

130368 - APPROVAL OF A TAX ABATEMENT AGREEMENT WITH BEN E. KEITH
COMPANY, FORT WORTH

3. **TERM.**

This Agreement shall take effect on the date as of which both the City and Company have executed this Agreement (the "Effective Date") and, unless terminated earlier in accordance with its terms and conditions, shall expire upon expiration of the Abatement Term (the "Term").

4. **COMPANY'S OBLIGATIONS AND COMMITMENTS.**

4.1. **Real Property Improvements.**

Company must expend or cause to be expended at least Twenty-two Million Dollars (\$22,000,000.00) in Construction Costs for the Required Improvements by the Completion Date, of which at least Twenty Million Dollars (\$20,000,000) must be Hard Construction Costs, and the Completion Date for the Required Improvements must occur on or before the Completion Deadline (collectively, the "Real Property Improvement Commitment"). Notwithstanding anything to the contrary herein, if the Real Property Improvement Commitment is not met, an Event of Default will occur, as set forth in Section 7.1 of this Agreement.

4.2. **Construction Spending Commitment for Fort Worth Companies.**

By the Completion Date, Company must have expended or caused to be expended at least Three Million Dollars (\$3,000,000.00) in Hard Construction Costs with Fort Worth Companies (the "Fort Worth Construction Spending Commitment").

4.3. **Construction Spending Commitment for Certified M/WBE Companies.**

By the Completion Date, Company must have expended or caused to be expended at least fifteen percent (15%) of all Construction Costs for the Required Improvements, regardless of the total amount of such Construction Costs, with Certified M/WBE Companies (the "M/WBE Construction Spending Commitment"). Expenditures made with any Certified M/WBE Company that also qualifies as a Fort Worth Company under this Agreement will additionally be counted as expenditures made with a Fort Worth Company for purposes of measuring the Fort Worth Construction Spending Commitment.

4.4. Employment Commitments.

Determination each year of compliance with the following employment commitments will be based on the employment data provided to the City pursuant to Section 4.6.2 for the year under evaluation.

4.4.1. Overall Employment.

Company must meet or exceed the following levels of overall employment for the calendar years specified below (for each year below, the "Overall Employment Commitment").

4.4.1.1. First and Second Operating Years.

In the First Operating Year and Second Operating Year, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 855 Full-time Jobs. Notwithstanding anything to the contrary herein, because the Overall Employment Commitment for the First Operating Year and the Second Operating Year is 855 Full-time Jobs, if the Overall Employment Commitment is not met in either of these years, an Event of Default will occur, as set forth in Section 7.2 of this Agreement.

4.4.1.2. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 1,034 Full-time Jobs.

4.4.1.3. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 1,138 Full-time Jobs.

4.4.2. Employment of Fort Worth Residents.

Company must meet or exceed the following levels of employment of Fort Worth Residents for the calendar years specified below (for each year below, the "Fort Worth Employment Commitment"). Full-time Jobs held by Fort Worth Residents will also be counted as Full-time Jobs for purposes of measuring the Overall Employment Commitment outlined

in Section 4.4.1. A Fort Worth Employment Commitment will not apply in either the First Operating Year or Second Operating Year.

4.4.2.1. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Fort Worth Employment Commitment if in the year under evaluation Company provided at least 338 Full-time Jobs to Fort Worth Residents.

4.4.2.2. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Fort Worth Employment Commitment if in the year under evaluation Company provided at least 377 Full-time Jobs to Fort Worth Residents.

4.4.3. Employment of Central City Residents.

Company must meet or exceed the following levels of employment of Central City Residents for the calendar years specified below (for each year below, the "Central City Employment Commitment"). Full-time Jobs held by Central City Residents will also be counted as Full-time Jobs for purposes of measuring the Fort Worth Employment Commitment outlined in Section 4.4.2 as well as for the Overall Employment Commitment outlined in Section 4.4.1. A Central City Employment Commitment will not apply in either the First Operating Year or Second Operating Year.

4.4.3.1. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Central City Employment Commitment if in the year under evaluation Company provided at least 94 Full-time Jobs to Central City Residents.

4.4.3.2. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Central City Employment Commitment if in the year under evaluation Company provided at least 103 Full-time Jobs to Central City Residents.

4.4.4. Average Annual Salary.

Throughout the Third Operating Year and in each year of the Compliance Auditing Term thereafter, the average annual Salary, measured on a calendar year basis, for all Full-time Jobs, regardless of the total number of such Full-time Jobs, must equal at least Seventy-three Thousand Dollars (\$73,000.00) (the "Annual Salary Commitment").

4.5. Annual Supply and Service Spending Commitment.

In the First Operating Year and in each year thereafter during the Compliance Auditing Term, Company annually must expend at least Nine Hundred Thousand Dollars (\$900,000.00) in Supply and Service Expenditures with Fort Worth Companies (the "Supply and Service Spending Commitment").

4.6. Reports and Filings.

4.6.1. Construction Reports.

4.6.1.1. M/WBE Plan.

Within sixty (60) calendar days following the Effective Date of this Agreement, Company must provide the Director with a report that outlines Company's plan to utilize Certified M/WBE Companies for construction of the Required Improvements. Company agrees to meet with the Director and other City staff members to discuss such plan and to consider in good faith any recommendations by the City to increase utilization of Certified M/WBE Companies for construction of the Required Improvements.

4.6.1.2. Semi-Annual Progress.

By June 30 and December 31 of each year prior to the Completion Date, Company must provide the Director with a report in a form reasonably acceptable to the City that specifically outlines the then-aggregate Construction Costs expended for the Required Improvements; the then-aggregate Hard Construction Costs expended with Fort Worth Companies for the Required Improvements; and the then-aggregate Construction Costs expended with Certified M/WBE Companies for the Required Improvements. Company agrees to meet with the Director and other City staff members to discuss any concerns by the City with respect to Company's progress in utilizing Fort Worth Companies and Certified M/WBE Companies for construction of the Required Improvements as of the date of any such report.

4.6.1.3. Final Construction Report.

Within sixty (60) calendar days following the Completion Date, in order for the City to assess whether the Real Property Improvement Commitment was met, as outlined in Section 4.1, and the extent to which the Fort Worth Construction Spending Commitment and the M/WBE Construction Spending Commitment were met, Company must provide the Director with a report in a form reasonably acceptable to the City that specifically outlines the total Construction Costs expended for the Required Improvements; the total Hard Construction Costs expended with Fort Worth Companies for the Required Improvements; and the total Construction Costs expended with Certified M/WBE Companies for the Required Improvements, together with supporting invoices and other documents necessary to demonstrate that such amounts were actually paid by Company, including, without limitation, final lien waivers signed by Company's general contractor.

4.6.2. Annual Employment Report.

On or before February 1 of the Second Operating Year and of each year thereafter for the remainder of the Compliance Auditing Term, in order for the City to assess the extent to which Company met the Overall Employment Commitment and the Annual Salary Commitment in the previous year, Company must provide the Director with a report in a form reasonably acceptable to the City, that sets forth the total number of individuals who held Full-time Jobs, as well as the Salary of each, all as of December 31 (or such other date requested by Company and reasonably acceptable to the City) of the previous calendar year, together with reasonable supporting documentation. Beginning with the report due by February 1 of the Fourth Operating Year, in order for the City to assess the extent to which Company met the Fort Worth Employment Commitment and the Central City Employment Commitment in the previous year, the report must also set forth, in a form reasonably acceptable to the City, the total number of Fort Worth Residents and Central City Residents who held Full-time Jobs in the previous year, together with reasonable supporting documentation. Failure of Company to submit the report pursuant to this Section by February 1 of the Second Operating Year and each year thereafter shall be an Event of Default pursuant to Section 7.7 requiring notice by the City of such delinquency.

4.6.3. Annual Supply and Service Spending Report.

On or before February 1 of the Second Operating Year of each year thereafter for the remainder of the Compliance Auditing Term, in order for

the City to assess the extent to which Company met the Supply and Service Spending Commitment in the previous calendar year, Company must provide the City with a report in a form reasonably acceptable to the City, that sets forth the aggregate Supply and Service Expenditures made during such year with Fort Worth Companies, together with reasonable supporting documentation. Failure of Company to submit the report pursuant to this Section by February 1 of the Second Operating Year and each year thereafter shall be an Event of Default pursuant to Section 7.7 requiring notice by the City of such delinquency.

4.6.4. General.

Company will supply any additional information reasonably requested by the City that is pertinent to the City's evaluation of compliance with each of the terms and conditions of this Agreement, provided that such information is available to Company as part of its or an Affiliate's Records, as that term is defined in Section 4.8.

4.7. Inspections.

At any time during Company's normal business hours throughout the Term and following reasonable notice to Company which shall be no less than twenty-four hour advance notice, the City will have the right to inspect and evaluate the Land, and any improvements thereon, and Company will provide or cause to be provided full access to the same to the extent that no safety hazards are present and not more than a 24 hour delay in construction might reasonably occur as a direct result of such inspection, in order for the City to monitor compliance with the terms and conditions of this Agreement. Company will cooperate fully with the City during any such inspection and evaluation. Notwithstanding the foregoing, Company shall have the right to require that any representative of the City be escorted by a Company representative or security personnel during any such inspection and evaluation.

4.8. Audits.

The City will have the right throughout the Term to audit the financial and business records of Company or an Affiliate that relate directly to the Required Improvements and the Land and any other documents necessary to evaluate Company's compliance with this Agreement and with the commitments set forth in this Agreement, including, but not limited to construction documents and invoices (collectively "**Records**"). Company shall make all Records available to the City on the Land or at another location in the City acceptable to both parties following reasonable advance notice by the City and shall otherwise cooperate fully with the City during any audit.

4.9. Use of Land.

The Land and any improvements thereon, including, but not limited to, the Required Improvements, must be used at all times during the Term of this Agreement for Company's lawful business operations, as set forth in this Agreement, and otherwise in a manner that is consistent with the general purposes of encouraging development or redevelopment of the Zone.

4.10. Abatement Application Fee.

The City acknowledges receipt from Company of the required Application fee of Five Thousand Dollars (\$5,000.00). Of such amount, Two Thousand Dollars (\$2,000.00) is strictly nonrefundable and shall be used by the City for the purposes set forth in the Policy. If construction work on the Required Improvements begins within one (1) year from the date of the Application, the remaining Three Thousand Dollars (\$3,000.00) of such fee shall be credited to Company's benefit against any permit, impact, inspection or other lawful fee required by the City in connection with the Required Improvements. If construction work for the Required Improvements does not begin within one (1) year from the date of the Application, Company will not receive a credit or refund of any portion of the fee. If there is a balance of any of the remaining Application Fee funds after the date on which the Director issues a Certificate of Completion in accordance with Section 5, Company will be entitled to a refund of such remaining Application Fee funds, but only if Company submits a letter to the Director requesting such refund within ninety (90) calendar days following the date of issuance of the Certificate of Completion.

5. CERTIFICATE OF COMPLETION.

Within ninety (90) calendar days following receipt by the City of the final construction spending report for the Required Improvements submitted in accordance with Section 4.6.1.3, and assessment by the City of the information contained therein pursuant to Sections 4.7 and 4.8, if the City is able to verify that the Real Property Improvement Commitment was met, as outlined in Section 4.1, the Director will issue Company a certificate stating the amount of Construction Costs expended for the Required Improvements; the amount of Hard Construction Costs expended for the Required Improvements specifically with Fort Worth Companies; and the amount of Construction Costs expended for the Required Improvements specifically with Certified M/WBE Companies (the "Certificate of Completion"). The Certificate of Completion will serve as the basis for determining the extent to which the Fort Worth Construction Spending Commitment and the M/WBE Construction Spending Commitment was met.

