in compliance with the Act;

WHEREAS, Kemper has submitted evidence to the County that the economic life of the Facility (as hereinafter defined) and eligible property exceeds the duration of the proposed tax abatement, and based on such evidence and the representations contained herein, the Commissioners Court has determined, in accordance with the Guidelines and Criteria, that the economic life of the Facility and eligible property exceeds the duration of the tax abatement granted herein;

WHEREAS, based on the information submitted by Owner and the representations contained herein, Commissioners Court has determined, in accordance with the Guidelines and Criteria, that the terms for tax abatement set forth herein comply with Section 1.A. of the Exhibit A of the Guidelines and Criteria; and

WHEREAS, the Commissioners Court has determined that it would be in the best interests of the County to enter into an agreement with Kemper, pursuant to the Act, to abate a portion of the value of the Facility (as hereinafter defined) and the proposed improvements Kemper constructs on the Land, as well as a portion of the value of all personal property located on the Land and used in connection with Kemper's operations on the Land (but only such personal property that is eligible for abatement under the Guidelines and Criteria, with such eligibility for abatement to be determined in the sole discretion of the County), excluding the Land itself (such improvements and personal property eligible for abatement are hereafter referred to as the "Facility", as described more specifically in **Exhibit "C"**).

NOW, THEREFORE, the County, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged (which consideration includes the attraction of major investment in the Zone and the expansion of primary employment that contributes to the economic development of the County and the enhancement of the tax base of the County), and Kemper, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged (which consideration includes the tax abatement set forth herein, as authorized by the Act), do hereby contract, covenant, and agree as follows:

ARTICLE I General Provisions

1.01 Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

- (a) "Abatement Period" shall have the meaning set forth in Section 3.02 below.
- (b) "Act" shall have the meaning set forth in the Recitals.
- (c) "Agreement" shall have the meaning set forth in the introductory paragraph.
- (d) "Commissioners Court" shall have the meaning set forth in the introductory paragraph.
- (e) "County" shall have the meaning set forth in the introductory paragraph.
- (f) "Cure Period" shall have the meaning set forth in Section 5.03 below.
- (g) "Effective Date" shall mean the date on which this Agreement has been fully executed by all of the parties to this Agreement.
- (h) "Estimated Value of the Abatement" shall have the meaning set forth in Section 3.03 below.
- (i) "Facility" shall have the meaning set forth on **Exhibit "C"**.
- (j) "Guidelines and Criteria" shall have the meaning set forth in the Recitals.

- (k) "Kemper" shall have the meaning set forth in the introductory paragraph.
- (l) "Land" shall have the meaning set forth in Section 1.02 below.
- (m) "McAllen Agreement" shall have the meaning set forth in Section 1.02(d) below.
- (n) "Project" shall have the meaning set forth in the Recitals.
- (o) "Tax Abatement Percentage" shall have the meaning set forth in Section 3.03.
- (p) "Zone" shall have the meaning set forth in the Recitals.
- (r) "Kemper Affiliate" shall mean any corporation, general or limited partnership, limited liability company or other legal entity controlling or controlled by (either through ownership of more than 50% of the outstanding equity in such entity, or through the ability to direct and manage the affairs of such entity) Kemper or under the direct or indirect control of Kemper's parent corporation.

Terms defined in the Guidelines and Criteria and used herein shall have the meanings given such terms in the Guidelines and Criteria unless otherwise defined herein.

1.02 Representations of Kemper. Kemper represents and warrants that:

- (a) Kemper is an Illinois corporation and that Kemper will be the fee simple owner of the land on which the Facility is located (the "Land"), which is legally described on **Exhibit "D"**, which is attached hereto and is made a part hereof for all purposes, and will be the owner of all improvements to be built on the Land as part of the Project;
- (b) The Land is not included in an improvement project financed in whole or in part with tax increment bonds or notes;
- (c) No interest in the Land or the Facility is presently owned or leased by a member of the Commissioners Court, and Kemper agrees that it shall not sell or lease an interest in the Land or the Facility to any County officer or employee or any member of the governing body of any taxing unit joining in or adopting this Agreement until the earlier of the expiration of the Abatement Period or the termination of this Agreement;
- (d) With respect to the Land and the Project, Kemper has not executed or received, as of the date of this Agreement, a tax abatement or other economic development incentive or agreement with or from any government body other than the County and the City of McAllen (the 2020 economic development agreement between Kemper and the City of McAllen being referred to as the "McAllen Agreement"), and the value, Tax Abatement Percentage, and Abatement Period are not expected to exceed the incentives provided pursuant to the McAllen Agreement in accordance with Exhibit A of the Guidelines and Criteria;

(e) Kemper filed the application for tax abatement with the County prior to the commencement of construction, as defined in Section IV.A.(1)(a)-(f) of the Guidelines and Criteria, and the completion of the construction is currently anticipated to occur in 2024;

(f) Kemper is duly-qualified to conduct business in Texas, including, without limitation, building the Improvements and operating the Facility;

(g) This Agreement constitutes the valid and enforceable obligation of Kemper in accordance with its terms; and

(h) Kemper has all necessary right, title, license, and authority to enter into this Agreement, and the execution and performance of this Agreement by Kemper has been duly authorized by all necessary laws, resolutions, and appropriate corporate action.

1.03 The Tax Abatement. Notwithstanding anything to the contrary contained herein, the abatement granted in this Agreement only applies to the abatement of Newly-Created Value (as defined in the Guidelines and Criteria) resulting from Improvements and Modernization (as such terms are defined in the Guidelines and Criteria) after the date of this Agreement that: (a) Kemper, including Kemper Affiliates, makes to the Land and Eligible Property (*as defined in the Guidelines and Criteria*); and/or (b) Kemper, including Kemper Affiliates, purchases and installs or builds upon the Land in constructing the Facility in accordance with the terms hereof, and excludes the value of the Land. Any increase in value from a reclassification or change in use of the Land or resulting from a rollback will not be considered for abatement but will be included as part of the base value of the Land, and any other artificial increase in tax revenue or value will also be excluded from the abatement. The Project, the Facility, and the Land are located within the Zone and within County's taxing jurisdiction. The County shall have sole discretion to determine whether any personal property of Kemper is Eligible Property (*as defined in the Guidelines and Criteria*) that is eligible for the abatement granted in this Agreement. ***A listing of the personal property that is Eligible Property shall be included on Exhibit "C" and approved by the County Auditor prior to the execution of this Agreement by the County.***

1.04 Determination of the Tax Abatement. Kemper understands that, in accordance with the Guidelines and Criteria, the applicable Tax Abatement Percentage will be determined based on Section 1.A. of Exhibit A of the Guidelines and Criteria and will not be granted unless Kemper meets the requirements for a City Project therein and complies with the terms of this Agreement, including the capital cost of the Improvements made a part of the Project on or after the date of execution of this Agreement by Kemper. Notwithstanding the foregoing, the Tax Abatement Percentage will be the percentage set forth in Section 3.03 of this Agreement. The actual amount of tax abated pursuant to this Agreement will be determined by applying the Tax Abatement Percentage to the Newly-Created Value, as such Newly-Created Value may be reasonably determined by the Hidalgo County Appraisal District and the County.

1.05 Agreement Subject to Rights of Holder of Outstanding Bonds. This Agreement is entered into by the parties subject to the rights of holders of outstanding County bonds, if any.

1.06 Taxes are Current. Kemper has provided, or will provide, tax certificates verifying that no taxes are past-due with respect to all property owned by Kemper within the Zone and agrees not to allow any taxes on property it owns within the Zone to become past-due, subject only to timely appeals during the pendency of such appeal, during the term of this Agreement.

1.07 Determination of the Base Year Value. Kemper acknowledges that the Base Year Value (as defined in the Guidelines and Criteria) is determined by the year in which this Agreement is executed, and not the year in which it is approved by the Commissioners Court, and that if this Agreement is not executed by all parties hereto and delivered to the County no later than December 31, 2020, then 2020 will not be the base year for determining the Base Year Value.

1.08 List of Exhibits. The following exhibits are attached hereto and made a part hereof:

- Exhibit "A" - Guidelines and Criteria**
- Exhibit "B" - Map of the Project**
- Exhibit "C" - Improvements Included in the Facility**
- Exhibit "D" - Legal Description of the Land**

ARTICLE II Improvements; Jobs

2.01 Improvements and Jobs.

(a) Kemper agrees to improve an Eligible Facility (as defined in the Guidelines and Criteria) on the Land and to acquire, construct, or cause to be constructed such improvements as are necessary to operate the Facility as set forth herein.

(b) Kemper agrees to make real and personal property improvements to the Land that are eligible for abatement in accordance with the Guidelines and Criteria and that the cost of such improvements shall be approximately **SIXTEEN MILLION AND NO/100THS DOLLARS (\$16,000,000.00)**, which is expect to listed on the tax rolls maintained by the Hidalgo County Appraisal District. The proposed location of the Facility on the Land is reflected on a preliminary site plan attached hereto as **Exhibit "B"** and made a party hereof for all purposes. Kemper reserves the right to revise the attached preliminary site plan as it deems necessary and appropriate, and all such revisions shall be submitted to the County.

(c) Kemper represents and warrants that the Facility is expected to create approximately three hundred eighty (380) new Jobs (as that term is defined in Article II of the Guidelines and Criteria) by the end of the Abatement Period as defined in Section 3.2 herein. Further, Kemper agrees that it will create no less than seventy-six (76) new Jobs during each 12-month period of the Abatement Period. Kemper currently agrees to maintain during the Abatement Period a competitive compensation and benefits package with respect to all Jobs at the Facility.

2.02 Submission of Reports. Kemper shall submit reports to the County in accordance with Section IX.B. of the Guidelines and Criteria. Such reports may be submitted through the use of an agent of Kemper. To the extent that Kemper shall be required to submit any information pertaining to any individual employee's compensation and benefits as part of such reports, then Kemper shall be permitted to furnish such compensation and employee benefit information in an anonymized fashion, such as through use of a unique employee number.

