

TAX ABATEMENT AGREEMENT

This Tax Abatement Agreement (this "Agreement") is made by and between the **City of Angleton, Texas** a municipal corporation and home-rule city (the "City"), and **TECHNICAL INNOVATIONS AND LEADROCK PROPERTIES, LLC, BY ITS GENERAL PARTNER, C. GARRISON CORDELL** (the "Owner"), a business qualified to do business in the State of Texas and an owner of interests in real property located within the Reinvestment Zone 5.

WITNESSETH

WHEREAS, the creation and retention of job opportunities in the City of Angleton is paramount to the City's continued economic development, and

WHEREAS, the Owner desires to construct a commercial facility, as shown in the attached Exhibit 2, and

WHEREAS, the owner has filed a written request for tax abatement, dated June 6, 2008, submitted in accordance with the City of Angleton Guidelines and Criteria for Granting Tax Abatement in a Reinvestment Zone Created in the City of Angleton, Texas, and

WHEREAS, the City Council following a public hearing on the subject designated the zone a reinvestment zone; and

WHEREAS, it is reasonably likely that this Agreement will contribute to the creation of primary employment and will attract major investment in the zone that would be of benefit to property within the zone and that would contribute to the economic development of the City; and

WHEREAS, the City has determined that the Improvements are practical and are of benefit to the land within the zone and to the City; and

WHEREAS, City Council finds that there will be no substantial potential adverse effect on the provision of City services or on the tax base caused by the Agreement; and

WHEREAS, the Owner has represented that the facility will be designed and constructed to meet all applicable federal, state, and local environmental regulations, and the construction and operation of the facility will not result in environmental degradation or hazard; and

WHEREAS, City Council finds that the planned use of the improvements, when constructed and operated in accordance with applicable environmental standards, will not constitute a hazard to public health, safety, or morals; and

WHEREAS, City Council finds that the terms of this Agreement meet the applicable requirements of the Resolution No. 2006-R-6C dated June 27, 2006, the Guidelines and Criteria for Granting Tax Abatements in a Reinvestment Zone and the Texas Tax Code;

NOW, THEREFORE, the parties hereto, for and in consideration of the premises and mutual promises stated herein, agree as follows:

1. Definitions

The following capitalized terms shall have the meanings assigned to them below, unless otherwise defined or the context clearly requires otherwise:

"Abatement" means the full or partial exemption from ad valorem taxes of certain property in an Abatement Zone designated for economic development purposes.

"Abatement Period" means that period which commences on the first day of the effective date of abatement and ends five years thereafter.

"City" means the City of Angleton, Texas.

"Certified Appraised Value" means the January 1st appraised value of the property within the abatement Zone certified by the Brazoria County Appraisal District as of the January 1st valuation date.

"Construction Phase" means a material and substantial improvement of the property that represents a separate and distinct construction operation undertaken for the purpose of erecting the improvements. For purposes of the term of tax abatement, the construction phase is defined and limited by the provisions of Section 4. herein.

"Department" means the City's Department of Finance and Administration or its successor.

"Director" means the Director of the Department, the City Manager or the designee thereof.

"Effective Date of Abatement" means the January 1 immediately following the date the Agreement is approved by the Mayor and City Council.

"Eligible Property" means the buildings, structures, fixed machinery, equipment and process units, site improvements, and that office space and related fixed improvements necessary to the operation and administration of the facility. "New Eligible Property" means Eligible Property, construction of which commences subsequent to the date of execution of this Agreement.

"Ineligible Property" means land, inventories, supplies, tools, furnishings and other forms of movable personal property, vehicles, vessels, aircraft, housing, hotel accommodations, retail facilities, and deferred maintenance investments.

"BCAD" means the Brazoria County Appraisal District.

"Improvements" mean the improvements to the property, more fully described in Section 5 below, constituting the project.

"Ordinance" means City of Angleton Ordinance Number 2006-O-7G, which created the zone.

"Owner" means **TECHNICAL INNOVATIONS AND LEADROCK PROPERTIES, LLC, BY ITS GENERAL PARTNER, C. GARRISON CORDELL.**

"Project" means the facility to be used by the owner on the Real Property as more fully described in Sections 4 & 5 below.

"Property" means the real property to be improved, as more fully described in Section 3(a) below.

"Tax Code" means the Texas Property Tax Code, as amended.