6. **TAX ABATEMENT.**

Subject to the terms and conditions of this Agreement, provided that the Real Property Improvement Commitment was met, as outlined in Section 4.1 and as confirmed in the Certificate of Completion issued by the Director in accordance with Section 5, Company will be entitled to receive and the City agrees to provide Company an Abatement in each year of the Abatement Term. City agrees to take any required steps to effectuate the Abatement in each year of the Abatement Term, including, but not limited to, providing any necessary notices to the Tarrant Appraisal District. The City and Company agree to work together in an expeditious manner to effectuate the Abatement in each year of the Abatement Term and reasonably cooperate to submit the necessary documentation to any third parties to effectuate the Abatement. The amount of each Abatement that Company is entitled to receive and which the City will provide during such years will be a percentage of the City's incremental ad valorem taxes on the Land and any improvements located thereon, and on New Taxable Tangible Personal Property attributable to increases in the value of such Land, improvements, and New Taxable Tangible Personal Property over their taxable values for the 2019 tax year, which percentage will equal the sum of the Real Property Improvement Percentage; the Fort Worth Construction Percentage; the M/WBE Construction Percentage; the Overall Employment Percentage; the Fort Worth Employment Percentage (to the extent applicable); the Central City Employment Percentage (to the extent applicable); and the Supply and Service Percentage, as defined in Sections 6.1 through 6.7 (not to exceed fifty percent (50%)), as follows:

6.1. **Completion of Required Improvements (20% in Years 1 and 2 of the Abatement Term; 5% Thereafter).**

Company will be entitled to receive a percentage of the Abatement on account of Company's having met the Real Property Improvement Commitment in accordance with Section 4.1 (the "Real Property Improvement Percentage"), as follows:

6.1.1. **Years 1 and 2 of the Abatement Term.**

For the Abatement granted in the first and second years of the Abatement Term, the Real Property Improvement Percentage will equal twenty percent (20%).

6.1.2. **All Subsequent Years of the Abatement Term.**

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Real Property Improvement Percentage will equal five percent (5%).

6.2. Fort Worth Hard Construction Cost Spending (Up to 5% in Years 1 and 2 of the Abatement Term; Up to 2.5% Thereafter).

A percentage of the Abatement will be based on the extent to which the Fort Worth Construction Spending Commitment, as outlined in Section 4.2, was met (the "Fort Worth Construction Percentage"), as follows:

6.2.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, the Fort Worth Construction Percentage will equal the product of five percent (5%) multiplied by the percentage by which the Fort Worth Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended for the Required Improvements by the Completion Date with Fort Worth Companies by \$3,000,000.00, which is the number of dollars comprising the Fort Worth Construction Commitment, as set forth in Section 4.2. For example, if Company only expended \$2,550,000.00 in Hard Construction Costs with Fort Worth Companies by the Completion Date, the Fort Worth Construction Percentage would be 4.25% instead of 5% (or $.05 \times [\$2.55 \text{ million}/\$3 \text{ million}]$, or $.05 \times .85$, or $.0425$). If the Fort Worth Construction Commitment was met or exceeded, the Fort Worth Construction Percentage will be five percent (5%).

6.2.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Fort Worth Construction Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the Fort Worth Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended for the Required Improvements by the Completion Date with Fort Worth Companies by \$3,000,000.00, which is the number of dollars comprising the Fort Worth Construction Commitment, as set forth in Section 4.2. For example, if Company only expended \$2,550,000.00 in Hard Construction Costs with Fort Worth Companies by the Completion Date, the Fort Worth Construction Percentage would be 2.125% instead of 2.5% (or $.05 \times [\$2.55 \text{ million}/\$3 \text{ million}]$, or $.025 \times .85$, or $.02125$). If the Fort Worth Construction Commitment was met or exceeded, the Fort Worth Construction Percentage will be two and one-half percent (2.5%).

6.3. M/WBE Construction Spending (10%).

A percentage of the Abatement granted in each year of the Abatement Term will be based on the whether the M/WBE Construction Spending Commitment, as outlined in Section 4.3, was met (the "M/WBE Construction Percentage"). If

Company met or exceeded the M/WBE Construction Spending Commitment, the M/WBE Construction Percentage for each Abatement hereunder will be ten percent (10%). If Company failed to meet the M/WBE Construction Spending Commitment, the M/WBE Construction Percentage for each Abatement hereunder will be zero percent (0%).

6.4. Overall Employment (10% in Years 1 and 2 of the Abatement Term; Up to 25% Thereafter).

A percentage of the Abatement will be based on the extent to which the applicable Overall Employment Commitment, as outlined in Section 4.4.1, was met (the "Overall Employment Percentage"), as follows:

6.4.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, if Company met the Overall Employment Commitment in the previous year, the Overall Employment Percentage will equal ten percent (10%). Notwithstanding anything to the contrary herein, because the Overall Employment Commitment applicable for the Abatement granted in these two years is 855 Full-time Jobs, if the Overall Employment Commitment was not met in the previous year in either case, an Event of Default will occur, as set forth in Section 7.2 of this Agreement.

6.4.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and in each subsequent year of the Abatement Term, subject to Section 7.2 of this Agreement, the Overall Employment Percentage will equal the product of twenty-five percent (25%) multiplied by the percentage by which the applicable Overall Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided in the previous year by the number of Full-time Jobs constituting the Overall Employment Commitment for that year. For example, in accordance with Section 4.4.1.2, the Overall Employment Commitment for the Fourth Operating Year is 1,034 Full-time Jobs. If, instead, only 931 Full-time Jobs were provided in Fourth Operating Year, the Overall Employment Percentage for the Abatement granted in the following year would be 22.5% instead of 25% (or $.25 \times [931/1,034]$), or $.25 \times .90$, or .225. If the applicable Overall Employment Commitment is met or exceeded in a given year, the Overall Employment Percentage for the Abatement granted in the following year will be twenty-five percent (25%).

6.5. Fort Worth Employment (Up to 2.5% in Year 3 and All Subsequent Years of the Abatement Term).

A Fort Worth Employment Commitment does not apply for the Abatements granted in the first two years of the Abatement Term. For the Abatement granted in the third and in each subsequent year of the Abatement Term, a percentage of the Abatement will be based on the extent to which the applicable Fort Worth Employment Commitment, as outlined in Section 4.4.2, was met (the "Fort Worth Employment Percentage"). The Fort Worth Employment Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the applicable Fort Worth Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided to Fort Worth Residents in the previous year by the number of Full-time Jobs constituting the Fort Worth Employment Commitment for that year. For example, the Fort Worth Employment Commitment for the Fifth Operating Year is, in accordance with Section 4.4.2.2, 377 Full-time Jobs. If in that year only 300 Full-time Jobs were provided to Fort Worth Residents, the Fort Worth Employment Percentage for the Abatement granted in following year would be 1.99% instead of 2.5% (or $.025 \times [300/377]$), or $.025 \times .796$, or .0199. If the applicable Fort Worth Employment Commitment is met or exceeded in a given year, the Fort Worth Employment Percentage for the Abatement granted in the following year will be two and one-half percent (2.5%).

6.6. Central City Employment (Up to 2.5% in Year 3 and All Subsequent Years of the Abatement Term).

A Central City Employment Commitment does not apply for the Abatements granted in the first two years of the Abatement Term. For the Abatement granted in the third and in each subsequent year of the Abatement Term, a percentage of the Abatement will be based on the extent to which the applicable Central City Employment Commitment, as outlined in Section 4.4.3, was met (the "Central City Employment Percentage"). The Central City Employment Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the applicable Central City Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided to Central City Residents in the previous year by the number of Full-time Jobs constituting the Central City Employment Commitment for that year. For example, the Central City Employment Commitment for the Third Operating Year is, in accordance with Section 4.4.3.1, 94 Full-time Jobs. If in that year only 80 Full-time Jobs were provided to Central City Residents, the Central City Employment Percentage for the Abatement granted in following year would be 2.12% instead of 2.5% (or $.025 \times [80/94]$), or $.025 \times .851$, or .0212. If the applicable Central City Employment Commitment is met or exceeded in a given year, the Central City Employment Percentage for the Abatement granted in the following year will be two and one-half percent (2.5%).

6.7. Supply and Service Spending (Up to 5% in Years 1 and 2 of the Abatement Term; Up to 2.5% Thereafter).

A percentage of the Abatement will be based on the extent to which the Supply and Service Spending Commitment, as outlined in Section 4.5, was met (the "Supply and Service Percentage"), as follows:

6.7.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, the Supply and Service Percentage will equal the product of five percent (5%) multiplied by the percentage by which the Supply and Service Spending Commitment was met in the previous calendar year, which will be calculated by dividing the actual Supply and Service Expenditures made in the previous calendar year with Fort Worth Companies by \$900,000.00, which is the Supply and Service Spending Commitment established under Section 4.5. For example, if in a given year Company only expended \$675,000.00 in Supply and Service Expenditures with Fort Worth Companies, the Supply and Service Percentage for the following year would be 3.75% instead of 5% (or $.05 \times [\$675,000/\$900,000]$, or $.05 \times .75$, or $.0375$). If the Supply and Spending Commitment is met or exceeded in a given year, the Supply and Service Percentage for the following year will be five percent (5%).

6.7.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Supply and Service Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the Supply and Service Spending Commitment was met in the previous calendar year, which will be calculated by dividing the actual Supply and Service Expenditures made in the previous calendar year with Fort Worth Companies by \$900,000.00, which is the Supply and Service Spending Commitment established under Section 4.5. For example, if in a given year Company only expended \$675,000.00 in Supply and Service Expenditures with Fort Worth Companies, the Supply and Service Percentage for the following year would be 1.875% instead of 2.5% (or $.025 \times [\$675,000/\$900,000]$, or $.025 \times .75$, or $.01875$). If the Supply and Spending Commitment is met or exceeded in a given year, the Supply and Service Percentage for the following year will be two and one-half percent (2.5%).

6.8. Abatement Limitations.

In accordance with Section 15.5 of the Policy and notwithstanding anything to the contrary herein, Company's Abatement on the Land and any

improvements thereon in any given year of the Abatement Term will be based on the increase in the real property value of the Land and all improvements thereon over their value as of January 1, 2019, up to a maximum increase of Thirty-three Million Dollars (\$33,000,000.00). In other words, with regard to the real property tax Abatement, in any year in which the taxable value of the Land and all improvements thereon exceeds (i) the value of the Land and all improvements thereon as of January 1, 2019, plus (ii) \$33,000,000.00, Company's real property tax Abatement for that tax year will be capped and calculated as if the increase on the Land and all improvements thereon since January 1, 2019 had only been \$33,000,000.00. For example, and as an example only, if in a given year of the Abatement Term the value of the Land and all improvements on the Land is \$45,000,000.00 over their value as of January 1, 2019, Company would receive a maximum real property tax Abatement of fifty percent (50%) of \$33,000,000.00 in valuation for that year and would pay full taxes on the \$12,000,000.00 difference over the cap. The cap outlined in Section 15.5 of the Policy applies only to the Abatement on real property, and does not apply to the Abatement on the incremental value of New Taxable Tangible Personal Property.

7. DEFAULT, TERMINATION AND FAILURE BY COMPANY TO MEET VARIOUS DEADLINES AND COMMITMENTS.

7.1. Failure to Meet Real Property Improvement Commitment.

Notwithstanding anything to the contrary herein, if the Real Property Improvement Commitment, as outlined in Section 4.1, is not met, an Event of Default will occur and the City will have the right to terminate this Agreement, effective immediately, by providing written notice to Company without further obligation to Company hereunder.

7.2. Failure to Maintain a Minimum of 855 Full-time Jobs.

If Company and its Affiliates fail to maintain at least 855 Full-time Jobs in any year of the Compliance Auditing Term, as determined by the City on the basis of Company's employment report for such year submitted in accordance with Section 4.6.2 and the City's rights under Sections 4.7 and 4.8 of this Agreement, then notwithstanding anything to the contrary herein, an Event of Default will occur, and the City will have the right to terminate this Agreement, effective immediately, by providing written notice to Company without further obligation to Company hereunder.

7.3. Forfeiture for Failure to Meet Annual Salary Commitment.

Notwithstanding anything to the contrary herein, if the Annual Salary Commitment in the Third Operating Year or any subsequent year during the Compliance Auditing Term is not met, as determined by the City on the basis of Company's employment report submitted in accordance with Section 4.6.2 for such year and the City's rights under Sections 4.7 and 4.8 of this Agreement, an Event of Default will not occur, but Company will forfeit the entirety of the Abatement that would otherwise have been granted in the following year. In this event, Company will nevertheless have been deemed to have received an Abatement in that year for purposes of calculating the remaining number of years in the Abatement Term and the number of future Abatements that Company will be entitled to receive.