2.03 Use of the Facility During the Abatement Period. Kemper agrees and covenants that the Facility will be used primarily, but not necessarily exclusively, as a customer service center throughout the Abatement Period, and Kemper agrees that its primary use of the Facility will be consistent with the intent of the parties, which is that the Facility would qualify as an “Eligible Facility” under Article II, Section K of the Guidelines and Criteria. **Exhibit “C”** contains a schedule of improvements, equipment, and eligible personal property that Kemper intends to construct, purchase or install to develop the Facility, subject to non-substantive changes as Kemper may determine in its sole discretion are necessary during the construction of the Facility on the Land. Kemper agrees to continuously operate the Facility on the Land during the Abatement Period.

2.04 Commencement of Construction. Kemper represents that it will begin constructing the improvements on the Land on or before July 1, 2022, and to complete such construction no later than June 30, 2024. Kemper shall notify the County of any changes to the construction schedule.

2.05 Economic Life of the Facility. Kemper represents that (a) the weighted-average economic life of the Facility and eligible property will exceed ten (10) years, and (b) the economic life of the eligible property on which Kemper is being granted abatement hereunder exceed the Abatement Period. Based on such representation and evidence submitted by Kemper to the County, the County determines, in accordance with the Guidelines and Criteria, that the economic life of the Facility and the eligible property exceeds five (5) years.

ARTICLE III
Property Subject to Tax Abatement; Rate of Tax
Abatement; Terms of Tax Abatement; and Related Provisions

3.01 Abatement of Taxes. Subject to the terms of this Agreement, the County shall abate Kemper’s County ad valorem taxes in each year of the Abatement Period in an amount equal to the Tax Abatement Percentage (as hereinafter defined) multiplied by the Facility’s Newly-Created Value determined in accordance with the Guidelines and Criteria, but only to the extent that such Newly-Created Value is reflected on the County’s tax rolls in each such year.

3.02 Abatement Period. The abatement of ad valorem taxes shall be for a period of five (5) years (the “Abatement Period”) that shall:

(a) Commence on January 1st of the first ad valorem tax year after each of the following events have occurred:

(1) Kemper has executed this Agreement and delivered a signed original of the Agreement to the County;

(2) The County has executed this Agreement (it being agreed by the parties that the Base Year Value, as defined in the Guidelines and Criteria, is determined based on the year the Agreement has been executed by both parties);

(3) Kemper has commenced and completed the construction of the Facility on the Land after the execution of this Agreement;

(4) Kemper has provided the County with adequate documentation confirming the capital costs expended by Kemper in the construction of the Project;

(5) The capital cost expended by Kemper, including Kemper Affiliates, is at least **SIXTEEN MILLION AND NO/100THS DOLLARS (\$16,000,000.00)**;

(6) The Newly-Created Value may be ascertained from the tax rolls of the Hidalgo County Appraisal District; and

(b) end on the earlier of:

(1) Five (5) years following such commencement;

(2) December 31, 202__;

(3) The occurrence of any event that would terminate this Agreement by operation of law;

(4) Kemper's breach of any provision of this Agreement, which breach is not cured within the Cure Period; or

(5) Kemper's failure to comply with any provision of the Guidelines and Criteria, as discussed in Article V of this Agreement.

3.03 Tax Abatement Percentage. The percent of increase in Newly-Created Value (as reflected on the tax rolls of the Hidalgo County Appraisal District) to be abated (the "Tax Abatement Percentage") during the Abatement Period is fifty percent (50%). The parties acknowledge that the Tax Abatement Percentage is granted pursuant to Section 1.A.2. of Exhibit "A" of the Guidelines and Criteria, which permits the County to grant a lower Tax Abatement Percentage than the percentages set forth in the table found in Section 1.A.1. of Exhibit "A" of the Guidelines and Criteria.

The Estimated Value of the Abatement, based on Kemper's good faith estimate of how the Hidalgo County Appraisal District will value the eligible improvements is approximately **TWO HUNDRED AND EIGHTEEN THOUSAND AND NO/100THS DOLLARS (\$218,000.00)** to **FOUR HUNDRED THOUSAND AND NO/100THS DOLLARS (\$400,000.00)** (Note: The foregoing estimate of value is based on the square footage of the Facility ranging from 35,000 square feet to 70,000 square feet). "Estimated Value of the Abatement" means the additional property taxes that would be due to the County from Kemper but for the tax abatement granted in this Agreement. Kemper represents that the estimated value of the abatement is less than the estimated value of the tax abatement expected from the McAllen Agreement and any other benefits provided by the City of McAllen or the McAllen Economic Development Corporation.

3.04 Kemper's Right to Contest Appraised Value of Project. This Agreement does not change any right of Kemper to protest or contest, in accordance with applicable law, any and all appraisals of, or assessments of taxes on, the Facility, and the tax abatement provided for herein for such Facility shall be applied to the amount of taxes finally determined as a result of such protest or contest, to be due with respect to the Newly-Created Value for such property.

3.05 Denial of Tax Abatement. Kemper acknowledges that, in accordance with the Guidelines and Criteria, it will not receive tax abatement for any year of the Abatement Period for which it fails to timely provide all required reports or information to the County and the County Auditor (including the March 1 deadline in Section IX.B. of the Guidelines and Criteria), and that

subsequent delivery of such information, while it may cure the breach of the Agreement, will not result in the tax abatement being granted for the applicable year.

ARTICLE IV
Filing of Plans, Certification of Costs, County Access to Premise,
And Use of Premises and Improvements

4.01 Required Documentation. Kemper shall provide documentation to the County concerning the commencement of construction of the Project and agrees to continue to provide such documentation as required by the County concerning the continuation of the construction of the improvements pursuant to this Agreement. Without limiting the generality of the foregoing, Kemper shall file with the County construction plans for the improvements by December 31, 2021. The construction plans, as filed, shall be deemed to be incorporated herein by reference and made a part hereof for all purposes, and the improvements to the Facility shall be completed in substantial conformity to said plans. Kemper may elect to amend or modify the construction plans, provided the amendments or modifications comply with all applicable codes, rules, and ordinances, and are not otherwise contrary to this Agreement. Further, Kemper shall provide the County with a copy of any amendments or modifications to the construction plans, in which case, such amendments or modifications shall be deemed to be incorporated herein by reference and made a part hereof for all purposes.

4.02 Post-Construction Documentation to be Submitted to County. Upon completion of the Facility, Kemper shall file (a) "as built" construction plans with the County, which plans shall detail improvements (which shall be certified by Kemper's architect, if Kemper uses an architect) on the Land, including purchases of personal property and related expenditures made to construct the Facility, and (b) the general contractor's certification as to the completion of construction of the Facility (including the detail specified above). At the time of filing the "as built" construction plans, Kemper shall also provide the County with reports as required by Section IX.B. of the Guidelines and Criteria. Further, Kemper shall provide the County Auditor with a proposed listing of personal property that Kemper desires for the County to treat as Eligible Property under this Agreement. On or before January 31st of each of the Abatement Period (and the year immediately following the end thereof), Kemper shall provide County with reports supporting job creation as of December 31st of each year of the Abatement Period, as required by Section IX.B. of the Guidelines and Criteria. On an annual basis, Kemper shall also provide County with a detailed list of Kemper's eligible personal property at the Facility and the estimated value of each item. For the avoidance of doubt, Owner understands and agrees that (a) in the event (in accordance with Article III) the Abatement Period begins prior to completion of the Facility, the Kemper will provide such additional documentation as and when requested by the County for the County to determine the capital cost expended by Kemper, the jobs created at the Facility, and compliance with this Agreement, and (b) taxes are not abated unless documentation is provided to the County's satisfaction on a timely basis.

4.04 Reports. Kemper agrees to supply reports to the County and the Hidalgo County Appraisal District to establish the construction cost of the improvements constructed pursuant to this Agreement and the jobs created; provided, however, that, so long as Kemper provides documentation required by the County to enable the County to determine Kemper's compliance with this Agreement and to determine the capital cost expended by Kemper during the term of this Agreement (which documentation would include, without limitation, invoices and proof of payment), reports need not be provided until the earlier of (a) completion of the Facility, or (b) April 1, 2025 (provided such report covers the period at least through December 31, 2024).

4.05 County Access to Facility. Kemper agrees to provide County employees and/or designated representatives of the County access to the Facility during the term of this Agreement, including the Abatement Period, to inspect the Facility and the Land to determine if Kemper is in compliance with the terms and conditions of the Agreement. Upon completion of construction, County has the right to annually evaluate the Facility to ensure compliance with the Agreement. Kemper shall provide County with an escort for all such inspections and all such inspections shall follow Kemper's safety protocols.

ARTICLE V Breach

5.01 Failure to Complete Construction. Kemper understands that the continuation and completion of the contemplated improvements and construction of the Facility after the date of this Agreement is part of the consideration to the County for entering into this Agreement. In the event Kemper fails to complete the construction of the Facility in the Zone in accordance with this Agreement on or before July 1, 2024, this Agreement shall terminate effective as of the Effective Date of this Agreement, and the County shall be entitled to recapture and collect payment of all ad valorem taxes, if any abated under this Agreement by any and all means allowed by law, and as provided herein.

5.02 Breach by Kemper. In the event the Facility is completed and begins operation and Kemper, and during the Abatement Period:

- (a) Voluntarily ceases to operate the Facility for a continuous period of eighteen (18) months;
- (b) Allows ad valorem taxes owner to County to become delinquent;
- (c) Relocates the Facility or job-creating activity outside the County;
- (d) Breaches or fails to comply with any material term, condition, or representation contained in this Agreement; or
- (e) Uses or allows the use of the Facility for any purpose not primarily related to the operation of a customer service facility for a period that is greater than thirty (30) days in any calendar year during the Abatement Period;

County may elect to terminate this Agreement and recapture abated taxes in accordance with Section 5.05 of this Agreement and the Guidelines and Criteria, unless such breach is cured within the Cure Period (as hereinafter defined). Kemper shall pay recaptured taxes to the County within sixty (60) days following the date that this Agreement terminates.