"Zone" means the City of Angleton Reinvestment Zone Number Five which is more particularly described in Exhibit "B" of the "Ordinance".

2. Authorization

This Agreement is authorized by Resolution Number 474 dated June 16, 1998, as amended, which established the property tax abatement program for properties in designated reinvestment zones and by the ordinance and the Guidelines and criteria for Granting Tax Abatements in a Reinvestment Zone adopted by the City on 11/19/99 and renewed by the City on 12/18/01, and further renewed on June 27, 2006.

3. Property

- (a) The street address of the taxable real property to be improved under this Agreement is located at the intersection of Galaznik Road and Gulf Coast Road, Angleton, Texas 77515. The property is described more fully in the Application for Tax Abatement attached hereto as Exhibit 1 and made a part hereof for all purposes.
- (b) The BCAD tax account numbers of the Property are: 1313-6001-127
1313-6001-128
1313-6001-129

4. Representations and Warranties by the Owner

- (a) The Owner represents that it is the owner of the property and that the property is located within the boundaries of the zone. The owner represents that it is authorized to execute this Agreement and to complete the improvements described in Section 5 hereof and in the Application for Tax Abatement attached hereto as Exhibit 1 and made a part hereof for all purposes. The Owner represents that as of January 1, 2007, the property had an approximate appraised value of \$53,380.00. The Owner represents and warrants that the construction of the Improvements described in Exhibit 2 will begin on or about July 15, 2008, and that construction of the Improvements will not have been completed as of the effective date of this Agreement. The Owner represents and warrants that the construction of the Improvements shall be done according to the budget listed in Exhibit 2, all for the purpose of construction of a commercial facility. The total size of the property is approximately 4 acres.
- (b) The Owner represents that no interest in the property is held or leased by a member of the City Council or a member of the City's Planning Commission.
- (c) The Owner represents and warrants that the value of the Property will increase by at least \$1,000,000.00 upon completion of the Improvements.

- (d) The Owner represents and warrants that it will create employment for at least 15 people during the construction period in the City of Angleton, and will create employment for at least 27 people on a permanent basis beginning not later than one (1) year from the start of the Abatement Period and continuing through the term of this Agreement, excepting accident, casualty, fire, explosion, or natural disaster that is found by the Director to substantially impact the Owner's ability to use the Project as specified in Section 5(c) below.
- (e) The Owner represents and warrants that the Improvements will not solely or primarily have the purpose of transferring employment from one part of the City of Angleton to another.
- (f) The Owner represents that the Improvements are necessary because capacity cannot be provided efficiently utilizing its existing capacity when reasonable allowance is made for necessary improvements.
- (g) The Owner represents and warrants that it will construct and operate the Project described in Exhibit 2 attached hereto and incorporated herein by this reference.
- (h) The Owner represents and warrants that the facility will be designed, constructed, and operated in accordance with all applicable federal, state, and local environmental regulations and that there would be no degradation or hazard to the Property or the environs of the City of Angleton.

5. Terms of the Agreement

- (a) The Owner shall make the Improvements substantially in conformity with the descriptions, plans and specifications as described in the Application for Tax Abatement attached hereto as Exhibit 1 and made a part hereof for all purposes.
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- (b) The Improvements shall be completed in accordance with the provisions of in the Application for Tax Abatement attached hereto as Exhibit 1 and made a part hereof for all purposes and the City of Angleton Building Code. In case of any conflict, the Building Code shall prevail. In addition, the Owner shall comply with Angleton Subdivision Ordinance, if applicable.
- (c) Upon completion of the Improvements, the Owner shall use the Property for the proposed use specified in this paragraph during the Abatement Period specified in Section 6 hereof. However, the Director may approve a change from the proposed use in writing, if the Director determines that the change is consistent with Code of Ordinances, with Ordinance Number 2008-O-6E creating the Angleton Reinvestment Zone Number Five and with the City's general purpose of encouraging development or redevelopment of the Zone during the Abatement period specified in Section 6 hereof. The proposed use of the Property (unless and until the Director approves a change in use) is for a commercial facility, pursuant to and to the extent described in the Application for Tax Abatement attached hereto as

Exhibit 1 and made a part hereof for all purposes.

