

INDUSTRIAL DISTRICT AGREEMENT NO. _____

THE STATE OF TEXAS §

COUNTY OF NUECES §

CITY OF CORPUS CHRISTI §

This Industrial District Agreement (“Agreement”) made and entered into under the authority of Section 42.044 of the Local Government Code, by and between the CITY OF CORPUS CHRISTI, TEXAS, a Texas home-rule municipal corporation of Nueces County, Texas, hereinafter called the “CITY”, and [Name of landowner], a [State][type of entity], Landowner, and [name of lessee & improvements owner], a [state][type of entity], Lessee and Improvements Owner, hereinafter collectively called the “COMPANY”.

WITNESSETH:

WHEREAS, it is the established policy of the City Council of the City of Corpus Christi, Texas, to adopt reasonable measures permitted by law that will tend to enhance the economic stability and growth of the CITY and its environs by attracting the location of new and the expansion of existing industries therein, and such policy is hereby reaffirmed and adopted by this City Council as being in the best interest of the CITY and its citizens; and

WHEREAS, the COMPANY is the owner and/or lessee of Land or owner of Improvements on land within the Extra Territorial Jurisdiction of the CITY; and

WHEREAS, under said policy and the provisions of Section 42.044, Texas Local Government Code, the CITY has enacted Ordinance No. 15898, approved November 26, 1980, as amended, incorporated for all purposes, indicating its willingness to enter into Industrial District Agreements with industries located within its Extra Territorial Jurisdiction and designating the specified land areas as Corpus Christi Industrial Development Area No. 1 and Corpus Christi Industrial Development Area No. 2; and

WHEREAS, in order to correct certain boundary issues, Ordinance No. _____ reestablished the boundaries of the land areas known as Corpus Christi Industrial Development Area No. 1 and Corpus Christi Industrial Development Area No. 2 and renamed such areas “Industrial District No. 1 and Industrial District No. 2”, herein collectively called “Industrial Districts”; and

WHEREAS, the CITY desires to encourage the updating, expansion and growth of industries within said Industrial Districts, and for this purpose, desires to enter into this Agreement with the COMPANY; and

WHEREAS, the COMPANY desires to minimize its tax burden and avoid regulation by the CITY of the COMPANY'S structures and properties within such Industrial Districts.

NOW, THEREFORE, in consideration of the premises, the mutual agreements of the parties herein contained and under the authority granted under Section 42.044, Texas Local Government Code, and the Ordinances of the City referred to above, the CITY and the COMPANY hereby agree as follows:

Article 1

Section 1.01 Immunity from Annexation. The CITY covenants and agrees that during the term of this Agreement, and subject to the terms and provisions herein, the Land shall retain its extraterritorial status as an Industrial District, and shall continue to retain this status until and unless the same is changed under the terms of this Agreement. Except as herein provided, the CITY further covenants and agrees that the Land shall be immune from annexation during the term of this Agreement.

Section 1.02 Limited to Industrial Use. COMPANY covenants and agrees that during the term hereof, COMPANY will not use or permit the use of the Land and Improvements covered by this Agreement for purposes not included within the term "industry". "Industry" as used herein shall mean for the same industrial uses to which the Land, or similarly situated land within the Industrial Districts, is now devoted by the COMPANY or other such parties holding such similarly situated land. Holding the Land and Improvements for future "industry" use, without using same for non-industry purposes, does not violate this paragraph. If the COMPANY uses, or permits use of, the Land and/or Improvements covered by this Agreement for purposes not included within the term "industry" as defined above, the payment in lieu of tax to be paid by the COMPANY under this Agreement shall be increased to an amount equal to one hundred percent (100%) of the amount of ad valorem taxes on Land, Improvements, and personal property sited on the Land that would otherwise be payable to the CITY by the COMPANY if said Improvements were situated on land within the CITY limits of the CITY. The increase shall be immediately effective for all payments from the inception of this Agreement, and the COMPANY shall transmit to the CITY within sixty (60) days of being notified by the CITY of the determination of a non-industry use, subject to the notice provided for in Section 4.04, an amount equal to said one hundred percent (100%) of ad valorem taxes from the inception of this Agreement, less any amounts previously paid, plus penalties and interest as if the amounts were delinquent taxes. The CITY shall be entitled to its attorneys' fees and other costs in collecting any of these amounts. In addition, the CITY shall have the right, in its sole and absolute discretion: (1) to obtain an injunction from a court of competent jurisdiction, upon the court's determination that the use is not an "industry" use, requiring that the use be permanently discontinued, or (2) to annex the Land covered by this Agreement and until the Land is annexed, the COMPANY shall continue to make payments equal to said one hundred percent (100%) of ad valorem taxes.