7.4. Foreclosure on Land or Required Improvements.

Subject to Section 11, the City will have the right to terminate this Agreement immediately upon provision of written notice to Company of any of the following events: (i) the conveyance of the Land or the Required Improvements to a non-Affiliate pursuant to an action to foreclose or otherwise enforce a lien, mortgage or deed of trust on the Land or the Required Improvements; (ii) the involuntary conveyance to a third party of the Land or the Required Improvements; (iii) execution of any assignment of the Land or Required Improvements to a non-Affiliate or deed in lieu of foreclosure to the Land or Required Improvements to a non-Affiliate; or (iv) appointment of a trustee or receiver for the Land or Required Improvements and such appointment is not terminated within one hundred twenty (120) calendar days after the appointment occurs.

7.5. Failure to Pay Taxes or Non-Compliance with Other Legal Requirements.

An Event of Default will occur if any ad valorem taxes owed to the City by Company become delinquent and Company does not timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes, or Company is in violation of any material Legal Requirement due to any act or omission connected with Company's operations on the Land; provided, however, that an Event of Default shall not exist under this sentence if Company cures the applicable failure or violation within thirty (30) calendar days (or such additional time as may be reasonably required) after City provides written notice of such failure or violation.

7.6. Knowing Employment of Undocumented Workers.

Company acknowledges that effective September 1, 2007, the City is required to comply with Chapter 2264 of the Texas Government Code, enacted by House Bill 1196 (80th Texas Legislature), which relates to restrictions on the use of certain public subsidies. *Company hereby certifies that Company, and any*

branches, divisions, or departments of Company, does not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code. In the event that Company, or any branch, division, or department of Company, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens) and such violation occurs during the Term of this Agreement:

- if such conviction occurs during the Term of this Agreement, this Agreement shall terminate contemporaneously upon such conviction (subject to any appellate rights that may lawfully be available to and exercised by Company) and Company shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the City, the aggregate amount of Abatement received by Company hereunder, if any, plus Simple Interest at a rate of two percent (2%) per annum based on the amount of Abatement received in each previous year as of December 31 of the tax year for which the Abatement was received; or*
- if such conviction occurs after expiration or termination of this Agreement, subject to any appellate rights that may lawfully be available to and exercised by Company, Company shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the City, the aggregate amount of Abatement received by Company hereunder, if any, plus Simple Interest at a rate of two percent (2%) per annum based on the amount of Abatement received in each previous year as of December 31 of the tax year for which the Abatement was received.*

For the purposes of this Section 7.6, "Simple Interest" is defined as a rate of interest applied only to an original value, in this case the aggregate amount of Abatement. This rate of interest can be applied each year, but will only apply to the aggregate amount of Abatement and is not applied to interest calculated. For example, if the aggregate amount of Abatement is \$10,000 and it is required to be paid back with two percent (2%) interest five years later, the total amount would be $\$10,000 + [5 \times (\$10,000 \times 0.02)]$, which is \$11,000. This Section 7.6 does not apply to convictions of any subsidiary or affiliate entity of Company, by any franchisees of Company, or by a person or entity with whom Company contracts. Notwithstanding anything to the contrary herein, this Section 7.6 shall survive the expiration or termination of this Agreement.

7.7. General Breach.

In addition to Sections 7.1, 7.2, 7.4, and 7.6, and subject to Sections 7.3 and 7.8, an Event of Default under this Agreement will occur if either party materially breaches any term or condition of this Agreement, in which case the non-defaulting party must provide the defaulting party with written notice specifying the nature of the Default. Subject to Sections 7.1, 7.2, and 7.4, in the event that any Event of

Default hereunder remains uncured after thirty (30) calendar days following receipt of such written notice (or, if the defaulting party has diligently and continuously attempted to cure following receipt of such written notice but reasonably requires more than thirty (30) calendar days to cure, then such additional amount of time as is reasonably necessary to effect cure, as determined by both parties mutually and in good faith), the non-defaulting party will have the right to terminate this Agreement, effective immediately, by providing written notice to the defaulting party.

7.8. Failure to Meet Other Commitments.

A failure to meet the Fort Worth Construction Commitment, the M/WBE Construction Spending Commitment, the Overall Employment Commitment (but subject to Section 7.2), the Fort Worth Employment Commitment, the Central City Employment Commitment, or the Supply and Service Spending Commitment will not constitute an Event of Default hereunder or provide the City with the right to terminate this Agreement, but, rather, shall only cause the percentage or amount of Abatement available to Company pursuant to this Agreement to be reduced in accordance with this Agreement.

7.9. Statutory Damages.

Company acknowledges and agrees that termination of this Agreement due to an Event of Default by Company will (i) harm the City's economic development and redevelopment efforts on the Land and in the vicinity of the Land; (ii) require unplanned and expensive additional administrative oversight and involvement by the City; and (iii) be detrimental to the City's general economic development programs, both in the eyes of the general public and by other business entities and corporate relocation professionals, and Company agrees that the exact amounts of actual damages sustained by the City therefrom will be difficult or impossible to ascertain. Therefore, upon termination of this Agreement for any Event of Default, and as authorized by Section 312.205(b)(6) of the Code, Company must pay the City, as damages authorized by the Code, an amount equal to all taxes that were abated in accordance with this Agreement for each year in which an Event of Default existed and which otherwise would have been paid to the City in the absence of this Agreement. The City and Company agree that this amount is a reasonable approximation of actual damages that the City will incur as a result of an uncured Event of Default and that this Section 7.9 is intended to provide the City with compensation for actual damages, as authorized by the Code, and is not a penalty. This amount may be recovered by the City through adjustments made to Company's ad valorem property tax appraisal by the appraisal district that has jurisdiction over the Land and over any taxable tangible personal property located thereon. Otherwise, this amount will be due, owing and paid to the City within one hundred twenty (120) days following the effective date of termination of this Agreement. In the event that all or any portion of this amount is not paid to the City within one hundred twenty (120) days following the effective date of

termination of this Agreement, Company shall also be liable for all penalties and interest on any outstanding amount at the statutory rate for delinquent taxes, as determined by the Code at the time of the payment of such penalties and interest (currently, Section 33.01 of the Code).

7.10 Failure to Submit Reports or Grant Abatement.

7.10.1. By Company.

If Company is required by Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder to file, submit, or complete any kind of documentation or report as a condition necessary for Company to receive any Abatement pursuant to this Agreement, Company shall solely be responsible for fulfilling that obligation and shall have no recourse against the City if Company fails to receive any Abatement as a result of Company's failure to file, submit, or complete such documentation.

7.10.2. By the City.

If City is required by Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder to file, submit, or complete any documentation or report necessary for Company to receive any Abatement pursuant to this Agreement, or if City fails to grant and/or effectuate an Abatement due to Company pursuant to this Agreement in any given year during the Term, and if no Event of Default exists due to Company's failure to comply with this Agreement, the Term of this Agreement and the Abatement Term shall be automatically extended on a year-to-year basis (the "Extension Term") until the Company receives and the City provides the Abatement provided by this Agreement. In this event, the aggregate value of any future Abatement or Abatements that Company may be granted during the Extension Term may not exceed the aggregate value of the Abatement or Abatements that Company did not receive but otherwise would have received if the City had granted, effectuated, or filed, submitted, and completed the necessary documentation or reports.

7.10.3. Dispute Resolution.

If Company fails to receive any Abatement on account of a failure of documentation to be filed, submitted, or completed to Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder, and there is a reasonably-based dispute between the City and Company as to whether the City or Company was responsible for such failure, then the City and Company agree to meet promptly and in good faith attempt to negotiate a

mutually-acceptable and equitable remedy, with the understanding that this Section 7.10 does not guarantee that the City and Company will be able to agree on any particular remedy.

8. **INDEPENDENT CONTRACTOR.**

It is expressly understood and agreed that Company shall operate as an independent contractor in each and every respect hereunder and not as an agent, representative or employee of the City. Company shall have the exclusive right to control all details and day-to-day operations relative to the Land and any improvements thereon and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees and invitees. Company acknowledges that the doctrine of *respondeat superior* will not apply as between the City and Company, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. Company further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the City and Company.

9. **INDEMNIFICATION.**

COMPANY, AT NO COST TO THE CITY, AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS SERVANTS AND EMPLOYEES (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO COMPANY'S BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY (i) COMPANY'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (ii) ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF COMPANY, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS (OTHER THAN THE CITY) OR SUBCONTRACTORS, RELATED TO THE REQUIRED IMPROVEMENTS, THE LAND AND ANY OPERATIONS AND ACTIVITIES THEREON, OR THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS AGREEMENT SHALL OBLIGATE OR REQUIRE COMPANY TO DEFEND, INDEMNIFY, AND HOLD THE INDEMNIFIED PARTIES HARMLESS FOR ANY CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF ANY OR ALL OF THE INDEMNIFIED PARTIES. THIS SECTION SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

CO # 130368



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER

PAGE 1 OF

96

DATE: 06/11/2019

SUBJECT: APPROVAL OF A TAX ABATEMENT AGREEMENT WITH BEN E. KEITH COMPANY, FORT WORTH

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court approve the Resolution and Tax Abatement Agreement providing for Tarrant County participation with the City of Fort Worth in the abatement of ad valorem taxes on the eligible real and personal property improvements made by Ben E. Keith Company for expansion of its office and warehouse facilities at 7600 and 7650 Will Rogers Blvd., Fort Worth, for a period of seven (7) years at a maximum abatement percentage of fifty percent (50%) as set forth in the Agreement, and authorize the County Judge, or his designee, to execute the Agreement.

BACKGROUND:

Established in 1906 and headquartered in Fort Worth, Ben E. Keith Company is a distributor of food and beverage products and one of the largest privately held companies in the DFW area. The Ben E. Keith food division distributes over 20,000 various food products to independent and chain restaurants, hotels, institutional facilities, clubs, and other on-site food preparation business across Texas, Louisiana, and Oklahoma. Ben E. Keith is looking to expand its Fort Worth Food Service operations, adding approximately 185,000 square feet to its existing DFW regional headquarters facility off Will Rogers Blvd. in south Fort Worth. The company plans to invest at least \$29 million in total construction costs and new machinery and equipment by June 30, 2021.

Ben E. Keith Foods currently employs 855 full-time employees at this location, and the expansion is expected to add a minimum of 283 new full-time jobs over five years after completion, with an average salary for administrative and sales positions of \$126,200.00 annually, and an average annual salary of \$71,900.00 for transportation and warehouse positions. Healthcare and other employee benefits are provided at a reasonable cost to full-time time employees, and the company and its employees support many local community organizations and programs.

The City of Fort Worth has approved a seven (7) year tax abatement providing up to fifty percent (50%) abatement of real and personal property taxes.

SUBMITTED BY:	Administrator's Office	PREPARED BY:	Lisa McMillan
		APPROVED BY:	



COMMISSIONERS COURT COMMUNICATION

REFERENCE NUMBER: _____

DATE: 06/11/2019

PAGE 2 OF _____

96

The attached County Tax Abatement Agreement provides for County participation in tax abatement at a maximum of fifty percent (50%) of new real and personal property value for a period of seven (7) years, beginning with a base abatement of forty percent (40%) and providing up to ten percent (10%) additional abatement for employment and performance-based criteria.

To receive a base forty percent (40%) abatement, Ben E. Keith Company will be required to expend a minimum \$22 million in real property improvement costs, add a minimum of \$7 million in new taxable business personal property to the site, meet specific levels of spending with Tarrant County and DBE contractors/companies, retain existing employment of 855 full-time jobs, add 179 full-time positions by the end of 2024, and have added a total of 283 new positions by the end of 2026. Tax abatement will apply only to that portion of value added over and above the current 2019 real property value of the facility on the Tarrant County tax rolls. Up to an additional ten percent (10%) abatement can be incrementally earned for added full-time employment to the site above the minimum required jobs, and for added community commitments in terms of Tarrant County resident employment and additional spending with DBE and Tarrant County companies for construction costs. The total cumulative percentage of ad valorem tax abatement that may be received in any one year is capped at fifty percent (50%).

FISCAL IMPACT:

Total new real and personal property value added from this development is estimated at over \$29 million (\$22 million for real property and \$7 million for business personal property). Based on current tax rates, should Ben E. Keith earn the maximum tax abatement of fifty percent (50%) for all seven (7) years, the project could receive a total seven-year tax abatement of approximately \$238,000.00 from the County. The actual amount of taxes abated will be dependent on the appraised value of the improvements as determined by the Tarrant Appraisal District and the percentage abatement earned each year. Hospital District taxes will not be abated.