- (d) The Owner shall maintain the Improvements in good repair and condition during the Abatement Period specified in Section 6 hereof.
- (e) The Owner shall allow the City's employees access to the Property for the purpose of inspecting the Improvements to ensure that the Improvements were completed and maintained in accordance with the terms of this Agreement. All inspections will be made only after giving the Owner notice at least twenty-four (24) hours in advance thereof, and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Project. All inspections will be made with one (1) or more representatives of the Owner and in accordance with the Owner's safety and security standards. The above shall not act as a limitation on the City's ability to perform any inspections or enter the affected property pursuant to the Angleton Code of Ordinances, the Building Code or otherwise.
- (f) The Owner shall not assign this Agreement without the prior written approval of the City Council.
- (g) Not later than March 15th of each year, during the Abatement Period, the Owner shall submit to the Director and the Chief Appraiser of BCAD a January employee count for the Project, this shall be a copy of the employee report required to be submitted to the state of Texas for unemployment tax purposes. The employee count submitted shall correspond to the employment count reported in the Owner's "Employer's Quarterly Report" to the Texas Employment Commission. The employee count submitted by the Owner shall be used to determine abatement eligibility for that year and be subject to **audit**, pursuant to the provisions of the Code of Ordinances. The Director shall certify to the Chief Appraiser of BCAD whether the Owner is in compliance with the employment requirements of the Agreement.
- (h) Owner shall furnish the following information or written statements to City upon request annually during the term of this agreement, due on March 15 of each year:
 - (1) Statement by Owner certifying the commencement and/or completion date of the contemplated improvements described in the Application for Tax Abatement attached hereto as Exhibit 1 and made a part hereof for all purposes.
 - (2) Statement by Owner of the number of permanent employees, contract employees and construction employees actually employed at the facility location;
 - (3) Statement by Owner describing the status of construction of the contemplated improvements, percentage of construction completed, construction schedule and Owner's estimate of taxable value of constructed improvements on the date of the statement; or
 - (4) In lieu of the above statements, Owner may furnish documents and records verifying the above requested information.

(5) Any information, documents or records of any kind reasonably necessary for City's evaluation of Owner's compliance with the terms and conditions of this agreement and City of Angleton Guidelines and Criteria for granting Tax Abatements in a Reinvestment Zone provided that Owner shall not be required to furnish any information, documents or records which a reasonably prudent owner under the same or similar circumstances would consider to be harmful to its business operations.

Owner's statements described above shall be verified by Owner's project manager or other appropriate official. Failure to provide any statement or information without just cause within thirty (30) days of the request of presentation of any false or misleading statement may at the City's option, be construed as a default by Owner under this agreement and cause for immediate termination of this agreement with recapture of taxes, if after written notice of default, Owner has not cured such default prior to the expiration of thirty (30) days from such written notice. The Cure Period provisions of Paragraph 7 are not applicable to a default and termination under this paragraph.

6. Tax Abatement

(a) Abatement on the Improvements specifically listed in the Application for Tax Abatement attached hereto as Exhibit 1 and made a part hereof for all purposes shall be permitted only for the value of new "eligible property" constructed or added after January 1, 2008, subject to the limitation stated in subsection 5 above. In addition, this exemption from taxation is specifically subject to the rights of the holders of outstanding bonds of the City. This abatement shall be granted effective on the January 1 immediately following the date of approval of the Agreement by the Mayor and City Council (the "Effective Date of Abatement").

In the event the total increased value of the improvements on the property exceeds \$1,000,000.00, then the value of new eligible Improvements subject to the abatement shall be eighty percent (80%) for a period of one (1) year from the effective Date of Abatement; and shall be fifty percent (50%) for the second year of the Abatement Period; and shall be twenty-five percent (25%) for the third and final year of the abatement period.

If the period of construction extends beyond one (1) year from the Effective Date of Abatement, the Improvements shall be considered completed for purposes of abatement and, in no case, shall the Abatement Period, inclusive of the construction period, exceed three years from the Effective Date of Abatement.