Section 1.03 Annexation Corridor. If any other company within the Extra Territorial Jurisdiction of the CITY fails to enter into an Industrial District Agreement with the CITY or defaults on their in lieu of tax payments, and said defaulting company is not contiguous with the CITY'S boundary, the COMPANY shall, after the CITY provides the COMPANY with sixty (60) days prior written notice of intent to initiate annexation proceeding, permit the CITY to annex a suitable strip of land out of the COMPANY'S Land from the CITY'S boundary to the defaulting company's land to permit its annexation. In the event the CITY must annex a part of the COMPANY'S property in order to annex property owned by third parties, the CITY will annex the absolute minimum amount of the COMPANY'S property legally necessary to annex such property owned by third parties. The location of such annexed property shall be subject to the approval of the COMPANY, such approval shall not be unreasonably withheld. COMPANY and such annexed property shall have no right to any CITY services as a result of such annexation; nor shall the CITY extend, by ordinance, any rules, or regulations, including, but not limited to, those (a) governing plats and subdivisions of land, (b) prescribing any building, electrical, plumbing or inspection code or codes, or (C) attempting to exercise in any manner whatsoever control over the conduct of COMPANY'S business thereon. Such annexed portion of land shall remain a part of this Agreement and shall not be subject to CITY taxes, but shall continue to be included within the in lieu of tax payment. In the event that the need for an annexation corridor no longer exists, including but not limited to the defaulting company entering into an Industrial District Agreement, or has met its obligations to the CITY, the CITY agrees to immediately cease any annexation proceedings related to the annexation corridor over the COMPANY'S Land, or within (60) days, take the steps necessary to complete disannexation proceedings required to remove from the city limits any unnecessary annexation corridor.

Section 1.04 City Services. During the term hereof, pursuant to this Agreement, the CITY shall have no obligation to extend to the Land any utility or other CITY services, except for services that are being provided to and paid for by the COMPANY on the date hereof, or as otherwise stated herein.

Section 1.05 Fire Protection Services. The CITY may provide fire protection services to the COMPANY at the option of the COMPANY for an additional payment to the CITY as set forth under Section 3.05 hereof.

Section 1.06 Compliance with City Rules and Regulations. The CITY and the COMPANY agree that during the term hereof, with respect to the Land, the CITY shall not require compliance with its rules or regulations: (1) governing zoning and platting of the Land, or any additions thereto, outside the CITY limits and in an Industrial District; provided, however, COMPANY further agrees that it will in no way divide the Land or additions thereto without complying with State law and CITY ordinances governing subdivision of land; (2) prescribing any building, electrical, plumbing or inspection code or codes; or (3) prescribing any rules governing the method of operation of COMPANY'S business, except as to those regulations relating to the delivery of utility services and industrial waste disposal through CITY-owned facilities.

Section 1.07 Definitions.