Over that same period, the County will receive tax revenues from the unabated portion of the new improvements, as well as the current base value of the land and existing facility. New tax revenues solely from the unabated portion of new improvements are expected to be approximately \$34,000.00 annually. The Hospital District could add approximately \$65,000.00 per year in new tax revenues from the expansion project.



RESOLUTION

PARTICIPATION IN TAX ABATEMENT FOR BEN E. KEITH COMPANY, FORT WORTH, TX

WHEREAS, Ben E. Keith Company, a Texas corporation, acting by and through its authorized officers (hereafter referred to as "Company"), plans to expand its office and warehouse facility on real property under its ownership, more particularly described in the Tax Abatement Agreement attached hereto and incorporated herein by reference ("Real Property"); and

WHEREAS, the Real Property is located within Tarrant County (the "County"), a political subdivision of the State of Texas, which Real Property is located within the City of Fort Worth; and

WHEREAS, the Real Property and all improvements and tangible personal property thereon, whether now existing or hereinafter to be constructed or installed, are subject to ad valorem taxation by the City of Fort Worth and the County; and

WHEREAS, the City Council of the City of Fort Worth has adopted Ordinance No. 23575-02-2019 establishing Tax Abatement Reinvestment Zone No. 98, City of Fort Worth, and has approved and executed a Tax Abatement Agreement as it relates to improvements made on the Real Property; and

WHEREAS, the Tax Abatement Agreement (the "Agreement") between Tarrant County and Company, provides for the construction and installation of certain improvements at an estimated cost of \$29,000,000 to be completed by June 30, 2021; and

WHEREAS, the Agreement with the Company is conditioned upon specific real and personal property improvements, continued operation of the facility and the addition of new jobs; and

WHEREAS, the Commissioners Court has been requested by the Company to take the steps required pursuant to the Code to permit tax abatement with respect to that portion of the Real Property and the improvements thereon which are subject to the taxing jurisdiction of the County, and has further requested that the County enter in the Agreement; and

WHEREAS, the County has approved the Tarrant County Tax Abatement Policy Statement Guidelines and Criteria for granting tax abatement in reinvestment zones in Tarrant County;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Commissioners Court of Tarrant County, Texas:

1. That all recitals set forth in the preamble are hereby found to be true and correct;

10. **NOTICES.**

All written notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail, postage prepaid, or by hand delivery:

City:

City of Fort Worth
Attn: City Manager
200 Texas Street
Fort Worth, TX 76102

Company:

Ben E. Keith Company
Attn: Legal Dept.
601 E. 7th Street
Ft. Worth, TX 76102

with copies to:

the City Attorney at the same address and
to the Director at:

City of Fort Worth
Attn: Director
Economic Development Department
1150 South Freeway
Fort Worth, TX 76104

11. **EFFECT OF SALE OF LAND AND/OR REQUIRED IMPROVEMENTS;
ASSIGNMENT AND SUCCESSORS.**

Company may assign this Agreement and all or any of the benefits provided hereunder to (a) an Affiliate that owns or takes title to the Land and any improvements thereon or any New Taxable Tangible Personal Property or (b) a successor to Company by merger or consolidation only if (i) prior to or contemporaneously with the effectiveness of such assignment, Company provides the City with written notice of such assignment, which notice must include the name of the Affiliate or successor by merger or consolidation and a contact name, address and telephone number for the Affiliate or successor, and (ii) the Affiliate or successor by merger or consolidation agrees in writing to assume all terms and conditions of Company under this Agreement. Otherwise, Company may not assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any other person or entity without the prior consent of the City Council, which consent will not be unreasonably withheld, conditioned on (i) the proposed assignee or successor agrees to take title to the Land and all improvements thereon and any New Taxable Tangible Personal Property; (ii) the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement; and (iii) prior execution by the proposed assignee or successor of a written agreement with the City under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of Company under this Agreement. Any attempted assignment without the City Council's prior consent shall

constitute an Event of Default under this Agreement. Any lawful assignee or successor in interest of Company of all rights under this Agreement shall be deemed "Company" for all purposes under this Agreement.

12. **COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.**

This Agreement is subject to all applicable Legal Requirements.

13. **GOVERNMENTAL POWERS.**

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

14. **SEVERABILITY.**

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. **NO WAIVER.**

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

16. **VENUE AND JURISDICTION.**

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

17. **NO THIRD PARTY RIGHTS.**

The provisions and conditions of this Agreement are solely for the benefit of the City and Company, and any lawful assign or successor of Company, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

18. **INTERPRETATION.**

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement shall be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement. In the event of any conflict between the body of this Agreement and the Application, the body of this Agreement shall control.

19. **CAPTIONS.**

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

20. **ENTIRETY OF AGREEMENT.**

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Company, and any lawful assign and successor of Company, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. Notwithstanding anything to the contrary herein, this Agreement shall not be amended unless executed in writing by both parties and approved by the City Council of the City in an open meeting held in accordance with Chapter 551 of the Texas Government Code.

21. **COUNTERPARTS.**

This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

22. **BONDHOLDER RIGHTS.**

The Required Improvements will not be financed by tax increment bonds. This Agreement is subject to the rights of holders of outstanding bonds of the City.

23. **CONFLICTS OF INTEREST.**

Neither the Land nor any improvements thereon are owned or leased by any member of the City Council, any member of the City Plan or Zoning Commission or any member of the governing body of any taxing unit with jurisdiction in the Zone.

EXECUTED as of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT THREE (3) PAGES]

CITY OF FORT WORTH:

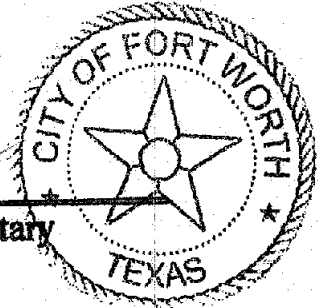
By: *Kevin Gunn*
Susan Alanis *Kevin Gunn*
Acting Assistant City Manager

Date: 4/18/2019

APPROVED AS TO FORM AND LEGALITY:

By: *Peter Vaky*
Peter Vaky
Deputy City Attorney

Attested by: *Mary J. Kayser*
Mary J. Kayser, City Secretary



M&C: C-29042 02-12-2019

Form 1295: 2019-444916

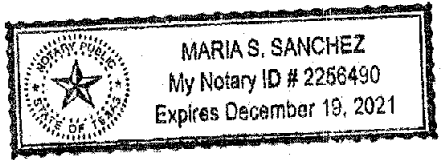
STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared ^{*Kevin*} ~~Susan~~ ^{*Gunn*} ~~Alanis~~, Assistant City Manager of the CITY OF FORT WORTH, a municipal corporation organized under the laws of the State of Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the CITY OF FORT WORTH, that he was duly authorized to perform the same by appropriate resolution of the City Council of the City of Fort Worth and that he executed the same as the act of the CITY OF FORT WORTH for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of April, 2019.

Maria S. Sanchez
Notary Public in and for
the State of Texas
Maria S. Sanchez
Notary's Printed Name



BEN E. KEITH COMPANY,
a Texas corporation:

By: MS
Name: Mike Sweet
Title: President, Ben E. Keith Foods

Date: 4-15-19

STATE OF TEXAS §

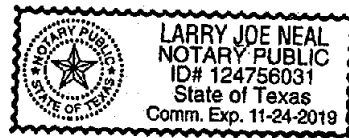
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Mike Sweet, President of BEN E. KEITH COMPANY, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of BEN E. KEITH COMPANY.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 2019.

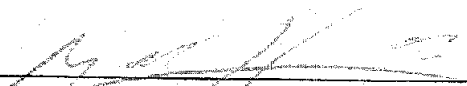
Larry Joe Neal
Notary Public in and for
the State of Texas

Larry Joe Neal
Notary's Printed Name



CONTRACT COMPLIANCE MANAGER:

By signing below, I hereby acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements:

By: 
Name of City Employee:
Title: *Business Development Coordinator*

EXHIBITS

“A” – Description and Map Depicting the Land

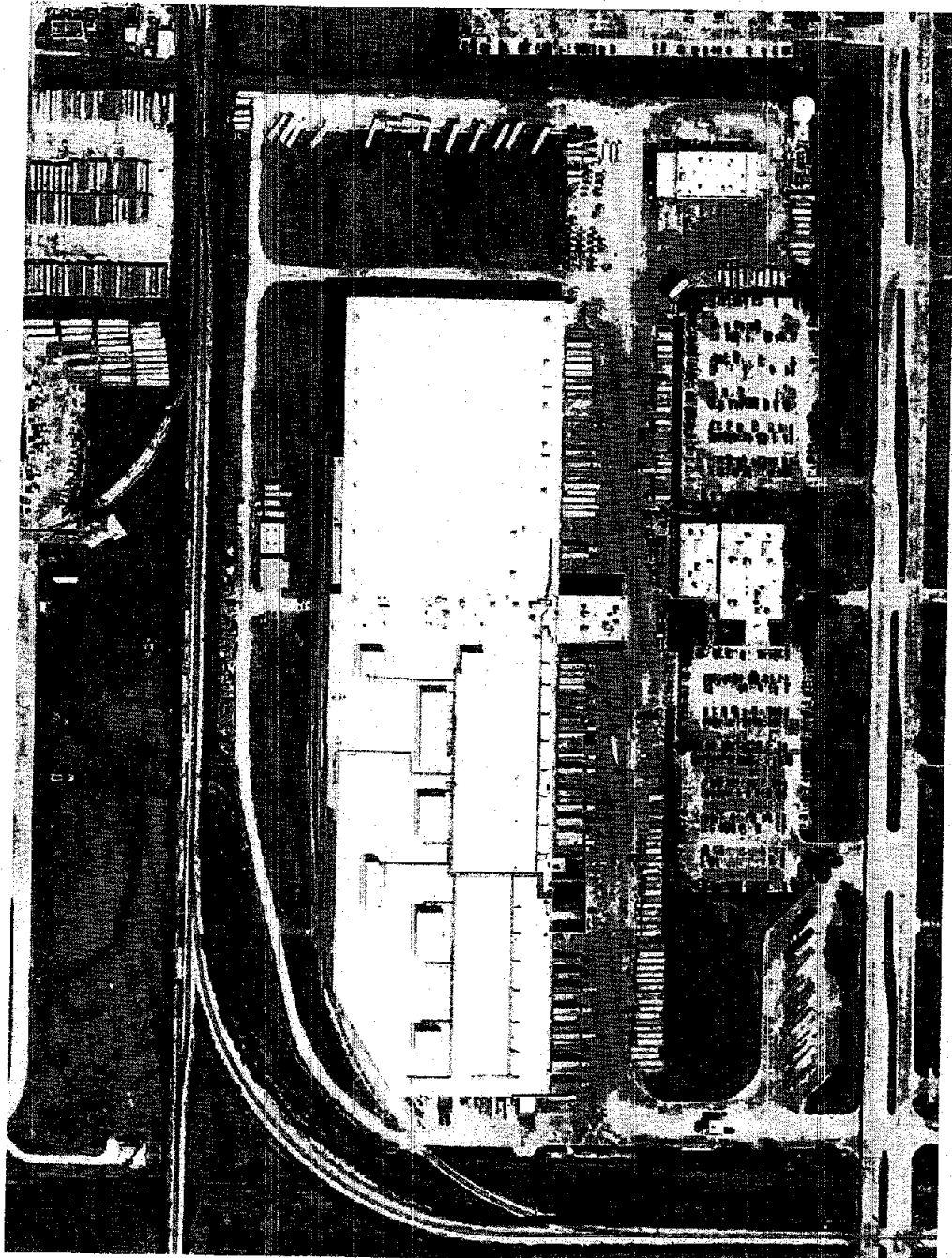
“B” – Company’s Tax Abatement Application

“C” – Map of Central City

EXHIBIT "A"
LEGAL DESCRIPTION

Being all of Lot 4, Block 4 of the Cater Industrial Park, an addition to the City of Fort Worth, Tarrant County, Texas according to the plat recorded in Document No. D199122589, Deed Records, Tarrant County, Texas

Map generally outlining boundary of the Land, currently designated as Tarrant Appraisal District Account No. 07345925:





Economic Development Incentive Application

Economic Development Department
1150 South Freeway
Fort Worth, Texas 76104
(817) 871-6021

Incentive Application

APPLICANT INFORMATION

Date: August 30, 2018

Company Name: Ben E. Keth Company

Company Address: 601 E. 7th Street

City: Fort Worth

State: TX

Zip: 76102

Contact Person: Eric Alexander

Title/Position: Associate General Counsel

Telephone Number: 817-759-6107

Mobile Telephone Number: _____

Fax Number: _____

E-Mail Address: ebalexander@benekeith.com

1. If the applicant represents a Company: (If a Developer and not a Company, proceed to #2.)

A. Company Ownership (check one): Publicly Traded Stock Privately Held

B. Form of Business (choose one): Corporation

C. How long has the company been in operation (Years)? 112

D. Company Industry: Broadline foodservice distribution

E. Describe the Company's principal business:

See attached "Project Description"

F. Describe the Company's international presence, if any:

BEK's DFW regional HQ has no international presence. BEK's San Antonio Division does a small amount of business in Mexico.