(b) From the Effective Date of Abatement to the end of the Abatement Period, taxes shall be payable as follows:

1. The value of ineligible property as defined in Section 2(e) of the Angleton Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones shall be fully taxable;
2. The base year value of eligible Improvements, as defined in Section 1 (g) of the Angleton Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones, in the City of Angleton adopted 11/19/99 and renewed 12/18/01, and renewed 6/27/06 and at any subsequent date shall be fully taxable;

3. The additional value of the eligible Improvements constructed after January 1, 2008, but before the effective date of this Agreement, shall be taxable in accordance with Section 6(a) of this Agreement.
4. The additional value of the eligible Improvements constructed after the effective date of this Agreement, as determined each year, shall be taxable in accordance with Section 6(a) of this Agreement.
5. Any equipment or machinery, described in Exhibit 2 and installed in the Real Property pursuant to this Agreement that is removed from the Real Property for longer than a temporary repair period shall be fully taxable.

(C) The City shall enter into only one tax abatement agreement for the Project described in this Agreement during the existence of the Zone.

7. Default and Recapture

This Agreement shall terminate in the event that the use and operation of the facility for the purpose specified in Section 5(c) above is discontinued, for any reason excepting fire, explosion, other casualty or accident, or natural disaster, continuously for a period in excess of twelve (12) months during the abatement Period. The Owner shall not be entitled to the abatement of taxes for that twelve-month period during which the facility did not produce a product or service. The taxes abated during that twelve month period shall become immediately due and payable, and shall be paid to the City within sixty (60) days from the date of termination of this Agreement.

The Owner shall be in default hereof in the event that the Owner:

1. Allows ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
 2. Has made any material representation which is determined to be false or misleading in any respect; or
 3. Is in breach of any material warranty and fails to cure within sixty (60) days from the date notice is provided thereof as described below (the "Cure Period"); or
 4. Violates any of the terms and conditions of this Agreement and fails to cure during the Cure Period.
- (c) Should the City determine that the Owner is in default according to the terms and conditions of this Agreement, the City shall notify the Owner in writing at the address stated in this Agreement, and if such default is not cured during the Cure Period, then this Agreement may be terminated as to all parties and all taxes previously abated by virtue of this Agreement, shall be recaptured, and paid by the owner within sixty (60) days of the termination.

8. Administration

- (a) This agreement shall be administered on behalf of the City by the office of the City Manager pursuant to the direction of the City Council and/or other persons appointed by the City Council.

- (b) For purposes of this Agreement, the value of the real and personal Property comprising the Zone, including the value of the Improvements listed in the Application for Tax Abatement attached hereto as Exhibit 1 and made a part hereof for all purposes shall be the same as the value of the Improvements determined annually by the chief appraiser of BCAD. Each year, the Owner shall furnish the City with such information as may be necessary for calculating the amount of abatement. Once the value of the Improvements has been established and the amount of the abatement calculated, the chief appraiser of the BCAD shall notify the affected jurisdictions that levy taxes of the amount of assessment.
- (c) Upon the completion of construction of the Improvements, the Director shall annually evaluate each facility receiving abatement to ensure compliance with this Agreement and prepare a report of any violations of this Agreement.

9. Indemnification

Owner agrees to indemnify and hold harmless City its City Council, officers and employees from and against all obligations, claims, demands and causes of action of every kind and character (including the amounts of judgments, penalties, interest, court costs and legal fees incurred in defense of same) arising in favor of governmental entities and agencies or third parties (including employees of Owner) as a result of or arising out of, the covenants to be performed by Owner under this agreement, or any rights and provisions granted in this agreement.

10. Compliance with State and Local Regulations

Except as specifically provided herein, nothing in this Agreement shall be construed to alter or affect the obligation of the Owner to comply with any ordinance, rule or regulation of the City, or the laws and regulations of the State of Texas and the United States.

11. Merger

The parties agree that this Agreement contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understanding between the parties and others relating thereto are superseded by the Agreement.

12. Modification or Termination

At any time before the expiration of this agreement the parties may, upon mutual consent, modify or terminate the original agreement. Such modification or termination shall be done in accordance with the Property Redevelopment and Tax Abatement Act, V.A.T.S., Chapter 312, Section 312.208 of Subchapter B.

13. Notice

All notices shall be in writing and unless hand delivered, shall be sent by U. S. Mail certified, return receipt requested. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the

Amanda Davenport, City Secretary

COUNTERSIGNED:

Greg Smith, City Manager

APPROVED AS TO FORM:

Keith Vaughan
City Attorney

TECHNICAL INNOVATIONS
OWNER

BY: _____
C. GARRISON CORDELL
CEO

LEADROCK PROPERTIES, LLC

BY: _____
C. GARRISON CORDELL
GENERAL PARTNER