5.03 Notice to Kemper; Cure Period. If County determines that Kemper has breached this Agreement or the Guidelines and Criteria, County shall notify Kemper in writing via certified or registered mail at the following address:

Kemper Corporate Services
Attn: Calvin Nash, Director – Real Estate
8360 LBJ Freeway, Suite 400
Dallas, Texas 75243
E-mail: cnash@kemper.com

**With a copy to:
Kemper Corporate Services, Inc.
Attn: Office of the General Counsel
200 East Randolph Street, Suite 3300
Chicago, Illinois 60601**

or to such other address, or to the attention of such person as Kemper may, from time to time, designate in writing. If such breach is not cured within thirty (30) days from the date of receipt of such notice (the "Cure Period"), then this Agreement may be terminated by order of the Commissioners Court.

5.04 Venue and Jurisdiction. If Kemper and County disagree as to whether a breach has occurred or been timely cured, or if there is any other controversy between the parties involving this Agreement, venue for an action to determine Kemper's and County's rights will lie exclusively in Hidalgo County, Texas. The State District Courts in Hidalgo County, Texas, will have exclusive jurisdiction over any dispute between the parties involving this Agreement.

5.05 Recapture of Abated Taxes. If the County terminates this Agreement in accordance with the terms hereof or as otherwise allowed by applicable law, the County shall have the right to recapture a percentage of the total taxes previously abated in accordance with the recapture schedule found in Section VIII of the Guidelines and Criteria.

ARTICLE VI Sale, Assignment, or Lease of Property

6.01 Purpose of the Improvements. It is contemplated by the parties hereto that Kemper's purpose for constructing the improvements set forth in Article II is for the establishment of a customer service center in McAllen, Texas.

6.02 Assignment of Kemper's Interest in the Land. In accordance with Section IX.C. of the Guidelines and Criteria, Kemper shall not have the right, without the written consent of the County, to sell, convey or assign all or part of its interest in the Land, the Project, or this Agreement, and maintain the tax abatement hereunder. Notwithstanding the foregoing, Kemper may assign all or any part of its rights hereunder without the written consent of County to (1) a Kemper Affiliate or (2) a third party acquiring all or substantially all of the assets of Kemper. Without limiting the generality of the foregoing, Kemper acknowledges that the County's consent will not be granted with respect to any sale, conveyance, transfer, or assignment by Kemper to any party that is delinquent in the payment of any taxes to the County or any taxing jurisdiction located within the County.

ARTICLE VII Commissioners Court Authorization

This Agreement was authorized by order of the Commissioners Court dated the ___ day of _____, 202__, which order authorized the County Judge to execute this Agreement on behalf of the County.

ARTICLE VIII Severability

In the event that any section, subsection, paragraph, subparagraph, sentence, phrase or word herein is held to be invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word. In such event, there shall be substituted for such deleted provision verbiage as similar in terms and in effect to such deleted provision as may be valid, legal, and enforceable.

**ARTICLE IX
Applicable Law**

This Agreement shall be construed under the laws of the State of Texas and is performable in Hidalgo County, Texas. Venue for any action related to this Agreement shall be in Hidalgo County, Texas, and the State District Courts located in Hidalgo County, Texas, shall have exclusive jurisdiction over any action related to this Agreement.

**ARTICLE X
Counterpart Execution**

This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which in the aggregate shall constitute one agreement. Copies of signatures to this Agreement, including electronic signatures, are effective as original signatures.

[Signature page follows.]

EXECUTED and made effective as of this the ____ day of _____, 202__.

COUNTY:

HIDALGO COUNTY, TEXAS, a political subdivision of the State of Texas

By: _____
RICHARD F. CORTEZ, Hidalgo County Judge

ATTEST:

ARTURO GUAJARDO, Hidalgo County Clerk

APPROVED AS TO FORM FOR COUNTY:

JONES, GALLIGAN, KEY & LOZANO, L.L.P.

By: _____
EUGENE R. VAUGHAN, III, Partner

KEMPER:

MERASTAR INSURANCE COMPANY, an Illinois corporation

By: _____

Name: _____

Title: _____

EXHIBIT "A"
Tax Abatement Guidelines and Criteria

**GUIDELINES AND CRITERIA FOR
GRANTING TAX ABATEMENTS
IN HIDALGO COUNTY, TEXAS**

Effective December 22, 2020

I. General Purpose and Objectives

The County is committed to the promotion of high quality development in all parts of the County and to an ongoing improvement in the quality of life for its citizens. Certain types of investment result in the creation of new jobs, new income and provide for positive economic growth which is beneficial to the County as a whole. The County will, on a case-by-case basis, give consideration to providing tax abatement as a stimulation for economic development in the County. It is the policy of the County that said consideration will be provided in accordance with the guidelines and criteria outlined in this document. The County is not obligated to grant tax abatement to any applicant and nothing herein will imply or suggest that the County is under any obligation to provide tax abatement to any applicant or with respect to any project. All applicants will be considered on a case-by-case basis, and the decision to approve or deny tax abatement to any particular applicant will be at the discretion of the Commissioners Court of the County. As provided in section 312.002(d) of the Texas Tax Code, adoption of these guidelines and criteria does not (1) limit the discretion of the Commissioners Court to decide whether to enter into a specific tax abatement agreement, (2) limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether the Commissioners Court should consider a particular application for tax abatement or (3) create any property, contract or other legal right in any person to have the County consider or grant a specific application or request for tax abatement. Tax abatement agreements are made with the owners or lessees of real property to exempt from taxation a portion of the value of the real property or of tangible personal property, or both. The duration of an agreement may be for a period of time determined appropriate by the Commissioners Court of the County, based on the productive life of the improvements and consistent with the provisions of these Guidelines and Criteria, but, in accordance with state law, in no case will the term of the tax abatement extend for more than ten (10) years. Special terms and conditions may be set in the agreement governing each specific tax abatement.

II. Definitions

A. "Abatement" means the full or partial exemption from ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes.

B. "Agreement" means a contractual agreement for the purpose of Abatement during a Tax Abatement Period between (i) an Owner and/or a Lessee of eligible property and (ii) a taxing authority.

- C. “Applicant” means the Owner and/or Lessee who submits an Application to the County in accordance with these Guidelines and Criteria.
- D. “Application” means the written application and all related materials submitted to the County by the Applicant to request an Abatement hereunder.
- E. “Base Year Value” means the taxable value of the Applicant’s real and Personal Property of a type eligible for Abatement (which excludes inventory and supplies) located in a designated reinvestment zone on January 1 of the year of the execution of the Agreement.
- F. “Capital Cost” means the amount expended by the Owner or Lessee, as the case may be, on or after the date of the applicable Agreement on eligible Improvements to Real Property or acquisition of eligible Personal Property needed to commence a Project or operations. Capital Cost expressly excludes amounts expended by the County or other governmental entities and any amounts expended with respect to ineligible property.
- G. “Commissioners Court” means the elected governing body of the County.
- H. “County” means the County of Hidalgo, a political subdivision of the State of Texas.
- I. “Economic Life” means the number of years a property qualifies for depreciation under the Internal Revenue Service Code (Section 168) Modified Accelerated Cost Recovery System, which may be extended in the discretion of the County, upon evidence presented by the Applicant as to the expected Productive Life of the property.
- J. “Eligible Education Facility” means new, expanded or modernized buildings and structures, including fixed machinery and equipment, which, when constructed or completed, will be leased to a public school district, community college district, or state-supported institution of higher education, for the entire term of the proposed Abatement, and which will contribute to the economic development of the County.
- K. “Eligible Facility” means a new, expanded or modernized building, structure or related buildings and structures, including fixed machinery and equipment, which is reasonably likely as a result of granting Abatement to contribute to the retention or expansion of Primary Employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development of the County, but does not include a Facility, other than a utility, which is intended primarily to provide goods or services to residents or existing businesses located in the County such as, but not limited to, a restaurant or a retail sales establishment.
- L. “Existing Project” means any Project for which there is an Agreement in existence between the County and an Owner and/or a Lessee with respect to which the Tax Abatement Period has not expired

M. “Expansion” means the addition of buildings, structures, fixed machinery, and/or equipment for the purpose of increasing production capacity or revenues.

N. “Extraordinary Impact” means a Project, other than a Project meeting the requirements to be another type of Special Project, where the Capital Cost is at least equal to \$25,000,000.00 or which creates at least 500 Jobs.

O. “Facility” means property Improvements, including eligible Personal Property, completed or in the process of construction which together comprise an integral whole.

P. “Guidelines and Criteria” mean these guidelines and criteria for granting Abatement in the County.

Q. “Improvement” means a building, structure, fixture, or fence erected on or affixed to land, or a transportable structure designed to be occupied for residential or business purposes, whether or not it is affixed to land, if the owner of the structure owns or leases the land on which it is located, unless the structure is unoccupied and held for sale or normally is located at a particular place only temporarily.

R. “Initial Period” has the meaning set forth in Section III(G)(1)b below.

S. “Job” means a permanent, full-time employment position, hired directly or contracted through another entity, that has provided or will result in employment of at least 1,820 hours in the position in a year. Any position providing less than the specified number of hours a year, regardless of the employer’s designation of such position, does not qualify as a “Job” for purposes of these Guidelines and Criteria.

T. “Lessee” means the tenant who is occupying and operating or will occupy and operate an Eligible Facility under a legally binding lease agreement with a Lessor. A lessee of Real Property on which the Eligible Facility exists or is constructed may also own the Facility.

U. “Lessor” means the owner of an Eligible Facility or of the Real Property on which an Eligible Facility is located that has a binding lease with a Lessee who will occupy and operate the Facility.

V. “Modernization” means the replacement and upgrading of existing Facilities which increase the productive input or output, updates the technology, or substantially lowers the unit costs of operation, and extends the economic life of the Facility. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, or equipment. It will not be for the purpose of renovation, reconditioning, refurbishing, repairing, or completion of deferred maintenance, except in reinvestment zones established based on conditions of economic impairment.

W. “New Facility” means a Facility on Real Property previously undeveloped, which is placed into service by means other than Expansion or Modernization.

X. “Newly Created Value” means the difference between the Taxable Property Value in the base year and the Taxable Property Value at the time the value is being newly calculated.