G. Describe the Company's corporate citizenship practices:

See attached "Corporate Citizenship Practices"

2. If the applicant represents a Developer:

A. Describe the Developer's experience and background. Please include similar projects that you have constructed including the project type and location (attach additional sheets as necessary):

B. Development Partners (Architect, Engineering Team, Interior Design, General Contract, etc.)

PROJECT INFORMATION

Please include below the project description, project benefits and how the project positively impacts the community. Any incentives given by the City should be considered only "gap" financing and should not be considered a substitute for debt and equity. However, the City is under no obligation to provide gap financing just because a gap exists. In order for a Company or Developer to be eligible to receive incentives for a project, the Company/Developer:

- A. Must complete and submit this application and the application fee to the City;
- B. Company/Developer or Company/Developer's principals must not be delinquent in paying property taxes for any property owned in Fort Worth;
- C. Company/Developer or Company/Developer's principals must not have ever been subject to the City of Fort Worth's Building Standards Commission's Review;
- D. Company/Developer or Company/Developer's principals must not have any City of Fort Worth liens filed against any other property owned by the applicant property owner/developer. "Liens" includes, but is not limited to, weed liens, demolition liens, board-up/open structure liens and paving liens.

1. Project Description (attach additional sheets as necessary):

See attached "Project Description"

2. In what way will the project benefit the surrounding area or serve as a catalyst for additional development and/or business opportunities for the local economy (i.e. attract suppliers or customers)?

See attached "Project Description"

3. Describe how the project positively impacts the community.

See attached "Project Description"

PROJECT DETAILS

- 1. Proposed Project Site Address: 7650 Will Rogers Blvd., Fort Worth, TX 76140
- 2. Proposed Project Site Land Size (Acres): 51+ acres
- 3. Will environmental remediation be required? No
- 4. Is this an existing facility or will a new facility be constructed? New Existing
 - A. If new, what is the construction: Anticipated Start Date: 11/2018 Anticipated Completion Date: 06/2020
 - B. If existing, is this an adaptive reuse? It is an expansion to the existing facility so it is not an adaptive reuse
- 5. Type of Project (choose one): Commercial/Industrial
- 6. Building Area (Square Feet) Requirements:
 - (a) Office _____
 - (b) Manufacturing _____
 - (c) Warehouse 183,000
 - (d) Showroom/Retail _____
 - (e) Other _____
- Total Area (a+b+c+d+e): 183,000 SF
- 7. Will this facility be LEED certified, and if so, at what level? No
- 8. Public open space included within the proposed project site: None SF/Acres

III PROJECT DETAILS (continued)

9. If the applicant represents a Company; (If a Developer and not a Company, proceed to #10.)

A. Is the Company expanding its existing local operations or relocating its operations from somewhere else to our area?

Expansion Relocation

B. If a relocation, where is the company currently located? N/A

C. Does the company plan to lease or own the facility in Fort Worth? Lease Own

D. If the company is planning to lease space in Fort Worth, what is the lease term? N/A Years

E. Describe the specific operations and services to be provided or products to be manufactured at the proposed Fort Worth facility (attach additional sheets as necessary):

BEK is primarily a distribution company, and no products will be manufactured at this site. BEK will continue its existing operation as a broadline foodservice distribution company, and will be receiving products from suppliers and shipping products to its customers from this facility. This facility will retain its sales and administrative offices as well, as it operates as the DFW regional HQ.

10. Development requests that will be sought for the project (select all that apply):

Replat

Rezoning Current Zoning: _____ Requested Zoning: _____

Variances If yes, please describe: _____

Downtown Design Review Board

Landmark Commission

Public Infrastructure Assistance

11. Real Estate Investment

A. Current Assessed Valuation of: Land \$ 3,504,570 Improvements \$ 17,095,430

B. Total Construction Costs: \$ 27,000,000 [estimated]

C. Hard Construction Costs: \$ 25,000,000 [estimated]

12. Business Personal Property and Inventory

A. Business Personal Property

Total investment on equipment, machinery, furnishing, etc.: \$ 11,000,000.00 Lease Purchase

*Estimated taxable value of equipment, machinery, furnishing, etc.: \$ See "BPP Explanation"

*This is the value that will be on the tax rolls which includes all tangible property.

B. Inventory and Supplies

Value of Inventory: \$ See email explanation Value of Supplies: \$ See email explanation

Percent of inventory eligible for Freeport Exemption (inventory, exported from Texas within 175 days) 0 %

13. Total Capital Investment (Real Estate and Business Personal Property): \$ 36,000,000.00

IV EMPLOYMENT AND JOB CREATION

On the Project Site

1. How many persons are currently employed? 855

2. What percent of current employees above are Fort Worth residents? 34.15 %

3. What percent of current employees above are Central City residents? 9.59 %

IV. EMPLOYMENT AND JOB CREATION (Continued)

4. Please complete the following table for new jobs to be created from direct hire by applicant.

	Currently	At Completion	Estimated By Fifth Year	Estimated By Tenth Year
Retained Jobs	855	952	1235	1235
New Jobs to be Created	-	97	283	283
Total Jobs at Project Site	855	952	1235	1235
% of Net Jobs to be filled by Fort Worth Residents	34.15%	not available	not available	not available
% of Net Jobs to be filled by Central City residents	9.59%	not available	not available	not available

5. Please attach a description of the jobs to be created, tasks to be performed for each and wage rate for each classification.

6. Does the applicant provide the following benefits: Retirement Health Dental Domestic Partner

7. Average wage paid to employees to be located at the project site: \$ 73,000.00 (2018 average)

8. Describe the Company's talent recruitment efforts:

BEK works with many organizations to recruit employees. In 2018 alone, BEK already participated in 17 recruiting & outreach events, with more to come. Some of the organizations include Fort Worth Housing Authority, Texas Work Force, Tarrant County College, Fort Worth ISD, Tarrant County Housing, Young Adult Job Fair, and Resource Connection. BEK also utilizes job posting websites such as Indeed.com and LinkedIn.

V. INCENTIVES REQUEST

Incentive(s) Requested: Tax Abatement Chapter 380 Economic Development Program Grant

Do you intend to pursue abatement of County taxes? Yes No

If requesting a Tax Abatement, please refer to the Tax Abatement Policy for a comprehensive explanation of eligibility requirements.

VI. LOCAL COMMITMENTS

During Construction

1. What percent of the total construction costs described in Section III, Question 11 will be committed to:

A. Fort Worth businesses? _____ %

B. Fort Worth Certified Minority and Women Business Enterprises? _____ %

For Annual Supply and Service Needs

Regarding discretionary supply and service expenses (i.e landscaping, office or manufacturing supplies, janitorial services, etc., excluding utilities):

2. What is the annual amount of discretionary supply and service expenses? \$ 6,021,000 in FY 2018

3. What percentage will be committed to Fort Worth businesses? _____

4. What percentage will be committed to Fort Worth Certified Minority and Women Business Enterprises? _____

VII. DISCLOSURES

Is any person or firm receiving any form of compensation, commission or other monetary benefit based on the level of incentive obtained by the applicant from the City of Fort Worth? If yes, please explain and/or attach details.

No

VIII. ADDITIONAL INFORMATION (TO BE ATTACHED)

These documents must be submitted with the application, otherwise the application will be deemed incomplete and will not be reviewed:

- a.) Attach a site plan of the project.
- b.) Explain why incentives are necessary for the success of this project. Include a business pro-forma or other documentation to substantiate your request.
- c.) Describe any environmental impacts associated with this project.
- d.) Describe the infrastructure improvements (water, sewer, streets, etc.) that will be constructed as part of this project.
- e.) Attach a talent recruitment plan, if applicable.
- f.) Attach a legal description or surveyor's certified metes and bounds description.
- g.) Attach a copy of the most recent property tax statement from the appropriate appraisal district for all parcels involved in the project.
- h.) Attach a brief description of the employee benefit package(s) offered (i.e. health insurance, retirement, public transportation assistance, day care provisions, etc.) including portion paid by employee and employer respectively.
- i.) Attach a plan for the utilization of Fort Worth Certified M/WBE companies.
- j.) Attach a listing of the applicant's Board of Director's, if applicable.
- k.) Attach a copy of Incorporation Papers noting all principals, partners, and agents and all Fort Worth properties owned by each.
- l.) Attach the purchasing representative's company contact information if known.

The company is responsible for paying \$5,000 as an application fee. If the application is withdrawn before the project is presented to City Council in Executive Session, the fee is refunded. Upon presentation to City Council in Open Session, \$2,000 is non-refundable and is applied to offset costs incurred by the Economic Development Department. Upon approval by City Council, the balance of \$3,000 can be credited towards required building permits, inspections fees, replatting fees, and other costs of doing business with the City related to the development. Any unused credit balance upon completion of the project will be refunded upon request from the company.

IX. CERTIFICATION

On behalf of the applicant, I certify the information contained in this application, including all attachments to be true and correct. I further certify that, on behalf of the applicant, I have read the current Incentive Policy and all other pertinent City of Fort Worth policies and I agree with the guidelines and criteria state therein.

Printed Name: Eric Alexander

Title: Associate General Counsel

Date: 08/30/2018

Signature: 

Project Description

Ben E. Keith Company d/b/a Ben E. Keith Foods ("BEK") is a broadline foodservice distribution company which offers more than 20,000 products to its customers. BEK's customer base includes independent restaurants, chain restaurants, hospitals, hotels, schools, country clubs, bars, and other businesses preparing/serving food on-site.

BEK is considering adding approximately 183,000 square feet to its existing Dallas-Fort Worth Division regional headquarters facility located at 7650 Will Rogers Blvd., Fort Worth, Texas. The expansion would not require a replat or zoning changes. BEK anticipates the total hard cost of construction to be approximately \$25 million, and the total investment in business personal property to be approximately \$11 million.

The expansion is projected to create approximately 283 new full-time jobs (administrative, sales, transportation, warehouse) five years following the expansion completion. The DFW Division's gross payroll for fiscal year 2018 was \$62.6 million, which is expected to increase to \$111.1 million five years following the expansion completion. In BEK's fiscal year 2018, the average sales and administrative employee at the DFW Division was paid \$101,651 and the average transportation and warehouse employee was paid \$58,581 (vs. Tarrant County per capita income of \$48,050 and median household income of \$61,553, per the 2016 US Census). After the first year following the expansion completion, the average annual wage for sales and administrative employees at the DFW Division is projected to be \$111,700 while the average annual wage for transportation and warehouse employees is projected to be \$63,900. After five years following completion, the average projections increase to \$126,200 for sales and administrative employees and \$71,900 for transportation and warehouse employees.

Aside from the increase in full-time jobs and taxable property, BEK's expansion will benefit the surrounding area due to BEK's continued philanthropical commitments to local organizations, its focus on serving independent businesses, and its local purchasing commitments. BEK is a longtime Fort Worth company and its continued presence will positively impact the community by providing both its existing employees and new employees hired as a result of this expansion with above average compensation and very competitive retirement and insurance benefits. BEK's compensation and benefits structure makes it less likely that its employees will require governmental assistance.