- A. City. As defined in the preamble hereof and includes its successors and assigns.
- B. Commencement of Construction. Physical construction (including, at a minimum, excavation for foundations or the beginning of installation or erection of improvements) at the primary site of the eligible project has begun.
- C. Existing Improvements. In use prior to January 1, 2015 and no longer on a payment scale or have completed the phase in scale set forth in Section 3.01 E of the Agreement.
- D. Extra Territorial Jurisdiction (ETJ). The unincorporated area that is contiguous to the corporate boundaries of the City of Corpus Christi and that is located within five miles of those boundaries.
- E. Grandfathered Improvements. Improvements that are in use prior to January 1, 2015 and were progressing through the eight year phase in scale set forth in the Prior Industrial District Agreement.
- F. Improvements. As defined in Section 1.04(3) of the Texas Tax Code, and shall also include power generation facilities, petroleum and/or chemical refining, processing, extraction or storage facilities, structures, or equipment erected on or affixed to the land, regardless of the land ownership, and pipelines on, under, or across the land which are owned by COMPANY. Includes Existing Improvements, Grandfathered Improvements, In Progress and New Improvements.
- G. In-Progress Improvements. Improvements for which construction has commenced, but which are not Placed in Use, prior to January 1, 2015, or for which government permits related to the construction of an Improvement or the expansion of Existing Improvements have been issued prior to January 1, 2015, but for which construction has not commenced.
- H. Industrial District. The industrial districts created pursuant to Ordinance No. _____, a copy of which is attached hereto as Exhibit C and incorporated herein by reference.
- I. Industrial District Agreement. An agreement made and entered into under the authority of Section 42.044 of the Texas Local Government Code.
- J. Land. All of the real property owned, leased or possessed by COMPANY and located within the Industrial Districts and designated on Exhibit A attached hereto.
- K. Market Value. As determined and defined by NCAD.

- L. NCAD. The Nueces County Appraisal District and includes its successors and assigns.
- M. New Improvement. Improvement for which no government permit has been secured and for which construction has not commenced prior January 1, 2015.
- N. Placed in Use. Improvements that are completed and Placed in Use and are not listed by NCAD as Construction Work in Progress (CWIP).
- O. Prior Industrial District Agreement. Industrial District Agreement by and between the CITY and the COMPANY that expired December 31, 2014.

Article 2

Section 2.01 Term. The term of this Agreement shall be ten (10) years beginning January 1, 2015, and continuing until December 31, 2024, unless terminated as herein provided or extended for additional period or periods of time upon mutual consent of the COMPANY and the CITY as provided by the Local Government Code; provided however, if this Agreement is not extended, or replaced with a similar agreement that provides for an additional period or periods of time, on or before March 31 of the final calendar year of the term hereof, then the immunity from annexation granted herein shall terminate on that date, but all other terms of this Agreement shall remain in effect for the remainder of the term; provided, however, the effective date and time of annexation shall be no earlier than midnight of December 31 of the final year of the term.

Section 2.02 Extended Term. This Agreement may be extended for an additional period or periods only by written agreement between the CITY and the COMPANY.

Article 3

Section 3.01 Payment in lieu of Ad Valorem Taxes. Each year during the term hereof, the COMPANY shall pay to the CITY:

- A. Land. An amount in lieu of tax on the Land (excluding Improvements and personal property located thereon) equal to one hundred percent (100%) of the amount of ad valorem taxes based upon the Market Value of the Land which would otherwise be payable to CITY by COMPANY if the Land were situated within the CITY limits.
- B. Existing Improvements. An amount in lieu of tax on Existing Improvements (excluding personal property) located on the Land equal to sixty-two and one half percent (62.5%) of the amount of ad valorem taxes based upon the Market Value of the Existing Improvements which would otherwise be payable to the CITY by the COMPANY if said Existing Improvements were situated on land within the CITY limits.

C. Grandfathered Improvements. If prior to January 1, 2015, the COMPANY was progressing through the eight year phase in scale set forth in the Prior Industrial District Agreement, then the amount of in lieu of tax payments on Grandfathered Improvements (excluding personal property) shall be phased in as follows:

Yr Placed in Use	Yr 1 of Contract	Yr 2 of Contract	Yr 3 of Contract	Yr 4 of Contract	Yr 5 of Contract	Yr 6 of Contract	Yr 7 of Contract	Yr 8 of Contract	Yr 9 of Contract	Yr 10 of Contract
Prior to 2007	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%
2007	58%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%
2008	50%	58%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%
2009	42%	50%	58%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%
2010	34%	42%	50%	58%	62.5%	62.5%	62.5%	62.5%	62.5%	62.5%
2011	26%	34%	42%	50%	58%	62.5%	62.5%	62.5%	62.5%	62.5%
2012	19%	26%	34%	42%	50%	58%	62.5%	62.5%	62.5%	62.5%
2013	12%	19%	26%	34%	42%	50%	58%	62.5%	62.5%	62.5%
2014	6%	12%	19%	26%	34%	42%	50%	58%	62.5%	62.5%

D. In-Progress Improvements. If prior to January 1, 2015, the COMPANY has In-Progress Improvements, the COMPANY may, at its option, choose to have the in lieu of tax payment for said In-Progress Improvements phased in as shown in Section 3.01 C above, or as in Section 3.01 E below. No later than January 1, 2015, COMPANY shall elect an option and must present the City with documentation of government permit or proof of Commencement of Construction.

E. New Improvements. With respect to any New Improvements, the in lieu of tax payment shall be phased in as follows: for the first four years after the New Improvement is Placed in Use, the COMPANY shall pay no in lieu of tax payment to the City for said New Improvement. Commencing with the fifth calendar year after the New Improvement is Placed in Use, the in lieu of tax payment shall be equal to sixty two and one half percent (62.5%). The first year of use for purposes of this New Improvements payment shall be deemed to begin on the first day of January following the date when the New Improvements are Placed in Use.

F. With respect to any new land acquired by the COMPANY located within an Industrial District, the use of which relates directly to the primary use of the parent tract, the new land shall be included in the COMPANY'S land known as the Land, and shall be considered in calculating the in lieu of tax payment on the Land as of January 1 of the first year following the date which the new land is acquired by the COMPANY. Within ninety (90) days after the acquisition of new land by the COMPANY, the COMPANY shall provide the CITY with a revised Exhibit A that includes a complete listing by NCAD Geographic ID number of the newly acquired land.

- G. With respect to any new land acquired by the COMPANY after January 1, 2015, located within the Extra Territorial Jurisdiction of the CITY, the use of which does not relate to the primary use of the parent tract, the COMPANY shall report such purchase to the CITY and the CITY shall determine whether an Industrial District Agreement is desired for such newly acquired land.

Section 3.02 Company Schedule of Value. On or before August 31 of each year of this Agreement, or upon final determination of Market Values by NCAD, whichever is later, the COMPANY shall provide to the CITY an itemized Schedule of Value by sworn affidavit, on the form attached hereto as Exhibit B, listing all NCAD Geographic ID numbers and the values related thereto, and showing all Land and Improvements, owned or controlled by the COMPANY including and identifying the property to be valued as part of this Agreement (the "Schedule"). The Schedule shall also list the year any Improvements were Placed in Use. The COMPANY has no objection to the CITY'S review of all forms, information, and documents provided by the COMPANY to NCAD and, in the event of appeal, the Appraisal Review Board. Failure to provide the Schedule to the CITY shall constitute a breach of this Agreement.

Section 3.03 Determination of Value. In determining the COMPANY'S annual in lieu of tax payment required under this Agreement, the calculation shall be made utilizing the Market Value of all Land and Improvements as determined by NCAD, or its successor, under provisions of the Texas Property Tax Code. The COMPANY shall timely provide information and reports required under this Agreement and under Texas law, rules and regulations to NCAD or its designee, so that the appraisal process can be completed in accordance with all applicable state laws.

Section 3.04 Company Protest of Value or Billing. If the COMPANY elects to protest the valuation set on any of its properties by NCAD for any year or years during the term hereof, it is agreed that nothing in this Agreement shall preclude the protest, and the COMPANY shall have the right to take all legal steps desired to reduce the same as if the property were located within the CITY, except with regard to the exemptions in Section 3.06 below. The COMPANY shall notify the CITY of its appeal within 30 days after its protest of the valuation is submitted to NCAD.