Y. “Owner” means the owner of Real Property on which an Eligible Facility is or will be located, who may also be the Lessor. Where the context requires, “Owner” means the owner of the Eligible Facility, who is the lessee of Real Property on which the Eligible Facility is or will be located; provided that a specific definition or other provision to the contrary in an Agreement controls over this sentence.

Z. “Personal Property” means property that is not Real Property, and consists of intangible and tangible personal property. Intangible Personal Property means a claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured, or otherwise perceived by the senses, although its existence may be evidenced by a document. It includes a stock, bond, note or account receivable, certificate of deposit, share account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contract, and goodwill. Tangible Personal Property means Personal Property that can be seen, weighed, measured, felt, or otherwise perceived by the senses, but does not include a document or other perceptible object that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

AA. “Primary Employment” means retention or creation of new Jobs for residents of the County as a result of new, expanded or modernized building Projects.

BB. “Prior Application” has the meaning set forth in Section IV(A)(12)(a)(i) below.

CC. “Productive Life” means the number of years a property Improvements is expected to be in service in a Facility.

DD. “Project” means the proposed planned undertaking consisting of New Facilities and/or Modernization of Existing Facilities for which Abatement is requested.

EE. “Real Property” means land, Improvements, a mine or quarry, minerals in place, standing timber; or an estate, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated above.

FF. “Reinvestment Zone” is (i) an area designated as such for the purpose of Abatement as authorized by the Property Redevelopment and Tax Abatement Act, Sections 312.401 or 312.201 of the Texas Tax Code or (ii) an area designated as an enterprise zone under Chapter 2303 of the Texas Government Code as authorized by the Property Redevelopment and Tax Abatement Act, Section 312.4011 of the Texas Tax Code.

GG. “Special Project” means each Project identified in Section 2 of Exhibit A. Definitions of additional types of Special Projects are included in Exhibit A.

HH. “Supplemental Project” means any Project that is an expansion of an Existing Project onto additional Property. Supplemental Projects must qualify as a Project without taking into account

the related Existing Project, but may have different terms as set forth in Section 1 of Exhibit A below.

II. “Standard Project” means every Project that is not a Special Project.

JJ. “Tax Abatement Period” means the period not exceeding ten years commencing on the January 1st occurring after execution of the Agreement or such later January 1st in accordance with these Guidelines and Criteria as is specified in the Agreement.

KK. “Taxable Property Value” means the value of the Property being valued as determined by deducting from the assessed value of such Property, as recorded by the Hidalgo County Appraisal District, the amount of any applicable exemption as defined by the Texas Property Tax Code.

III. Abatement Authorized

A. Eligible Facilities. Abatement may be granted for New Facilities and for Expansion or Modernization of Existing Facilities. The Economic Life of a Facility and/or eligible property must exceed the duration of the Abatement.

B. Eligible Property. Abatement may be applied to both Real and Personal Property used at an Eligible Facility for business purposes, excluding all ineligible property.

C. Ineligible Property. The following types of property will be fully taxable and ineligible for Abatement: (i) land, (ii) inventory, supplies, tools, furnishings and other forms of moveable Personal Property, (iii) housing, (iv) deferred maintenance, and (v) property to be rented or leased except as provided in subsection E. of this Section III. No reference to property (real or personal) herein shall be deemed to incorporate any ineligible property into any calculation of investment or Abatement. The County shall have the sole discretion to determine whether particular Personal Property is ineligible for abatement.

D. New Value. Abatement may only be granted for the Newly Created Value of eligible property Improvements made subsequent to and specified in an agreement between the County and the Owner and/or Lessee, subject to such limitations as the County may impose.

E. Leased Facilities. If a leased Facility is granted Abatement, the agreement will be executed by the Lessee and, if required by the County, by the Lessor. If the County requires both Lessee and Lessor to be parties to the agreement, the agreement will not be in effect unless both Lessee and Lessor execute the agreement.

F. Eligibility Criteria. In order to be considered for Abatement, eligible Facilities must be located in a reinvestment zone and result in a minimum added value of \$1,500,001 in real and business Personal Property or the creation of at least 26 full-time Jobs.

G. Criteria and Value of Abatement. Abatement may be granted for eligible Facilities on all or a portion of the Newly Created Value of eligible property according to the following:

- (1) An Owner and/or Lessee, as the case may be, of Real Property where an Eligible Facility is located prior to the inception of the Project subject to an agreement or on which an Eligible Facility will be constructed as part of the Project, must agree to expend a designated sum of money as the Capital Cost of the Project and/or provide a certain number of Jobs in order to qualify for an Abatement and must expend at least the sum agreed to as the Capital Cost of the Project and provide at least the agreed number of Jobs in accordance with the agreement in order to receive such Abatement. The abatement terms applicable to different types of Projects are set forth on Exhibit A, which is attached hereto and made a part hereof.
- (2) Only the Newly Created Value will be eligible for Abatement. The applicable percentage set forth in Section 1 of Exhibit A below (based on whether the Capital Cost of the Project or Job creation results in a higher percentage and whether, if applicable, the Extraordinary Impact provision was opted for in the Agreement) is applicable only to the Newly Created Value of Real Property at the Eligible Facility and of Personal Property owned by the Owner or the Lessee at the Eligible Facility as determined by the Hidalgo County Appraisal District and these Guidelines and Criteria.
- (3) The length of the Tax Abatement Period shall not exceed ten (10) years. The Tax Abatement Period shall start on a January 1 not later than the later of (i) the third January 1 occurring after the successful completion of the development, redevelopment or Improvements of the Project as specified in the Agreement or (ii) the fourth January 1 occurring after execution of the Agreement. The Abatement of the Real and Personal Property during the Tax Abatement Period shall only be received to the extent its Taxable Property Value for that year exceeds its Taxable Property Value for the year in which the Agreement is executed, such that only Newly Created Value will be abated.
- (4) As an additional incentive to create and sustain Jobs, any Abatement based upon Job creation will be subject to increases or decreases in subsequent tax years based on the level of Jobs added or lost. For example, a Project that initially creates thirty (30) Jobs is eligible for a 25% Abatement. In the second year of the Tax Abatement Period, if twenty-one (21) additional Jobs are added, the Abatement will then increase to 50% (although such increased Abatement shall not apply retroactively), and so on as Jobs are created during the Tax Abatement Period. Conversely, if Jobs are reduced, the percent of Abatement will also be reduced.
- (5) With respect to any Abatement based upon Capital Cost, the percent of value to be abated may qualify for increases in subsequent tax years based upon additional capital Improvements. For example, a Project that initially has a Capital Cost of \$2,500,000.00, is eligible for 25% Abatement. In the second year of the Tax Abatement Period, if additional qualifying capital Improvements are made in the total amount of \$3,000,000, the Abatement may then increase to 50% upon

Commissioners' Court approval (although such increased Abatement shall not apply retroactively).

- (6) Improvements, Expansions or Modernizations must not be expected to solely or primarily have the effect of transferring employment from one part of the County to another part of the County.
- (7) The Project must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in the County

H. Standards of Tax Abatement. The following factors, among others, will be considered in determining whether to grant Abatement and, if so, the percentage of value to be abated and duration of Abatement.

- (1) value of land and existing Improvements, if any;
- (2) type and value of proposed Improvements;
- (3) Productive Life of proposed Improvements;
- (4) number of existing Jobs to be retained by proposed Improvements;
- (5) number and type of new Jobs to be created by proposed Improvements;
- (6) whether the new Jobs to be created will be filled by persons residing within the County;
- (7) amount property tax base valuation will be increased during term of Abatement, which will include a definitive commitment that (i) such increase in valuation will not in any case be less than \$1,500,001, or (ii) no less than 26 Jobs will be created;
- (8) the costs to be incurred by the County to provide facilities or services directly resulting from the new Improvements;
- (9) the amount of ad valorem taxes to be paid to the County during the Tax Abatement Period considering (a) the existing values, (b) the percentage of new value abated, (c) the Tax Abatement Period, and (d) the value after expiration of the Tax Abatement Period;
- (10) the types and values of public improvements, if any, to be made by the Applicant seeking Abatement;
- (11) whether the proposed Improvements compete with existing businesses to the detriment of the local economy;
- (12) the impact on the business opportunities of existing businesses;

- (13) the attraction of new businesses to the area;
- (14) whether the Project is environmentally compatible with no adverse impact on quality of life, including whether the Project or portions thereof will meet U.S. Green Building Council Leadership in Energy and Environmental Design Program (LEED) Standards/Certification; and
- (15) whether the Real Property is in an improvement project financed by tax increment bonds.

Each Eligible Facility will be reviewed on its merits utilizing the factors provided above. After such review, Abatement may be entirely denied or may be granted to the extent deemed appropriate after full evaluation.

I. In addition to other Abatements authorized hereunder, Abatement may be granted for an Eligible Education Facility as provided in this subsection I. The provisions of subsections III. G.(1), G.(2) (excluding the first sentence), G.(4), G.(5), and H.(7), of these Guidelines and Criteria will not apply to Abatements for Eligible Education Facilities. The term of the Abatement for an Eligible Education Facility will be established by the Commissioners Court at the time the Abatement is granted, but in no event will exceed the maximum term permitted under the Texas Tax Code.

IV. Procedural Guidelines

A. Preliminary Application Steps: Any person, organization, corporation or other entity meeting the Abatement guidelines may request Abatement by contacting the County Judge's Office Economic Development Division and filing a written Application with the County in conformance with the following procedural guidelines. Consideration will be given to written requests from Applicants for the confidentiality of proprietary information, consistent with state law, including without limitation Section 312.003 of the Texas Tax Code and Section 552 of the Texas Government Code.

- (1) An Application form approved by the County (as such form may be revised from time to time) must be completed and submitted to the appropriate office or any other office or official designated by the County, with all of the information and documents specified therein and herein, prior to commencement of construction, alterations, or installation of Improvements related to a proposed Modernization, Expansion or new Facility by the Applicant. Commencement of construction is considered to have taken place when any one of the following has occurred:
 - (a) If more than ninety days has passed since an Abatement Agreement with the municipality has been executed (if applicable);
 - (b) If a building permit has been issued for construction not associated with mitigating an environmental hazard;

- (c) If the Project's site has been cleared and prepared for development;
- (d) If construction (including renovations or tenant finish-out) has begun;
- (e) If site specific infrastructure has begun to be installed; or
- (f) If equipment, inventory, or employees have been relocated to the new site.