Corporate Citizenship Practices

BEK's DFW Division partners with many local organizations in pursuit of maintaining its reputation as an exemplary corporate citizen. BEK strongly believes in giving back to the community and has partnered with organizations such as Folds of Honor (a non-profit organization that provides educational scholarships to spouses and children of fallen or disabled military service members) as well as the American Heart Association, American Cancer Association, March of Dimes, Habitat for Humanity, and local food banks, shelters, and schools.

BEK believes being an exemplary corporate citizen also means employing environmental-friendly measures in its day-to-day operations. Some examples of green initiatives undertaken by the BEK DFW Division are:

- BEK trucks are equipped with next generation engines to produce less carbon emissions. Excessive idle on the trucks is monitored, which will automatically shut off if left idling.
- 3rd party audits on refrigeration systems, lighting and all energy usage. Conference calls are routinely held to monitor such usage.

- All lighting is LED. The warehouse has motion-sensing LED lighting, which will automatically shut off after a certain period of time when no movement has been detected.
- Recycling program that includes shrink wrap and cardboard.
- White reflective roof to reduce energy usage.
- BEK uses Roadnet route optimization software to reduce miles traveled and fuel used for deliveries.
- Several paperless technologies employed, such as electronic driver logs, online ordering platform for customers, and ACH payments.

Response to Section IV.5

The jobs to be created are generally broken down into 2 categories: (i) administrative and sales positions and (ii) transportation and warehouse positions.

Administrative and Sales Positions

Description: Five years following the expansion completion, BEK projects 95 additional administrative and sales positions to have been created with the average projected annual wage for an administrative or sales employee being \$126,200.

Administrative employees generally work in an office setting and perform various tasks depending on the department they are assigned to, such as compliance, credit, human resources, information services, logistics, marketing, purchasing, safety, etc. The specific duties of each position vary depending on which department an employee is assigned.

Sales employees generally are tasked with servicing existing customers and obtaining new customers. Sales representatives, sales managers, and business development specialists all use their product knowledge to help customers make the right purchases for their businesses.

Transportation and Warehouse Positions

Description: Five years following the expansion completion, BEK projects 188 additional transportation and warehouse positions to have been created with the average projected wage for a transportation and warehouse employee being \$71,900.

Transportation employees are involved in ensuring products are delivered to customers in a safe and timely manner from the warehouse. Drivers sometimes have helpers who accompany drivers on routes to assist with deliveries.

Warehouse employees are involved in receiving inbound product, ensuring all product is properly and safely stored in the warehouse, and preparing product to be shipped to customers. There are several categories of warehouse positions and several layers of management within the warehouse employee group.

BPP Explanation

At this moment, BEK cannot currently provide the "estimated taxable value of equipment, machinery, furnishing, etc." as requested in Section III, Question 12.A. Instead, BEK offers the following explanation, but could possibly supplement the application at a later date with an estimated value once the breakdown of BPP investment is more defined:

“The equipment is depreciated by the appraisal district based upon its original cost installed, and year of acquisition. The appraisal districts and assessors use their depreciation schedules to depreciate the original cost of the equipment. Each year the original cost of the equipment accumulates more depreciation as it ages, until it reaches a “floor value”.

There are different categories of equipment with varying degrees of depreciation, depending upon the asset category, i.e., computers, machinery, furniture, vehicles, etc.

The standard for valuation in Texas is the fair market value of the equipment. At times, there are additional factors that may increase depreciation in order to arrive at fair market value.”

Section VIII – Additional Information

- a. See attached “Ex. A - Fort Worth Site Plan”
- b. Economic incentives make the project feasible for BEK and help the project advance as planned. If incentives are not obtained, BEK may consider other options for expansion, whether at another facility or a new location. The foodservice distribution industry is a low-margin business and economic incentives are very helpful in allowing BEK to expand its operations.
- c. The expansion will produce no known or anticipated environmental impacts.
- d. The expansion will require no known or anticipated infrastructure improvements aside from extending the existing utilities to the expansion area as needed.
- e. See Section IV.8 of the Application.
- f. See attached “Ex. F - Fort Worth metes & bounds description”
- g. See attached “Ex. G1 - Real Property Statement 2017” and “Ex. G2 - Personal Property Statement 2017”
- h. BEK offers health, dental, and vision insurance. In addition, BEK offers a 401(k) plan with a 4% match (the plan also includes company-funded profit sharing benefits), educational assistance, life insurance, and long-term and short-term disability programs. Please see the attached “Ex. H - BEK Insurance Benefits” for further information.
- i. BEK conducts business with several historically underutilized business (HUB) certified vendors. BEK and the City of Fort Worth will work together to identify which HUBs are currently “Fort Worth Certified M/WBE” companies, in addition to other “M/WBE” companies.
- j. Robert Hallam, Howard Hallam, John H. Hallam, Robert Hallam, Jr., John C. Hallam, James Hallam, Kevin Bartholomew, Mike Sweet, Gordon Crow, Craig Woodcook
- k. See attachment “Ex. K - BEK Incorporation Papers”
- l. Not applicable to this project.

EXHIBIT "C"

TARRANT COUNTY TAX ABATEMENT APPLICATION



Tarrant County

Application for Tax Abatement/Reinvestment Zone

I. APPLICANT INFORMATION

Applicant/Property Owner: Ben E. Keith Company
Company/Project Name: Ben E. Keith Company
Mailing Address: 601 E. 7th Street, Fort Worth, TX 76102
Telephone: 817-759-6107 **Fax:**

Applicant's Representative for contact regarding abatement request:

Name and Title: Eric Alexander
Mailing Address: 601 E. 7th Street, Fort Worth, TX 76102
Telephone: 817-759-6107 **Fax:** **E-mail:** ebalexander@benekeith.com

II. PROPERTY AND PROJECT DESCRIPTION

Address and legal description of property to be considered for Tax Abatement/Reinvestment Zone: 7650 Will Rogers Blvd, Fort Worth, TX 76140 (Please see attached "Exhibit A - Fort Worth metes & bounds description" for legal description)

Project Description: Please see attached "Exhibit B - Additional Information"

Description of activities, products, or services produced and/or provided at project location: Broadline foodservice distribution

Current Assessed Value: Real Property: \$21,687,000 (2018) Personal Property: \$67,311,420 (2018)

Estimated start date of construction/site improvements: July 31, 2019

Projected date of occupancy/commencement of operations at project site: June 30, 2021

Please indicate dates for phases if applicable: N/A

Location of existing company facilities: 7650 Will Rogers Blvd, Fort Worth, TX 76140

Requested level of Tax Abatement: 50% of eligible real and personal property for 7 years (same as City of Fort Worth committed)

Explain why tax abatement is necessary for the success of this project. Include business pro-formas or other information to substantiate your request. Tax abatements make the project feasible for BEK and help the project advance as planned. If abatements are not obtained, BEK may consider other options for expansion, whether at another facility or a new location. The foodservice distribution industry is a low-margin business and economic incentives are very helpful in allowing BEK to expand its operations.

III. PROJECTED VALUE OF IMPROVEMENTS

Estimated Value of Real Property Improvements \$27,000,000

Estimated Value of Personal Property Improvements \$11,000,000

Will any infrastructure improvements (roads, drainage, etc.) be requested of Tarrant County for this project?

Yes No

If yes, describe requested infrastructure improvements: Potentially require extension of existing utilities to the expansion area as needed

Detail any direct benefits to Tarrant County as a result of this project (i.e., inventory tax, etc.): Aside from the increase in full-time jobs and taxable property, BEK's expansion will benefit the County due to BEK's continued philanthropical commitments to local organizations, its focus on serving independent business, and its local purchasing commitments. BEK is a longtime Tarrant County company and its continued presence will positively impact the community by providing both its existing employees and new employees hired as a result of this expansion with compensation well above the County average and very competitive retirement and insurance benefits. BEK's compensation and benefits structure makes it less likely that its employees will require governmental assistance.

IV. EMPLOYMENT IMPACT AT PROJECT LOCATION

A. NEW EMPLOYMENT

Projected number of new jobs created as a result of the proposed improvements:

Full-time 283 by end of 2025 Part-Time 0

Provide types of jobs created and average salary levels: Please see attached "Exhibit B – Additional Information"

Start date and annual payroll of new permanent positions (if positions to be phased in, provide figures for each phase year): Hiring will be ongoing, as there will be a "ramp up" period prior to completion of construction, and then employees will be hired throughout the following 5+ years. Payroll of new employees will vary, as BEK will hire employees ranging from no experience to several years of experience. For purposes of any payroll requirement, BEK will use its average annual payroll figure from 2018 as reflected in Section C. below.

Percentage of new jobs too be filled be Tarrant County residents: At least 25%

Number of employees transferring from other company locations: None (expansion of existing facility)

B. CONSTRUCTION RELATED EMPLOYMENTS

Projected number of construction related jobs: approximately 300

Estimated total construction payroll: BEK estimates approximately 40% of all construction costs will be attributable to labor

Commitment as to percentage of construction dollars to be spent with Tarrant County contractors or subcontractors: \$3 million (same commitment to City of Fort Worth)

Commitment as to percentage & total dollars of construction contracts to be awarded to DBE: at least 15%

(same commitment as to City of Fort Worth)

C. CURRENT COMPANY/PROJECT LOCATION EMPLOYMENT

Current Number of Employees (as of 2018): Full-time 877 Part-time 14

Average annual payroll (as of 2018): \$73,000

Detail on workforce diversity – percentage breakdown of current employees by gender and ethnicity:

Gender:

Male – 781

Female - 96

Ethnicity:

American Indian – 5

Asian – 8

Black – 172

Hispanic – 263

Not Specified – 1

Pacific – 2

Multiple Ethnicities – 9

White - 417

D. COMPANY SPONSORED HEALTH CARE BENEFITS ARE AVAILABLE

Full-time Employees Part-time Employees Employee Dependents Not Available

Average monthly employee cost for health care benefits: Please see attached “Exhibit C – BEK Insurance Benefits”

Individual: \$ Information not readily available Family: \$ Information not readily available

Other employee benefits provided or offered: Please see attached “Exhibit C – BEK Insurance Benefits”

V. LOCAL BUSINESS & DISADVANTAGED BUSINESS ENTERPRISES (DBE) IMPACT

Estimated amount of annual supply and services expenses: \$ 5,800,000.00

Detail any supply/services expenses that are sole source: Premier (Freightliner trucks), Bruckner (Volvo trucks), and W&B Service (refrigeration units for trailers)

Percentage of total supplier/services expenses committed to Tarrant County businesses: \$900,000.00 (same commitment to City of Fort Worth)

Percentage of total supplier and services expenses committed to DBE: \$500,000.00

VI. ENVIRONMENTAL IMPACT OF PROJECT

Indicate if development, construction, equipment, distribution methods, and/or operational processes may impact the environment in the following areas, attach detail if necessary:

- Air Quality Water Quality Solid Waste Disposal Storm/Water Runoff
Floodplain/Wetlands Noise levels Other (specify) The expansion will produce no known or anticipated environmental impacts

Provide detail on existing and new fleet vehicles, specifying types of vehicles, quantities and fuel used (gasoline, diesel, LP gas, CNG, etc.): See attached Exhibit G – Fleet and Emissions Reduction Information

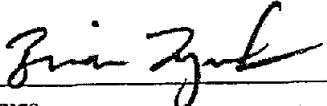
VII. ADDITIONAL INFORMATION (TO BE ATTACHED)

- Letter addressing Economic Qualifications and additional criteria for abatement, Section III (h) and (i) of Tarrant County Tax Abatement Policy (Please see attached “Exhibit F – Economic Qualifications & Additional Criteria”)
- Descriptive list and value of real and personal property improvements (Please see attached “Exhibit B – Additional Information”)
- Plat/Map of Project Location (See attached “Exhibit D – Site Plan”)
- Project Time Schedule (Please see attached “Exhibit B – Additional Information”)
- Owner’s policy regarding use of disadvantaged Business Enterprises (Please see attached “Exhibit F – Economic Qualifications & Additional Criteria”)
- Owner’s policy addressing regional air quality/non-attainment status (use of alternative fuels, employee trip reduction, etc.) and plan for participation in regional Ozone Action Program (Please see attached “Exhibit F – Economic Qualifications & Additional Criteria”)
- Tax Certificate showing property taxes paid for most recent year* (Please see attached “Exhibit E – Tax Information”)

VIII. CERTIFICATION

Upon receipt of a completed application, Tarrant County may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.*

I certify the information contained in this application (including all attachments) to be true and correct to the best of my knowledge. I further certify that I have read the “Tarrant County Tax Abatement Policy” and agree to comply with the guidelines and criteria stated therein.