Notwithstanding any protest of valuation by the COMPANY or any non NCAD related billing dispute, the COMPANY agrees to pay to the CITY an initial in lieu of tax payment, on or before the Due Date in Section 3.07 below, based on the amount billed by the CITY. When the valuation on said property or any billing dispute has been finally determined, either as the result of final judgment of a court of competent jurisdiction or as the result of other final settlement of the controversy, then within thirty (30) days thereafter, the COMPANY shall make to the CITY any additional payment due based on the final determination. If, as a result of final judgment of a court of competent jurisdiction, or as the result of other final settlement of the controversy, the amount of in lieu of tax payment due to the CITY is established to be an amount less than the amount of the initial in lieu of tax payment for that year paid by the COMPANY, the excess in lieu of tax payment, if any, collected by the CITY shall be returned to COMPANY within thirty

(30) days after said final determination. Any non NCAD related billing disputes shall be resolved by the CITY within ninety (90) days from the date notice of the dispute is received by the CITY.

Section 3.05 Fire Protection. An additional amount for city fire protection equal to fifteen percent (15%) of the amount which would be payable on 100% of Market Value of Improvements located on the Land will be paid annually; provided, however, that if and as long as the COMPANY, as of January 1 of each year, is a member in good standing of the Refinery Terminal Fire Company, or its successor, or the COMPANY agrees to provide fire protection and emergency services either from a qualified external provider or by use of a qualified internal emergency response organization, it shall not be obligated to pay the additional amount provided by this Section 3.05. Minimum qualifications would include meeting certain standards as defined by applicable OSHA, state regulatory and NFPA Standards that apply to fire control, emergency management, disaster planning and rescue services as recognized by the Texas Industrial Fire Training Board, the State Fireman's and Fire Marshal's Association of Texas or equivalent. The COMPANY will provide equipment, training, and facilities necessary to safely handle all expected emergencies and properly protect the COMPANY and the community from the adverse effects of an industrial disaster, which obligation may be satisfied by the COMPANY being a member in good standing of the Refinery Terminal Fire Company, or its successor. (Calculation: Market Value of Improvements x 15% x City Tax Rate = Fire Protection Fee)

Section 3.06 Calculation of Amount Due. The CITY shall mail an invoice to the COMPANY, which sets forth the amount of payment in lieu of tax owed to the City calculated in accordance with this Agreement. Such invoice shall be postmarked at least thirty (30) days prior to the Due Date defined in Section 3.07 below, and shall be mailed to the address shown in Section 10.03 of this Agreement. The calculation shall be made without reference to the exemption for pollution control property in Section 11.31, Texas Property Tax Code, and Article VIII, Section 1-1, Texas Constitution, as same presently exist or may be hereafter amended, using the Market Value of pollution control equipment certified by NCAD. In addition, all the amounts shall be calculated without reference to any new tax exemption or any increase in an existing tax exemption enacted after January 1, 1995.

Section 3.07 Payment. The COMPANY agrees to pay to the CITY on or before January 31 of the year following each year during the term hereof (the "Due Date"), all payments in lieu of tax provided for hereunder and invoiced by the CITY in accordance with Section 3.06 above, without discount for early payment. The present ratio of ad valorem tax assessment used by the CITY is one hundred percent (100%) of the Market Value of property. Any change in the ratio used by the CITY shall be reflected in any subsequent computations hereunder. This Agreement, and the method of determining and fixing the amount of in lieu of tax payments hereunder, shall be subject to all provisions of law relating to determination of Market Value and taxation, including, but not limited to, laws relating to rendition, assessment, equalization and appeal. Any invoiced amounts that are not paid by the Due Date shall be considered delinquent. Delinquent amounts shall be immediately subject to interest at twelve (12%) per annum, compounded monthly and the COMPANY shall reimburse the CITY for its costs of collections, including reasonable attorneys' fees.