A complete Application, with all of the information and documentation specified therein and herein, must be submitted to the appropriate office or any other office or official designated by the County no later than October 1, in order to have an Agreement considered and executed in the same year that the Application is submitted to the County.

- (2) The Application will require such financial and other information as may be deemed appropriate for evaluating the financial capacity of the Applicant. This may include an economic feasibility study including a detailed list of estimated Improvements costs, a description of the methods of financing all estimated costs and the time when related costs or monetary obligations are to be incurred, and historical financial statements and statements of revenues, expenses, net income and cash flow for the first five years of the Project, which have been audited, reviewed or compiled by a certified public accountant.
- (3) Applicant will prepare a descriptive list of the eligible Improvements for which Abatement is requested. This will include the class life of the Improvements based on the Internal Revenue Service Code (Section 168) Modified Accelerated Cost Recovery System and, if applicable, any documentation supporting a longer Economic Life of such Improvements.
- (4) Applicant will prepare a plat or map showing the precise location of the property, location of proposed Improvements, all roadways within five hundred feet (500') of the site, and all existing land uses and zoning within five hundred feet (500') of the site. The correct legal description of the Real Property must be provided.
- (5) Applicant will address all criteria outlined in Section III.H. of these Guidelines and Criteria in letter format. In the case of a Modernization or Eligible Facility, Applicant will also include a statement of the Facility's current property value, stated separately for Real and Personal Property.
- (6) Applicant will prepare a time schedule for undertaking and completing the planned Improvements.
- (7) Applicant will provide:

- a) a tax certificate verifying that no taxes are past due on Applicant's (and, if Applicant is not the Owner of the Real Property or Facility, the Owner's) property located within the proposed reinvestment zone; provided, however, that with respect to Extraordinary Impact or Wind Farm Projects where Applicant is not the Owner of the Real Property on which the Facility is or will be located, Commissioners Court may opt to limit the Real Property for which such certificates are required if deemed appropriate under the circumstances; and
 - b) Good standing (or similar) certificates from the Secretary of State of Texas and, if a foreign entity, the state in which the Applicant is organized.
- (8) Applicant will provide a copy of the underlying lease if Applicant is a Lessee of the Facility.
 - (9) Applicant will provide a copy of the contract between the Applicant and any employment agency acting as the employer of the employees of eligible Jobs pursuant to such contract.
 - (10) Applicant will provide copies of the immediately preceding quarterly reports filled with the Texas Workforce Commission, documenting the current number of permanent full time employees.
 - (11) Applicant will provide a current copy of any Enterprise Zone Map identifying the property location.
 - (12) Applicant shall pay or cause to be paid to the County a non-refundable application fee of \$1,000 at the time of submission of the Application unless
 - (a) the Applicant meets all of the following criteria:
 - (i) during the twelve months immediately preceding the submission of the Application, the Applicant submitted an Application for an Abatement to the County (the "Prior Application");
 - (ii) during such twelve month period, the Applicant paid the \$1,000 fee to the County with respect to the Prior Application;
 - (iii) neither the Applicant nor any other party has received or will receive any Abatement with respect to such Prior Application; and
 - (iv) the Commissioners Court deems such new Application to be substantially similar to the Prior Application; or

- (b) the total Abatement that the Applicant is requesting is less than and capped at (i) \$1,000 per year and/or (ii) \$10,000 in the aggregate over the life of the Abatement.

Applicant understands and, by submitting an Application agrees, that such fee is to partially offset the County's expenses in reviewing the Applicant's Application and shall not be refunded in the event the Application is withdrawn by Applicant or denied by the County. Applicant will submit along with the Application a copy of the receipt issued from the Hidalgo County Treasurer evidencing payment of the application fee.

B. Application Review Steps: Upon receipt of a completed Application, the County will distribute copies of the Application to the appropriate County departments for internal review and comments. The County may request additional information as needed to determine Applicant's eligibility for Abatement according to Sections III A., B. and F and to review the factors set forth in Section III.H.

C. Timing Provisions.

- (1) Notwithstanding any provision to the contrary in Sections IV or V of these Guidelines and Criteria, to the extent allowable under applicable law, the Commissioners Court in its discretion may:

- (i) allow additional time for compliance with the requirements in Sections IV and V of these Guidelines and Criteria with respect to any Applications received after October 1 of the calendar year and may consider, approve and enter into an Agreement during the calendar year in which the Application was received after October 1 if the Commissioners Court in its discretion determines the County had adequate time to review and consider the Application and the Agreement, and
- (ii) consider and approve an Abatement and enter into an Agreement prior to receipt of all required information, provided that if such Abatement is granted the Agreement requires the Owner and/or Lessee, as the case may be, to comply with any such provisions within thirty days of the date of the Agreement and allows the County to terminate the Agreement in the event any conditions in the Agreement are not timely met.

- (2) Provided commencement of construction as defined in Section IV.A.(1) above has not occurred prior to submission of the complete Application as set forth herein, the commencement of construction by (x) the taking of actions specified in Section IV.A.(1)(a-c) above by the Owner and/or Lessee or (y) the taking of any of the actions specified in Section IV.A.(1)(a-e) above by the Owner and/or Lessee after approval by the Commissioners Court of an Agreement but prior to execution of

the Agreement shall not be a bar to the County subsequently executing the Agreement based on these Guidelines and Criteria and the terms approved by the Commissioners Court with the Owner and/or Lessee, as applicable; provided that (i) with respect to any such activity undertaken prior to Commissioners Court granting of an Abatement that the Abatement may not be granted at the discretion of the Commissioners Court and (ii) that the Applicant, Owner and/or Lessee, as the case may be, commence activity related to the Project at their own risk, and with respect to (y) above, in the event, prior to execution of the Agreement, any discrepancy or dispute over the terms of the Agreement arise that the Commissioners Court retains its discretion to not enter into such Agreement. For purposes of this subsection (2), a complete Application is an Application that, in the opinion of the County, meets all of the requirements of the Guidelines and Criteria excluding only any additional materials requested by the County but not expressly specified in the Guidelines and Criteria.

V. Consideration of Application and Adoption of Agreement

A. When the County considers an Abatement request, it will consider the feasibility and impact of the proposed Abatement by making an estimate of the economic effect of the Abatement of taxes and the benefit to the property to be covered by the Abatement and to the taxing authorities involved.

B. In accordance with Section 312.401(b) of the Texas Tax Code, the Commissioners Court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would contribute to the retention or expansion of Primary Employment or would attract major investment in the reinvestment zone that would be a benefit to the property to be included in the reinvestment zone and would contribute to the economic development of the County. At the hearing, interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, the Commissioners Court will give notice of the hearing in accordance with Sections 312.401(b) and 312.201(d) of the Texas Tax Code. Pursuant to Section 312.4011, designation of an area as an enterprise zone under Chapter 2303, Texas Government Code, constitutes designation of the area as a reinvestment zone without further action by the County.

C. (1) The Commissioners Court may consider adoption of an Order approving the execution of an Agreement between the County and the Applicant governing the provision of the Abatement within the reinvestment zone only after the Applicant has forwarded all necessary information and documentation to the County. The County will notify the Applicant of approval or disapproval in writing as soon as such action has occurred. The County will not approve an Agreement if it finds that the request for the Abatement was filed after the commencement of construction, alterations, or installation of Improvements related to a proposed Modernization, Expansion or New Facility by the Applicant except as provided in subsection V.C.(2) below. Any Improvements performed by a taxing entity in anticipation of a Project will not be subject to this subsection C(1).

(2) The decision to provide any Abatement will be considered on a case by case basis, in accordance with these Guidelines and Criteria, and at the discretion of the Commissioners Court who, with respect to Applicants concerning Projects of Extraordinary Impact may waive Subsection IV(A)(1)(b) if reasonable proof is shown of why the waiver is needed and of the benefit to the County of granting the Abatement.

D. Not later than the seventh day before the date on which the County enters into an Agreement, the County will deliver, as provided by Section 312.2041 of the Tax Code, to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the Agreement is located a written notice that the County intends to enter into the Agreement. The notice will include a copy of the proposed Agreement.

E. The governing bodies of the appropriate taxing authorities may consider ratification of and participation in the Agreement between the County and the Applicant.

F. After approval, the County will formally pass an Order and execute an Agreement with the Owner and/or Lessee of the Facility as required. Such Agreement prior to execution will be reviewed by legal counsel for the County and the Owner and/or Lessee, as applicable. Such Agreement shall be subject to the rights of holders of outstanding bonds of the County and shall be entered into by the County on the condition that the Owner and/or the Lessee, as applicable, makes specific Improvements or repairs to the property. Except as otherwise specified in these Guidelines and Criteria, the Abatement in each Agreement shall take effect on January 1 of the next tax year after the date the Improvements or repairs are substantially completed. Each Agreement must include the terms required under Section 312.205 or the Texas Tax Code and will address various issues, including, but not limited to, the following:

- (1) General description of the Project;
- (2) The percent of value to be abated each year (or the method for determining it);
- (3) Estimated value of the Abatement including the Base Year Value (or the Base Year Value may be added by addendum);
- (4) Duration of the Abatement, including the commencement date and the termination date;
- (5) Legal description of the Real Property;
- (6) Kind, number, location and timetable of planned Improvements;
- (7) Specific terms and conditions to be met by Applicant, including the minimum required Capital Cost, which may be higher but not less than the minimum set forth herein;
- (8) The proposed use of the Facility and nature of construction;

- (9) A plat or map showing the precise location of the Real Property, including the location within the enterprise zone and Improvements and proposed Improvements on the Real Property;
- (10) Contractual obligations in the event of default, violation of terms conditions, delinquent taxes, recapture, administration and assignment; and
- (11) Size of investment and number of new Jobs created or, if allowed in accordance with Exhibit A, retained.