Signature

Vice President
Title

Brian Lynch

Printed Name

February 21, 2019

Date

Return completed application and attachments to:

**Economic Development Coordinator
Tarrant County Administrator's Office
100 E. Weatherford Street, Suite 404
Fort Worth, Texas 76196-0609**

You may also forward an electronic copy of the completed report to:

lmcmillan@tarrantcounty.com

Please note that if you do submit this form electronically, you must also submit an original hard copy of the report to the above stated physical address for proper filing and review.

For assistance call: (817) 884-2643

* As per Section IV (f) of the Tarrant County Tax Abatement Policy Guidelines and Criteria, this application must be filed prior to commencement of construction or installation of improvements in order to be eligible for County tax abatement.

Exhibit A

LEGAL PROPERTY DESCRIPTION

Being a tract of land situated in the John D. Hudson Survey, Abstract No. 741 and the William Hudson Survey, Abstract No. 738 in the City of Fort Worth, Tarrant County, Texas and being a portion of Block 4, Carter Industrial Park, per plat as recorded in Volume 388-31, Page 52 of the Deed Records of Tarrant County, Texas and being a portion of the third tract as deeded to Carter Foundation Production Company (aka Mereken Land & Production Company) per documents recorded in Volume 3587, Page 319 and Volume 3595, Page 24 of said Deed Records of Tarrant County, Texas, said tract being more particularly described by metes and bounds as follows:

BEGINNING at a found $\frac{1}{2}$ inch iron rod on the West R.O.W. line of Will Rogers Boulevard (a 110 foot wide R.O.W. per said plat) being or intended to be the Southeast corner of a tract deeded to Ivy Corporation per document recorded in Volume 7665, Page 584 of said Deed Records, from said found $\frac{1}{2}$ inch iron rod a found $\frac{5}{8}$ inch capped iron rod (Carter & Burgess) being or intended to be the Northeast corner of said Ivy tract bears North 00 degrees 15 minutes 30 seconds West, a distance of 592.93 feet;

THENCE South 00 degrees 15 minutes 30 seconds East (Reference Bearing), along said West R.O.W. line of Will Rogers Boulevard, a distance of 2022.52 feet to a set $\frac{5}{8}$ inch capped iron rod (BHB INC) being the Northeast corner of a tract deeded to Missouri Pacific Railroad Company per document recorded in Volume 9941, Page 1080 of said Deed Records, from said set $\frac{5}{8}$ inch capped iron rod (BHB INC) a found $\frac{5}{8}$ inch capped iron rod (Carter & Burgess) bears South 00 degrees 15 minutes 30 seconds East, a distance of 50.00 feet of which is being or intended to be the Northeast corner of a tract deeded to Mereken Land & Production Company per document recorded in Volume 12575, Page 2311 of said Deed Records;

THENCE South 89 degrees 45 minutes 00 seconds West, leaving said West R.O.W. line of Will Rogers Boulevard and along the North line of said Missouri Pacific Railroad Company tract, a distance of 624.22 feet to a set $\frac{5}{8}$ inch capped iron rod (BHB INC), said set $\frac{5}{8}$ inch capped iron rod (BHB INC) also being the beginning of a curve to the right whose chord bears North 48 degrees 04 minutes 00 seconds West, a distance of 736.90 feet and having a radius of 548.69 feet;

THENCE Northwesterly, along said curve to the right along the Northerly line of said Missouri Pacific Railroad Company tract, through a central angle of 84 degrees 22 minutes 01 seconds, an arc length of 807.94 feet to a set $\frac{5}{8}$ inch capped iron rod (BHB INC) for the end of said curve;

THENCE North 05 degrees 52 minutes 59 seconds West, along the Easterly line of said Missouri Pacific Railroad Company tract, a distance of 249.38 feet to a set $\frac{5}{8}$ inch capped iron rod (BHB INC) on the West line of said Block 4;

THENCE North 00 degrees 09 minutes 30 seconds West, along said West line of Block 4, a distance of 1279.51 feet to a found $\frac{5}{8}$ inch iron rod being or intended to be the Southwest corner of a tract deeded to Miller Brewing Company per document recorded in Volume 6822, Page 1602 of said Deed Records;

THENCE North 89 degrees 45 minutes 00 seconds East, along the South line of said Miller Brewing Company tract, passing a found $\frac{1}{2}$ inch iron rod at 428.70 feet and continuing along the South line of said Ivy tract for a total distance of 1192.40 feet to the **POINT OF BEGINNING** and containing 2,336,380 square feet or 53.64 Gross acres of land of which 90,846 square feet or 2.09 acres lies within a drainage area located along the southerly portion of said described tract between the 30 foot building setback line and the top of bank as located in the field in the month of May, 1997 and the area of the Chevron Pipeline Company Right of Way Easement lying Easterly of a 30 foot building setback line being 8,573 square feet or 0.20 acre, leaving a net area of 2,236,961 square feet or 51.35 acres of land, more or less.

Exhibit B - Project Description

Ben E. Keith Company d/b/a Ben E. Keith Foods ("BEK") is a broadline foodservice distribution company which offers more than 20,000 products to its customers. BEK's customer base includes independent restaurants, chain restaurants, hospitals, hotels, schools, country clubs, bars, and other businesses preparing/serving food on-site.

BEK is considering adding approximately 185,000 square feet to its existing Dallas-Fort Worth Division regional headquarters facility located at 7650 Will Rogers Blvd., Fort Worth, Texas. The expansion would not require a replat or zoning changes. BEK anticipates the total cost of construction to be approximately \$27 million, and the total investment in business personal property to be approximately \$11 million. Construction is expected to begin by July 31, 2019 and will commence no later than June 30, 2021.

The expansion is projected to create approximately 283 new full-time jobs (administrative, sales, transportation, warehouse) after the completion of five years following the expansion completion. The DFW Division's gross payroll for fiscal year 2018 was \$62.6 million, which is expected to increase to \$111.1 million five years following the expansion completion. In BEK's fiscal year 2018, the average sales and administrative employee at the DFW Division was paid \$101,651 and the average transportation and warehouse employee was paid \$58,581 (vs. Tarrant County per capita income of \$48,050 and median household income of \$61,553, per the 2016 US Census). After the first year following the expansion completion, the average annual wage for sales and administrative employees at the DFW Division is projected to be \$111,700 while the average annual wage for transportation and warehouse employees is projected to be \$63,900. After five years following completion, the average projections increase to \$126,200 for sales and administrative employees and \$71,900 for transportation and warehouse employees.

Employment Impact at Project Location

The jobs to be created are generally broken down into 2 categories: (i) administrative and sales positions and (ii) transportation and warehouse positions. Average salary levels are based on the existing workforce, and therefore, estimated salary levels for the new employees to be hired are unknown at this time and will vary based on experience.

Administrative and Sales Positions

Description: Five years following the expansion completion, BEK projects 95 additional administrative and sales positions will have been created with the average projected annual wage for an administrative or sales employee being \$126,200.

Administrative employees generally work in an office setting and perform various tasks depending on the department they are assigned to, such as compliance, credit, human resources, information services, logistics, marketing, purchasing, safety, etc. The specific duties of each position vary depending on which department an employee is assigned.

Sales employees generally are tasked with servicing existing customers and obtaining new customers. Sales representatives, sales managers, and business development specialists all use their product knowledge to help customers make the right purchases for their businesses.

Transportation and Warehouse Positions

Description: Five years following the expansion completion, BEK projects 188 additional transportation and warehouse positions will have been created with the average projected wage for a transportation and warehouse employee being \$71,900.

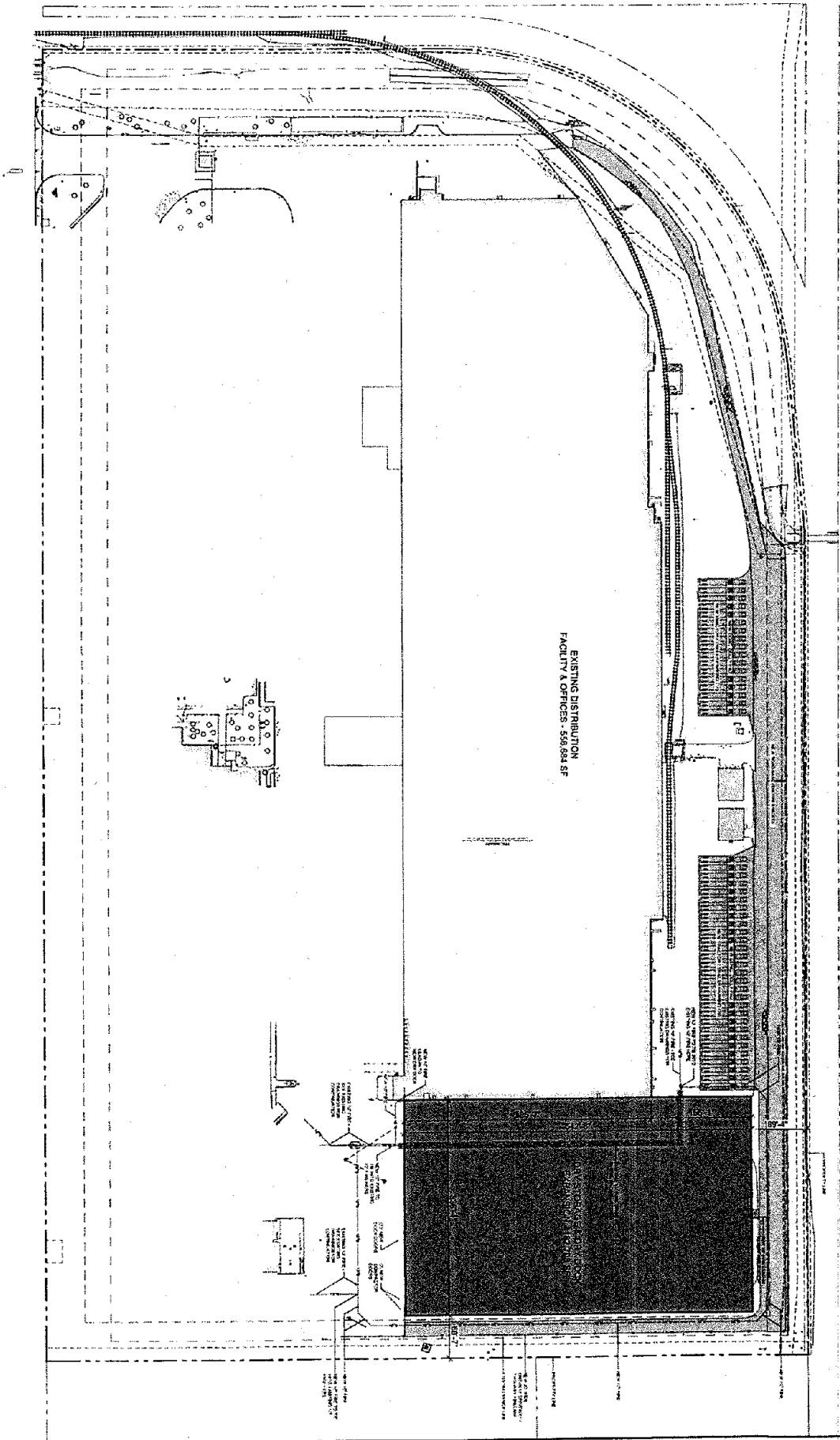
Transportation employees are involved in ensuring products are delivered to customers in a safe and timely manner from the warehouse. Drivers sometimes have helpers who accompany them on routes to assist with deliveries.

Warehouse employees are involved in receiving inbound product, ensuring all product is properly and safely stored in the warehouse, and preparing product to be shipped to customers. There are several categories of warehouse positions and several layers of management within the warehouse employee group.

Community Involvement

BEK's DFW Division partners with many local organizations in pursuit of maintaining its reputation as an exemplary corporate citizen. BEK strongly believes in giving back to the community and has partnered with organizations such as Folds of Honor (a non-profit organization that provides educational scholarships to spouses and children of fallen or disabled military service members) as well as the American Heart Association, American Cancer Association, March of Dimes, Habitat for Humanity, and local food banks, shelters, and schools.