Article 4

Section 4.01 Company Failure to Pay/Company Breach. If the COMPANY fails to make a payment due to the CITY hereunder or if the COMPANY fails to perform any other obligation incumbent upon the COMPANY to be performed hereunder, and if such default is not fully corrected within sixty (60) days after the CITY gives written notice of said default to the COMPANY (or, if within such 60 day period, the COMPANY has not demonstrated a satisfactory plan of compliance approved by the CITY (where compliance requires more than 60 days)), the City shall have the option to either (1) declare this Agreement terminated and immediately commence annexation proceedings and sue to recover all damages; (2) bill COMPANY and sue to recover 100% of all monies that the CITY would have received from the COMPANY if it had been within the CITY limits, which includes 100% of all taxes, attorneys' fees and court costs; or (3) continue this Agreement for its term and collect the payments required hereunder.

Section 4.02 Lien. The CITY shall be entitled to and have a tax lien on the Land and Improvements which may, in the event of default in payment of any sum due hereunder that is not cured in accordance with Section 4.04 below, be enforced by CITY in the same manner as provided by law and for the collection of delinquent ad valorem taxes. Additionally, the CITY shall be entitled to and have a contractual lien on the Land and Improvements which may be foreclosed in the event of such uncured default (1) judicially or (2) extra-judicially in the same manner as a deed of trust under Texas Property Code, and for that purpose may appoint a trustee or trustees.

Section 4.03 City Breach. If the CITY breaches this Agreement by annexing or attempting to pass an ordinance annexing any of the Land (except with reference to the agreed annexation corridor in Section 1.03), the COMPANY shall be entitled to enjoin the CITY from the date of its breach for the balance of the term of this Agreement, from enforcing any annexation ordinance adopted in violation of this Agreement and from taking any further action in violation of this Agreement. If the COMPANY elects to pursue this remedy, then so long as the CITY specifically performs its obligations hereunder, under injunctive order or otherwise, the COMPANY shall continue to make the annual payments required by this Agreement.

Section 4.04 Notice of Default. Notwithstanding anything to the contrary contained herein, in the event of any breach by the COMPANY of any of the terms or conditions of this Agreement, the CITY shall give the COMPANY written notice specifying the nature of the alleged default, and manner in which the alleged default may be satisfactorily cured. Thereafter, the COMPANY will be afforded sixty (60) days within which to cure the alleged default (or, if cure requires more than 60 days, the COMPANY shall have the right to demonstrate a satisfactory plan of cure approved by the CITY within such 60 days, which shall be deemed to be a cure so long as the COMPANY is diligently pursuing such plan).

Section 4.05 Cumulative Remedies. The remedies provided herein are cumulative, none is in lieu of any other, and any one or more or combination of the same is available. Each party, in addition to remedies expressly provided herein is entitled to any and all other remedies available at law or in equity.

Section 4.06 No Waiver of Rights and Remedies. It is expressly understood that if at any time the COMPANY is in default in any provision of this Agreement, the failure on the part of the CITY to promptly avail itself of the rights and remedies that the CITY may have, will not be considered a waiver on the part of the CITY; provided that if the CITY within ten (10) years from the date of any default by the COMPANY, does not avail itself of the rights or remedies or elect to terminate this Agreement on account of such default, then such default is deemed waived.

Further, is expressly understood that if at any time the CITY is in default in any provision of this Agreement, the failure on the part of the COMPANY to promptly avail itself of the rights and remedies that the COMPANY may have, will not be considered a waiver on the part of the COMPANY; provided that if the COMPANY within ten (10) years from the date of any default by the CITY, does not avail itself of the rights or remedies or elect to terminate this Agreement on account of such default, then such default is deemed waived.

Section 4.07 Limitation of Liability. To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, in no event will either party be liable to the other party hereunder for punitive, exemplary, or indirect damages, lost profits or business interruptions damages; provided however, this limitation in not meant to limit the CITY'S rights under this Agreement to collect from the COMPANY any unpaid in lieu of tax payments, late penalties and interest associated therewith, and any costs of collection including but not limited to attorney fees.

Article 5

Section 5.01 Description of Property. The COMPANY agrees to provide the CITY with a listing of Geographic ID numbers, as available from NCAD or its successor, to be attached hereto and incorporated herein as Exhibit A. With respect to COMPANY'S acquisition of new land, as described in Section 3.01 F, which becomes included in the Land, COMPANY agrees to provide to CITY a listing of Geographic ID numbers as available from NCAD or its successor.