VI. Denial of Abatement

A. All eligible Applications for Abatement will be considered on a case-by-case basis and except for the instances set forth in Section VI.B. herein, the decision to approve or deny Abatement will be made at the discretion of the Commissioners Court in accordance with these Guidelines and Criteria.

B. The Commissioners Court shall not authorize either a reinvestment zone or an Agreement if it is determined that:

- (1) there would be an adverse impact on the provision of government service or tax base;
- (2) the Applicant has insufficient financial capacity to complete the Project;
- (3) planned or potential use of the property would constitute a hazard to public safety, health or morals;
- (4) violation of other codes or laws exist;
- (5) the property is in an improvement project financed by tax increment bonds; or
- (6) there exists any other reason that is deemed appropriate by the Commissioners Court.

C. Nothing herein will imply or suggest that the County is under any obligations or duty to provide Abatement to any eligible Applicant, or that any Applicant has an entitlement to Abatement except as may be determined on a case-by-case basis by the Commissioners Court.

VII. Taxability

From the execution of the Agreement to the end of the Tax Abatement Period, taxes will be payable as follows:

- (a) The value of ineligible property will be fully taxable;
- (b) The Base Year Value of existing eligible property as determined each year will be fully taxable;
- (c) The additional value of eligible property will be taxable in the manner and for the period provided for in the Agreement; and
- (d) The additional value of eligible property will be fully taxable at the end of the Tax Abatement Period.

VIII. Recapture

A. The County will be entitled to terminate the Agreement and shall recapture all or part of the taxes abated, upon the occurrence of one or more of the following events:

- (1) If the Owner or Lessee fails to commence operation of the Facility and the provision of the applicable product or service within the time provided in the Agreement.
- (2) If, at any time after commencement of operation of the Facility, the Owner or Lessee voluntarily ceases to produce a product or service at the Facility or to otherwise operate the Facility for a continuous period of one (1) year or, with respect to Extraordinary Impact Projects in which the Agreement so provides, eighteen (18) months.
- (3) If the Owner or Lessee allows its ad valorem taxes owed to the County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest (and for purposes of this provision, the County may consider any such protest or contest to not be timely if the Owner or Lessee, in addition to pursuing such protest or contest through the appropriate channels, fails to notify the County in writing that it has commenced such protest or contest within thirty (30) days of such taxes becoming delinquent);
- (4) If the Owner or Lessee relocates the Job creating activity outside the reinvestment zone;
- (5) Upon the Owner's or Lessee's breach of the Agreement;

- (6) As the County and the Owner and/or Lessee may otherwise agree in the Agreement;
or
- (7) In the case of an Abatement for an eligible educational Facility, the educational institution named in the Agreement terminates the lease on the property or otherwise ceases to use and occupy the property for educational purposes, and the property Owner fails to secure a new tenant that qualifies the Facility for continued Abatement under these Guidelines and Criteria within one hundred twenty (120) days of the expiration or other cessation of the use of the property for educational purposes.

B. Should the County determine that a party is in default according to the terms and conditions of the Agreement, the County will notify the party in writing at the address stated in the Agreement, and if such default is not cured within the applicable Cure Period (as defined below), then the Agreement may be terminated by the County pursuant to an Order adopted by the Commissioners Court as set forth in C below. The Cure Period is thirty (30) days from the date of the notice, or if so provided in the Agreement with respect to any Extraordinary Impact or Wind Farm Project sixty (60) days and, if further provided in the Agreement, ninety (90) days with respect to a default caused by a force majeure event as such event is defined in the Agreement. Certain defaults are not curable, as may be set forth in these Guidelines and Criteria or the Agreement, and the County may terminate and pursue its other remedies hereunder upon notice to the other party.

C. The County by an Order adopted by the Commissioners Court will have the right to terminate the Agreement and shall recapture all or a part of the abated taxes based on the following schedule and formula:

RECAPTURE SCHEDULE

<i>YEAR OF TAX ABATEMENT PERIOD IN WHICH RECAPTURE EVENT OCCURS</i>	<i>COUNTY WILL RECAPTURE FOLLOWING PERCENTAGE OF TOTAL TAXES PREVIOUSLY ABATED:</i>
1-5	100%
6	85%
7	75%
8	65%
9	55%
10	45%

FORMULA: The Recapture Formula Will Be:

$$\text{Total Taxes Abated} \times \text{Applicable Percentage from above schedule} = \text{Amount to be Recaptured}$$

D. A Lessee or Owner who is a party to an Agreement that has been terminated or pursuant to which abated taxes have been ordered to be recaptured may appeal the Commissioners Court decision recapturing or terminating the Agreement. In order to make an appeal, the party to the Agreement must submit, within thirty (30) days of the Order by Commissioners Court recapturing or terminating the Agreement, a written notice to the County and to any other party to the

Agreement specifying the grounds on which the party will be appealing the decision and requesting that the matter of the appeal be placed on the Commissioners Court agenda for the next Commissioners Court meeting occurring not less than three days following receipt by the County of the written request. The party appealing the decision may appear at the Commissioners Court meeting to discuss the appeal.

IX. Administration

A. Access to Facility. Each Agreement will stipulate that employees and/or designated representatives of the County will have access to the Facility during the term of the Agreement to inspect the Facility to determine if the terms and conditions of the Agreement are being met. The County may execute a contract with any other jurisdiction(s) to conduct such inspections of the Facility. All inspections will be conducted in a manner as to not unreasonably interfere with the construction and/or operation of the Facility; provided, however that the County may conduct “spot” inspections requiring no advance notification (unless appropriate personnel are usually not onsite at the Facility to allow safe access to the Facility and due to safety concerns escorts are needed for County personnel, in which event the Agreement shall provide for notice and for the Owner and/or Lessee to provide escorts on a timely basis). All inspections will be made with one or more representatives of the Owner, Lessor or Lessee, and in accordance with such party’s safety standards.

B. Reports, Audits and Inspections:

- (1) Owners and Lessees of Facilities for which Abatement is granted will annually certify to taxing authorities that they are in compliance with the terms of the Agreement.
- (2) Owners and Lessees will provide reports and records reasonably necessary to support each year of the Agreement. Such reports and records will include information supporting Job creation and retention requirements, information on property purchases, and status reports on the Project’s progress. Reports supporting Job creation and retention shall include Texas Workforce Commission Reports (all Social Security numbers must be redacted prior to submitting such reports to the County) submitted to the State Comptroller on a quarterly basis and a breakdown of all Jobs with total annual hours per Job.
- (3) Upon completion of a Project, Owners and/or Lessees, as applicable, will provide taxing authorities with a final report (i) describing all property for which Abatement is granted, (ii) providing documentation of the final Capital Cost and (iii) certifying the number of Jobs created. This final report will be accompanied by the opinion of an independent certified public accountant as to its accuracy and completeness. Taxing authorities will periodically evaluate each Facility receiving Abatement to ensure compliance with the Agreement and report possible violations of the Agreement.
- (4) Taxing authorities will have the right to audit the books and records related to the eligible property and supporting the eligible property reports.

- (5) No later than March 1st of each year, all required documentation must be submitted the County and the Auditor's Office. Tax abatement will not be granted for any year in which the documentation is not submitted on time. The County will not waive the timing in this provision because late documents will prevent the Auditor's Office from being able to certify the abatement percentage to the Appraisal District. Accordingly, while the documentation must still be provided, even if late, providing the information after March 1 will not be considered a cure with respect to that year and the Owner and Lessee will not receive tax abatement for that year. Tax abatement pursuant to the related agreement for subsequent years will not allow the Owner and Lessee to recoup the abatement that would have been granted for the year lost due to the failure to provide documentation.

C. Transfer or Assignment. An Agreement for Abatement may be transferred or assigned by the original Applicant to a new Owner/Lessor or Lessee of the same Facility only upon the approval of the Commissioners Court, which will not grant such approval without (i) sufficient proof of the financial capacity of the transferee or assignee and (ii) all conditions and obligations in the Agreement being guaranteed by the execution of a new Agreement with the County. No assignment or transfer will be approved if any party to the existing Agreement or any proposed new party is (i) liable to any jurisdiction in the County for outstanding taxes or other obligations or (ii) delinquent in the payment of ad valorem taxes to any taxing unit located in the County. Approval of a transfer or assignment will not be unreasonably withheld. In addition, the Agreement for Abatement for an Extraordinary Impact Project may allow for collateral assignment in connection with the financing of the Project without obtaining such approval; provided the assignee is not delinquent on any taxes to the County and the Owner, Lessor or Lessee, as applicable, provides written notice to the County within thirty (30) days.

X. Tax Abatement by Other Taxing Units

A. Other Taxing Entities. Section 312.206(a) of the Tax Code allows the County, when a municipality has entered into an Agreement with an Owner and/or a Lessee, to enter into an Agreement with the same Owner and/or Lessee under different terms and conditions than those contained in the municipality's Agreement with the Owner and/or Lessee. When an Application for Abatement is originated with a taxing entity other than the County, the taxing entity desiring the County to provide Abatement to the same Applicant will cause the Applicant to file an Application requesting Abatement with the County and such Application will include the information requested by the County for Abatements originating with the County and shall also include a copy of the Agreement between the Applicant and the municipality or other taxing entity and such other documentation as may be requested by the County. Such Abatements will be considered in accordance with the provisions of these Guidelines and Criteria.

B. No obligation. The acceptance of an Application for Abatement will not be deemed as an obligation whatsoever of the County to grant any Abatement of taxes. Nothing in these Guidelines and Criteria or in any prior Abatement action by the County will obligate the County to provide Abatement to party.

C. Taxing Unit With Tax Rate Set by Commissioners Court. Pursuant to Section 312.004 of the Tax Code, in the event the Commissioners Court enters into an Agreement for the County, it may

also enter into an Agreement applicable to the same property on behalf of a taxing unit other than the County if by statute the ad valorem tax rate of the other taxing unit is approved by the Commissioners Court or the Commissioners Court is expressly required by statute to levy the ad valorem taxes of the other taxing unit. The Agreement entered into on behalf of the other taxing unit is not required to contain the same terms as the Agreement entered into on behalf of the County.

XI. Sunset Provision

These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years unless amended by three-quarters vote of the Commissioners Court, at which time all reinvestment zones and Agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the Commissioners Court may modify or renew these Guidelines and Criteria or enact new Guidelines and Criteria. The County reserves the right to allow these Guidelines and Criteria to lapse and to not thereafter adopt new Guidelines and Criteria.

XII. Severability

If any provision, section, subsection, sentence, clause, or phrase of these Guidelines and Criteria, or the amendments duly adopted hereto, or the application of the same to any person, entity, or set of circumstances, is for any reason held to be unconstitutional, void, voidable, invalid, or contrary to any existing or prospectively enacted law or statute, the validity and enforceability of the remaining part of these Guidelines and Criteria and amendments thereto will not be affected thereby.

EXHIBIT A

TAX ABATEMENT TERMS FOR PROJECTS

1. Standard Projects

A. Standard Projects.

1. Except with respect to Special Projects and Supplemental Projects, the percent of value to be abated will be determined by the greater percentage for which the Project qualifies as set forth below based on the Capital Cost expended by the Owner and/or Lessee, as the case may be, in the Project or the number of Jobs created:

Percent of Increase in Property Value to be Abated	Capital Cost of the Project	Number of Jobs Created
0%	Less than \$1,500,001	0 – 25
25%	\$1,500,001 up to and including \$5,000,000	26 – 50
50%	Over \$5,000,000 up to and including \$10,000,000	51 – 100
80%	Over \$10,000,000	101 or more

2. With respect to any Project within a city, the general policy of the County is to not exceed the economic development incentive provided by the city as such is interpreted by the County. Accordingly, when a city grants a tax abatement for a Project, the County may reduce the percentage to be abated pursuant to the above chart to not exceed that given by the city and will not grant abatement for a longer period than granted by the city. In determining the economic development incentive provided by the city with respect to a Project, the County may consider any or all of the following: (i) tax abatements granted by the city; (ii) other economic incentives provided by the city with respect to the Project under Chapter 380 of the Texas Local Government Code; and (iii) any economic incentives provided with respect to the Project by an economic development corporation established under Title 12, Subtitle C1, Chapters 501 through 505 of the Texas Local Government Code. The County may also lower the percentage or the term of the abatement so that, as determined by the County, the estimated value of the abatement will not exceed the estimated value of economic development incentives provided by the city. Accordingly, the applicable agreement may have a lower percentage, limited years or recapture provisions as determined by the County. To be clear, the County reserves the sole discretion to include in the agreement (i) a lower percentage than set forth in the table above, (ii) a shorter abatement period than would otherwise be included or (iii) provisions aimed at recapturing amounts over the intended abatement.

B. Supplemental Projects. With respect to Supplemental Projects, the percent of value to be abated will be determined by the County and shall not exceed the greater percentage for which the Supplemental Project qualifies as set forth below based on the Capital Cost expended by the Owner and/or Lessee, as the case may be, in the Supplemental Project or the number of Jobs created:

Maximum Percent of Increase in Property Value to be Abated	Capital Cost of the Project*	Number of Jobs Created*
0%	Less than \$1,500,001	0 – 25
25%	\$1,500,001 up to and including \$5,000,000	26 – 50
50%	Over \$5,000,000 up to and including \$10,000,000	51 – 100
80%	Over \$10,000,000	101 or more

*In the event of any irreconcilable dispute between the parties as to the allocation of Jobs and Capital Cost between an Existing Project and the related Supplemental Project, the County will make the final determination as to such allocation.

C. **Jobs.** In the County’s discretion, retained Jobs may be counted as created Jobs for purposes of determining the applicable tax abatement percentage determined based on Job creation pursuant to this Section 1 and for Extraordinary Impact Projects, provided the Agreement specifies that retained Jobs will be included and appropriate documentation is provided to the County.

2. Special Projects

For any Special Projects, the percent of value to be abated will be determined in accordance with the applicable provision below. Provision A below provides the applicant with the option to adopt the related terms instead of the terms in Section 1 above in this Exhibit A. The other provisions below are not optional.

A. **Extraordinary Impact Projects.** The provisions in this Section 2A of Exhibit A apply to Extraordinary Impact Projects. For the avoidance of doubt, Wind Farm Projects and other Projects within the City of McAllen are not Extraordinary Impact Projects.

1. The Owner and/or Lessee may, in lieu of the chart set forth in section 1 of this Exhibit A above, opt for the following provisions if the Capital Cost of the Project is at least equal to \$25,000,000.00 or the Project creates at least 500 Jobs:

<u>Percent of Increase in Property Value to be Abated</u>	<u>During Year of Tax Abatement Period</u>
80%	Initial Period and First and Second Years after Initial Period
70%	Third Year after Initial Period
60%	Fourth Year after Initial Period
50%	Fifth Year after Initial Period
40%	Sixth and subsequent Years after Initial Period

2. The “Initial Period” is the first one to four years of the Tax Abatement Period, determined as follows: the Initial Period commences on the January 1 following execution of the Agreement (or such later January 1 as may be agreed to in the Agreement, provided such January 1 is not more than 3 years after execution of the Agreement) and ends on the earlier of the fourth December 31 occurring after such January 1 and the December 31 occurring after substantial completion of construction of Improvements. Regardless of the length of the Initial Period, the Tax Abatement Period shall not exceed ten years. The Owner or Lessee (or both if both are parties to the Agreement) must make such election in the Agreement. In the event the parties have opted for this provision but it is later determined that the actual Capital Cost or Jobs do not qualify for this provision, the provisions of subsection (a) above will apply in lieu of the provisions of this subsection (b) and any taxes abated prior to the determination that this provision was inapplicable in excess of the amount that would have been abated pursuant to subsection (a) above shall be immediately recaptured and paid by Owner and/or Lessee.

3. The applicant must opt in to these terms prior to execution of the related Agreement.

B. Wind farm and similar high capital cost/high depreciation projects. The provisions in this Section 2B apply to Wind Farm Projects, as defined below.

1. *Definition.* A “Wind Farm Project” is any Project meeting the following criteria:

- a. The Capital Cost of the Project is at least equal to \$100 million; and
- b. The Project includes construction of either
 - i. a wind farm on land in the County; or
 - ii. other facilities expected, in the County’s judgment, to depreciate rapidly.

2. *Terms.* The percentage abated each year during the applicable Abatement Period will vary depending on the then current appraisal based on a chart determined by the County, where:

- i. the expected appraised value will obtain a 70% abatement;
- ii. the maximum abatement is 75%;
- iii. and the minimum abatement, provided a specified minimum appraised value is maintained. The expected appraised value would obtain 70% abatement.

A sample chart is attached as Exhibit A-1. The actual chart for a particular Project will be determined by the County and included as part of the Agreement.

C. **City Projects.** For any Project within the City of McAllen in which the estimated Capital Cost of the Project meets the minimum specified below, abatement would be available for up to 5 years, with the amount of the abatement decreasing after the third year.

<u>Percent of Increase in Property Value to be Abated</u>	<u>During Year of Tax Abatement Period</u>
80%	First, Second and Third Year
60%	Fourth Year
20%	Fifth Year

The minimum Capital Cost of the Project is \$10,000,000.00. The provisions set forth in Section 1.A.2 of this Exhibit A with respect to the expected value, term and percentage of the abatement noted exceed the amount being abated (and other economic development incentives granted) by the city shall apply to Projects under this Section 2.C.

Projects within the city that are not expected to meet the minimum Capital Cost requirement to qualify under this section 1.C will be governed by Section 1.A above.

EXHIBIT A-1

Sample Wind Farm Project Tax Abatement Chart

Exhibit A-1 to Guidelines and Criteria: Sample Tax Abatement Chart for Wind Farm Projects

Newly Created Value (as determined by Hidalgo County Appraisal District):		Percent of Increase in Newly Created Value to be Abated									
At least equal to:	But less than:	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
\$ 255,000,000.00		75%	75%	75%	75%	75%	75%	75%	75%	75%	75%
\$ 245,000,000.00	\$ 255,000,000.00	74%	75%	75%	75%	75%	75%	75%	75%	75%	75%
\$ 237,000,000.00	\$ 245,000,000.00	73%	75%	75%	75%	75%	75%	75%	75%	75%	75%
\$ 230,000,000.00	\$ 237,000,000.00	72%	74%	75%	75%	75%	75%	75%	75%	75%	75%
\$ 223,000,000.00	\$ 230,000,000.00	71%	73%	75%	75%	75%	75%	75%	75%	75%	75%
\$ 216,000,000.00	\$ 223,000,000.00	70%	72%	74%	75%	75%	75%	75%	75%	75%	75%
\$ 210,000,000.00	\$ 216,000,000.00	69%	71%	73%	75%	75%	75%	75%	75%	75%	75%
\$ 205,000,000.00	\$ 210,000,000.00	68%	70%	72%	74%	75%	75%	75%	75%	75%	75%
\$ 200,000,000.00	\$ 205,000,000.00	67%	69%	71%	73%	75%	75%	75%	75%	75%	75%
\$ 195,000,000.00	\$ 200,000,000.00	66%	68%	70%	72%	74%	75%	75%	75%	75%	75%
\$ 190,000,000.00	\$ 195,000,000.00	65%	67%	69%	71%	73%	75%	75%	75%	75%	75%
\$ 185,000,000.00	\$ 190,000,000.00	64%	66%	68%	70%	72%	74%	75%	75%	75%	75%
\$ 180,000,000.00	\$ 185,000,000.00	63%	65%	67%	69%	71%	73%	75%	75%	75%	75%
\$ 175,000,000.00	\$ 180,000,000.00	62%	64%	66%	68%	70%	72%	74%	75%	75%	75%
\$ 170,000,000.00	\$ 175,000,000.00	61%	63%	65%	67%	69%	71%	73%	74%	75%	75%
\$ 165,000,000.00	\$ 170,000,000.00	60%	62%	64%	66%	68%	70%	72%	73%	75%	75%
\$ 160,000,000.00	\$ 165,000,000.00		61%	63%	65%	67%	69%	71%	72%	74%	75%
\$ 155,000,000.00	\$ 160,000,000.00		60%	62%	64%	66%	68%	70%	71%	73%	74%
\$ 150,000,000.00	\$ 155,000,000.00			61%	63%	65%	67%	69%	70%	72%	73%
\$ 145,000,000.00	\$ 150,000,000.00			60%	62%	64%	66%	68%	69%	71%	72%
\$ 140,000,000.00	\$ 145,000,000.00				61%	63%	65%	67%	68%	70%	71%
\$ 135,000,000.00	\$ 140,000,000.00				60%	62%	64%	66%	67%	69%	70%
\$ 130,000,000.00	\$ 135,000,000.00					61%	63%	65%	66%	68%	69%
\$ 125,000,000.00	\$ 130,000,000.00					60%	62%	64%	65%	67%	68%
\$ 120,000,000.00	\$ 125,000,000.00						61%	63%	64%	66%	67%
\$ 115,000,000.00	\$ 120,000,000.00						60%	62%	63%	65%	66%
\$ 110,000,000.00	\$ 115,000,000.00							61%	62%	64%	65%
\$ 105,000,000.00	\$ 110,000,000.00							60%	61%	63%	64%
\$ 100,000,000.00	\$ 105,000,000.00								60%	62%	63%
\$ 95,000,000.00	\$ 100,000,000.00									61%	62%
\$ 90,000,000.00	\$ 95,000,000.00									60%	61%
\$ 85,000,000.00	\$ 90,000,000.00										60%
\$ -	\$ 85,000,000.00										