Article 6

Section 6.01 Annexation By Another Entity. If any attempt to annex any of the Land owned, used, occupied, leased, rented or possessed by COMPANY, is made by another municipality, or if the incorporation of any new municipality should attempt to include within its limits the Land or property, the CITY shall seek a temporary and permanent injunction against the annexation or incorporation, with the cooperation of the COMPANY, and shall take any other legal action necessary or advisable under the circumstances. The cost of the legal action shall be borne

equally by the parties hereto; provided, however, the fees of any special legal counsel shall be paid by the party retaining same.

Section 6.02 Termination. If the CITY and the COMPANY are unsuccessful in obtaining a temporary injunction enjoining the attempted annexation or incorporation described in Section 6.01 above, the COMPANY shall have the option of (1) terminating this Agreement, effective as of the date of the annexation or incorporation, or (2) continuing to make the in lieu of tax payment required hereunder. This option shall be exercised within thirty (30) days after the application for the temporary injunction is denied. If the COMPANY elects to continue the in lieu of tax payment, the CITY shall place future payments hereunder together with part of the payment for the calendar year in which the annexation or incorporation is attempted, prorated to the date the temporary injunction or relief is denied, in a separate interest-bearing escrow account which shall be held by CITY subject to the following:

- A. If final judgment (after all appellate review, if any, has been exhausted) is entered denying a permanent injunction and/or upholding the annexation or incorporation, then all these payments and accrued interest thereon shall be refunded to the COMPANY; or
- B. If final judgment (after all appellate review, if any, has been exhausted) is entered granting a permanent injunction and/or invalidating the annexation or incorporation, then all the payments and accrued interest thereon shall be retained for use by the CITY.

Article 7

Section 7.01 Sale or Lease. Whenever the COMPANY sells all or a portion of the Land or Improvements to any entity that is not an affiliate of the Company, unless such affiliate will be responsible for payment hereunder, the COMPANY shall within ninety (90) days give notice to the CITY of said sale, and this Agreement shall continue in effect as to all Land and Improvements sold. If COMPANY sells only a portion of the Land or Improvements, the COMPANY shall furnish to the CITY a revised Exhibit A effective for the calendar year next following the calendar year in which the conveyance occurred. If the COMPANY leases all or a portion of the Land or Improvements to an entity that will be responsible for payment hereunder, the COMPANY shall within ninety (90) days give notice to the CITY of said lease, and this Agreement shall continue in effect as to all Land and Improvements leased.

Section 7.02 Company's Responsibility for Payment. The COMPANY as seller or lessor in a transaction pursuant to Section 7.01 above, shall remain solely responsible for any payment in lieu of tax attributable to the Land or Improvements sold or leased unless the COMPANY has entered into an assignment and assumption agreement with the buyer or lessee of such Land or Improvements, which shall be consented to by the CITY, in which the buyer or lessee assumes all responsibilities and obligations under this Agreement as to the purchased or leased Land and/or Improvements.

Section 7.03 Assignment. This Agreement may be assigned by the COMPANY. If this Agreement is assigned, the COMPANY shall notify the CITY of such assignment within thirty (30) days.

Article 8

Section 8.01 Inurement. This Agreement shall inure to the benefit of and be binding upon the CITY and the COMPANY, and shall inure to the benefit of and be binding upon the COMPANY'S successors and assigns, affiliates and subsidiaries, and, subject to Section 7.02, shall remain in force whether the COMPANY sells, assigns, or in any other manner disposes of, either voluntarily or by operations of law, all or any part of the Land, and the agreements herein contained shall be held to be covenants running with the Land for so long as this Agreement or any extension thereof remains in force. The word "affiliates" as used herein shall mean: (1) all companies with respect to which the COMPANY directly or indirectly, through one or more intermediaries at the time in question, owns or has the power to exercise control over fifty percent (50%) or more of the stock having the right to vote for the election of directors; or (2) all corporations (or other entities) controlled by or under common control with the Company as contemplated by Section 1239(c) of the Internal Revenue Code of 1954, as amended.