EXHIBIT "B"
Map of the Project

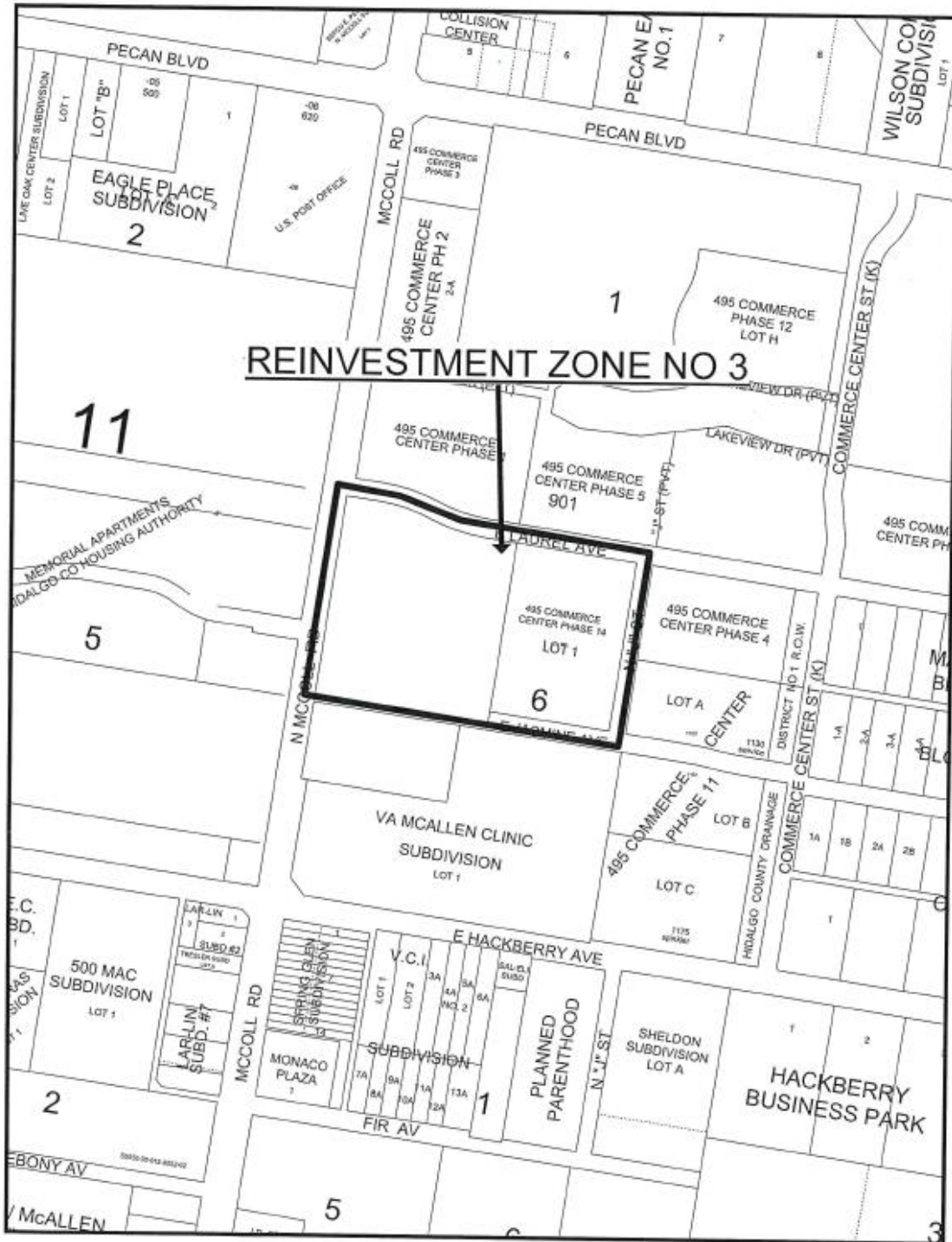


EXHIBIT "C"
Improvements Included in the Facility

Furnitures and Fixtures
Information Systems and Data Handling Equipment
Telecom Equipment
Networking Equipment

(Note: This schedule will be supplemented with a listing of the personal property that is considered Eligible Property under the Guidelines and Criteria).

EXHIBIT "D"
The Land

A tract of land containing 7.48 acres of land, more or less, situated in Hidalgo County, Texas, being part or portion of **Lot 6, Block 11, STEELE AND PERSHING SUBDIVISION**, Hidalgo County, Texas, map reference: Volume 8, Page 115, Deed Records, Hidalgo County, Texas, and said 7.48 acres of land being part or portion of that tract of land deeded to 495 COMMERCE CENTER PARTNERS, LTD., a Texas limited partnership, recorded in Document Number 965058, Deed Records, Hidalgo County, Texas, Deed Records, Hidalgo County, Texas, and said 7.48 acres also being more particularly described as follows;

COMMENCING, for reference at the northwest corner of said Lot 6, Block 11, within N. McColl Road right-of-way, and the southwest corner of 495 Commerce Center Phase I, map reference; Volume 37, Page 65A, Map Records, Hidalgo County, Texas, **THENCE S 81° 21' 49"** E, along the north line of said Lot 6, Block 11, and the south line of said 495 Commerce Center Phase I, a distance of 42.44 feet, to a nail set, on the east right-of-way line of said N. McColl Road, for the **POINT OF BEGINNING**, and the Northwest corner of this tract;

THENCE S 81° 21' 49" E, along the north line of said Lot 6, Block 11, and the south line of said 495 Commerce Center Phase I, same being the south line of E. Laurel Avenue (60.0 right-of-way) as shown on said 495 Commerce Center Phase I, a distance of 106.91 feet, to a ½" iron rod with plastic cap stamped "CVQ LS" set, on a curve to the right for a corner hereof;

THENCE in a southeasterly direction along said curve to the right and the south right-of-way line of said E. Laurel Avenue, a distance of 168.22 feet, to a ½" iron rod with plastic cap stamped "CVQ LS" set, said curve having a radius of 495.42 feet, a delta angle of 19° 27' 18", a tangent of 84.93 feet, and a chord that bears S 71° 38' 10" E 167.41 feet, and point of a reverse curve for a corner hereof;

THENCE continuing in a southeasterly direction along said reverse curve to the left and the south right-of-way line of said E. Laurel Avenue, a distance of 188.59 feet, to a ½" iron rod with plastic cap stamped "CVQ LS" set, said curve having a radius of 555.42 feet, a delta angle of 19° 27' 18", a tangent of 95.21 feet, and a chord that bears S 71° 38' 10" E 187.69 feet, for a corner hereof;

THENCE S 81° 21' 49" E, continuing along the south line of said 495 Commerce Center Phase I, and the south right-of-way line of said E. Laurel Avenue, pass at a distance of 99.70 feet, the southeast corner of said 495 Commerce Center Phase I, continuing along the south right-of-way line of said E. Laurel Avenue, recorded in Document Number 939993 Deed Records, Hidalgo County, Texas, a total distance of 117.21 feet, to a ½" iron rod with a plastic cap stamped "CVQ LS" found, on the northwest corner of Lot 1, 495 Commerce Center Phase XIV, map reference; Volume 55, Page 96, Map Records, Hidalgo County, Texas, for the Northeast corner hereof;

THENCE S 08° 38' 11" W, along the west line of said Lot 1, 495 Commerce Center Phase XIV, a distance of 539.93 feet, to a ½" iron rod with a plastic cap stamped "BGT" found, on the southwest corner of said Lot 1, 495 Commerce Center Phase XIV, and the north right-of-way line of E. Jasmine Avenue (60.0 right-of-way), recorded in Document Number 2019378, Deed Records, Hidalgo County, Texas, for the Southeast corner hereof;

THENCE N 81° 21' 49" W, along the north right-of-way line of said E. Jasmine Avenue, a distance of 529.11 feet, to a ½" iron rod with a plastic cap stamped "CVQ LS" set, on a corner clip for a corner hereof;

THENCE N 36° 21' 49" W, continuing along said corner clip and the north right-of-way line of said E. Jasmine Avenue, a distance of 35.36 feet, to a ½" iron rod with a plastic cap stamped "CVQ LS" found, for a corner hereof;

THENCE N 81° 21' 49" W, continuing along the north right-of-way line of said E. Jasmine Avenue, a distance of 20.00 feet, to a ½" iron rod with a plastic cap stamped "CVQ LS" set, on the east right-of-way line of said N. McColl Road, for the most westerly Southwest corner hereof;

THENCE N 08° 38' 11" E, along the east right-of-way line of said N. McColl Road, a distance of 574.93 feet, for the **POINT OF BEGINNING**, containing 7.48 acres of land, more or less.