Article 9

Section 9.01 Buy Local. COMPANY shall use reasonable efforts to acquire all of its procurements, including, but not limited to, supplies, materials, equipment, service contracts, construction contracts, and professional services contracts from businesses located within Nueces and San Patricio Counties, unless such procurements are not reasonably and competitively available within said area. COMPANY shall not be required to maintain records regarding this requirement other than those normally kept in its usual course of business.

Section 9.02 Water Procurement. COMPANY acknowledges that the CITY provides a regional water system that is critical to the well-being and economic growth of the entire area and that it is important for each customer to continue to use the system as its principal source of water. COMPANY agrees to provide six months written notice of any intent or action to obtain more than ten percent (10%) of its total water needs from any source other than the CITY.

Article 10

Section 10.01 Severability. In the event any word, phrase, clause, sentence, paragraph, section, article or other part of this Agreement or the application thereof to any person, firm, corporation or circumstances shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of the word, phrase, clause, sentence, paragraph, section, article or other part of this Agreement shall be deemed to be independent of and separable from the remainder of this Agreement and the validity of the remaining parts of this Agreement shall not be affected thereby.

Section 10.02 Entire Agreement. This Agreement constitutes the entire agreement of the parties and supersedes any and all prior understandings, or oral or written agreements, between the parties respecting such subject matter, except as otherwise provided in the instruments referenced herein. This Agreement may be amended only by written instrument signed by all of the parties hereto.

Section 10.03 Notices. Any notice to the COMPANY or the CITY concerning the matters to which this Agreement relates may be given in writing by registered or certified mail addressed to the COMPANY or the CITY at the appropriate respective addresses set forth below. The COMPANY must notify the CITY of any change of address in writing. Notices by a party to the other party hereto, shall be mailed or delivered as follows:

To the City:

Mr. Ronald L. Olson
City Manager
City of Corpus Christi
1201 Leopard
P.O. Box 9277
Corpus Christi, Texas 78469-9277
Phone: 361-880-3220
Fax: 361-880-3839

With copies to:

City of Corpus Christi-City Secretary
1201 Leopard
P.O. Box 9277
Corpus Christi, Texas 78469-9277
Telephone: 361-880-3105
Fax: 361-880-3113

City of Corpus Christi-City Attorney
1201 Leopard
P.O. Box 9277
Corpus Christi, Texas 78469-9277
Telephone: 361-880-3361
Fax: 361-880-3239

If to Company:

with copy to:

Section 10.04 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. This Agreement is to be performed in Nueces County, Texas.

Section 10.05 Counterparts. This Agreement may be executed in multiple counterparts, each of which is deemed an original, and all of which taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

Section 10.06 Authority. By acceptance of this Agreement and/or benefits conferred hereunder, each party represents and warrants to the other that its undersigned agents have complete and

unrestricted authority to enter into this Agreement and to obligate and bind such party to all of the terms, covenants and conditions contained herein.

Section 10.07 Most Favored Nations. If CITY enters into a new Industrial District Agreement, or a renewal of any Industrial District Agreement, with a landowner which contains in lieu of tax payment terms and provisions more favorable to the landowner than those in this Agreement, COMPANY and its assigns shall have the right to either terminate this Agreement, or amend this Agreement to contain the more favorable in lieu of tax payment terms and provisions. “Landowner” shall not include any tourist-related business or facilities under Section 42.044, Texas Local Government Code.

The foregoing does not preclude the CITY from entering into a onetime, economic development agreement with any new major employer within the City’s non-industrial district ETJ, or with any company proposing a major new investment within the City’s non-industrial district ETJ, as part of the CITY’S economic development program.

EXHIBIT A
Geographic ID Number Designated By
Nueces County Appraisal District

EXHIBIT B
Schedule of Value

EXHIBIT C
City Ordinance
Creating Industrial Districts