Exhibit D



ARCHITECTURAL SITE PLAN
7-097

ARCHITECTURAL
A010

REVISIONS
DATE
BY
DESCRIPTION

DATE: 07/10/09
BY: [Signature]
DESCRIPTION: [Signature]



EXPANSION & RENOVATIONS
BEN E. KEITH COMPANY
7650 WILL ROGERS BLVD.
FORT WORTH, TX 76140



Exhibit E

THIS DOCUMENT HAS A COLORED BACKGROUND AND MICROPRINTING. THE REVERSE SIDE IS INK AND IS VISIBLE THROUGH THE WATERMARK.



L&B Property Tax LLC
 PO Box 2250
 Universal City, TX 78148
 512-665-6885

Broadway Bank
 1177 N.E. Loop 410
 San Antonio, TX 78209

88-2193
 1140 220

1176

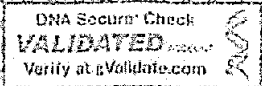
DATE 1/4/2019
 Reference:

PAY Tarrant County Tax Assessor-Collector \$ ****3,332,320.17**

THREE-MILLION THREE-HUNDRED-THIRTY-TWO-THOUSAND THREE-HUNDRED-TWENTY AND 17/100 DOLLARS

Void after 90 days

TO THE ORDER OF **Tarrant County Tax Assessor-Collector**
 Tarrant County Tax Office
 P.O. Box 961018
 Fort Worth, TX 76161-0018



Micron Ben E Keith Tax Payments - 12 Tax Bills

L&B Property Tax LLC		1176
Tarrant County Tax Assessor-Collector		1/4/2019
1-Property Tax	0.	
1-Property Tax		
1-Property Tax		
1-Property Tax	00007345925	596,587.47
1-Property Tax		
1-Property Tax		
1-Property Tax	00011010495	1,851,669.19
1-Property Tax		
1-Property Tax		
1-Property Tax	201	
1-Property Tax		
1-Property Tax		

Ben E. Keith (BEK)- Ben E Keith Tax Payments - 12 Tax Bills

L&B Property Tax LLC		1176
Tarrant County Tax Assessor-Collector		1/4/2019
1-Property Tax		
1-Property Tax		
1-Property Tax		
1-Property Tax	00007345925	596,587.47
1-Property Tax		
1-Property Tax		
1-Property Tax	00011010495	1,851,669.19
1-Property Tax		
1-Property Tax		
1-Property Tax	20	
1-Property Tax		
1-Property Tax		

Ben E. Keith (BEK)- Ben E Keith Tax Payments - 12 Tax Bills



RON WRIGHT
TARRANT COUNTY
TAX ASSESSOR-COLLECTOR

Facebook.com/TarrantCountyTAC
@TarrantCoTax

100 E. Weatherford, Fort Worth, TX 76106
(817) 884-1100
e-mail: taxoffice@tarrantcounty.com
web: www.tarrantcounty.com
IN GOD WE TRUST

DATE: 10/04/2018
ACCOUNT: 00007345925
LEGAL: CARTER INDUSTRIAL PARK ADDN BL
OCK # LOT 4

2018 TAX STATEMENT

Ben / MBR / 11

OWNER: BEN E KEITH CO
PARCEL ADDRESS: 0607680 WILL ROGERS BLVD
EXEMPTIONS:

V11

555000796

LAND VALUE	IMPRV VALUE	APPRAISED VAL.							
3,504,570	18,192,350	21,687,000	TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT	TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
			FT WORTH CITY	21,687,000	0	21,687,000	0.785000	170,242.95	170,242.95
			TARRANT COUNTY	21,687,000	0	21,687,000	0.234000	50,747.58	50,747.58
			REG WATER DIST	21,687,000	0	21,687,000	0.019400	4,207.20	4,207.20
			T C HOSPITAL	21,687,000	0	21,687,000	0.224429	48,671.52	48,671.52
			T C COLLEGE	21,687,000	0	21,687,000	0.135070	29,269.50	29,269.50
			FT WORTH ISD	21,687,000	0	21,687,000	1.302000	283,203.24	283,203.24
							TOTAL TAXES	596,587.47	596,587.47

TOTAL AMOUNT DUE INCLUDES PAYMENT RECEIVED 596,587.47

Pay by Credit Card or Check



Pay online with these cards
Or by phone at 817-884-1110



YOUR CHECK WILL BE CONVERTED INTO AN ELECTRONIC FUND TRANSFER

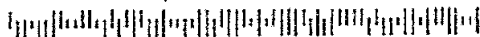
BEN E KEITH CO
555000796

7018 0680 0001 6210 4422

00007345925 2018
-8535-4-1 TC



00026671 AADC 0.105 T 84
MORRISON & HEAD LP
4210 SPICEWOOD SPRINGS RD # 211
AUSTIN, TX 78759-8854



RETURN WITH PAYMENT

PAY THIS AMOUNT

\$596,587.47

Delinquent after: 01/31/2019

IF PAID IN	AMOUNT DUE
FEB	638,349.60
MAR	650,280.35

Make checks payable to:
RON WRIGHT, TAX ASSESSOR-COLLECTOR

PO BOX 961018
FORT WORTH TX 76161-0018

00007345925

0059658747

0063634660

0065028035

1004201800000



RON WRIGHT
TARRANT COUNTY
TAX ASSESSOR-COLLECTOR

@TarrantCoTax
 Facebook.com/TarrantCountyTAC

100 E. Weatherford, Fort Worth, TX 76196
 (817) 884-1100
 e-mail: taxoffice@tarrantcounty.com
 web: www.tarrantcounty.com

DATE: 10/22/2018

2018 TAX STATEMENT

IN GOD WE TRUST

ACCOUNT: 00011010495

LEGAL: BEN E KEITH CO-DFW FOOD DIV
 PERSONAL PROPERTY TANGIBLE
 COMMERCIAL

e-STATEMENT

OWNER: BEN E KEITH CO

V1.5

PARCEL ADDRESS: 0007650 WILL ROGERS BLVD

EXEMPTIONS:

TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT	TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
FT WORTH CITY	67,311,420	0	67,311,420	0.785000	520394.65	520394.65
TARRANT COUNTY	67,311,420	0	67,311,420	0.234000	157508.72	157508.72
REG WATER DIST	67,311,420	0	67,311,420	0.019400	13058.42	13058.42
T C HOSPITAL	67,311,420	0	67,311,420	0.224429	151066.35	151066.35
T C COLLEGE	67,311,420	0	67,311,420	0.136070	91590.65	91590.65
FT WORTH ISD	67,311,420	0	67,311,420	1.352000	910050.40	910050.40
TOTAL TAXES					1,851,669.19	1,851,669.19

TOTAL AMOUNT DUE INCLUDES PAYMENTS RECEIVED 1,851,669.19

Pay by Credit Card or eCheck



Pay online with these cards
 Or by phone at 817-884-1110

****YOUR CHECK WILL BE CONVERTED INTO AN ELECTRONIC FUND TRANSFER****

BEN E KEITH CO

RETURN WITH PAYMENT

7018 0680 0001 6210 4422

00011010495
 00011010495

PAY THIS AMOUNT	\$1,851,669.19
Delinquent after: 10/31/2019	

00011010495 2018

H 925834.6

77092654
 77092654

IF PAID IN	AMOUNT DUE
NOV	1,851,669.19
DEC	1,851,889.19

BEN E KEITH CO ATTN: TAX DEPT
 7650 WILL ROGERS BLVD
 FORT WORTH, TX 76140-8022

Make checks payable to:
RON WRIGHT, TAX-ASSESSOR-COLLECTOR

PO BOX 981018
 FORT WORTH TX 76161-0018

00011010495 0185166919 0185166919 0185166919 1022201800000

Exhibit F - Letter Addressing Economic Qualifications and Additional Criteria for Abatement

Section III(h) - Economic Qualifications

BEK's potential expansion of its DFW regional headquarters facility will produce over \$3 million in added value in real and personal property improvements to Tarrant County. BEK will sustain existing employment levels during and after the expansion, and projects the addition of approximately 283 new full-time jobs by the end of the fifth calendar year following completion of the expansion. BEK's project is an expansion so no employees will be transferred.

BEK's potential expansion is necessary because BEK's current facility is close to maximum capacity. If BEK wishes to grow its DFW Division, it will need to do one of the following: (i) expand on the existing property, (ii) relocate to a larger site (possibly outside of Tarrant County), or (iii) shift the future business growth to its other divisions located in and out of Texas.

Section III(i) - Additional Criteria for Abatement

Use of DBE and Tarrant County Businesses

BEK will strive to utilize (i) Disadvantaged Business Enterprises for a minimum of 15% of its total costs of construction and annual service and supply contracts, and (ii) Tarrant County businesses for a minimum of 25% of its total costs of construction and annual service and supply contracts. However, due to the necessity to hire contractors which provide specialty work not otherwise offered in Tarrant County, BEK may not be able to meet some or all of these requirements even with BEK's good faith efforts.

Although BEK does not have a formal policy in place regarding the use of Disadvantaged Business Enterprises and Tarrant County businesses, BEK is nonetheless committed to transacting with businesses which fall into either or both categories. BEK requests the assistance of Tarrant County in helping BEK identify appropriate DBEs and Tarrant County businesses to include in BEK's bidding process for the expansion construction, as well as for BEK to consider using for its annual service and supply expenditures.

Tarrant County Employment

BEK is committed to hiring Tarrant County residents to fill the new full-time positions that will be created as a result of the expansion and anticipates a minimum of 25% of such positions to be filled by Tarrant County residents.

Environmental Impacts

BEK does not anticipate any environmental impacts to result from the project. Although BEK does not have formal policies in place concerning air quality mitigation, participation in the region's Ozone Action Program, and alternative commute programs/employee trip reductions, BEK continuously strives to be an exemplary corporate citizen and has employed (and continues to employ) environmental-friendly measures in its day-to-day operations. Some examples of green initiatives undertaken by the BEK DFW Division are:

- BEK trucks are equipped with next generation engines to produce less carbon emissions. Excessive idle on the trucks is monitored, which will automatically shut off if left idling.
- 3rd party audits on refrigeration systems, lighting and all energy usage. Conference calls are routinely held to monitor such usage.
- All lighting is LED. The warehouse has motion-sensing LED lighting, which will automatically shut off after a certain period of time when no movement has been detected.
- Recycling program that includes shrink wrap and cardboard.
- White reflective roof to reduce energy usage.
- BEK uses Roadnet route optimization software to reduce miles traveled and fuel used for deliveries.
- Several paperless technologies employed, such as electronic driver logs, online ordering platform for customers, and ACH payments.

Please also reference Exhibit G – Fleet and Emissions Reduction Information for more information on measures BEK has undertaken to reduce emissions from its fleet vehicles.

Employee Benefits

BEK offers a competitive benefit plans to its full-time employees at reasonable rates. BEK benefit plans include medical, dental, vision, and life insurance, all of which allow access by the employees' dependents. BEK also offers several other benefits at no additional cost to employees, such as a 401(k) plan with a 4% matching contribution and long-term and short-term disability programs. For more information on BEK's employee benefits, please see the attached "Exhibit C – BEK Insurance Benefits."

Exhibit G

Fleet and Emissions Reduction Information

General Fleet Information

Straight trucks – 8

Tractors - 200 (132 single axle and 68 double axles)

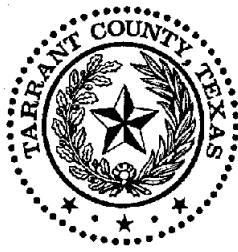
Type of fuel used: TEXLED ULSD

Ave. # of gallons per week: 33,132

- All tractors are programmed to automatically shut off if left idling for 5 minutes.
- All RSAs are monitored for idle time during routes.
- RSAs are regularly coached to assist in keeping idle time to minimum
- Current telematic system, ELD, calculates idle time and other applicable data for drivers. This is used as a training tool to set goals to lower idle.
- Evaluate and monitor number of tractors to optimize fleet size.
- Published retirement schedule for all vehicles.
- Using TXLED ULSD diesel
- Perform yearly DOT inspections
- Proper tire pressure maintained
- Pre and Post trip inspections are performed each time tractor is taken out on route
- Check engine lights are address immediately and/or tractor is put on repair line and fixed before going back into service.
- Fleet is 2010 and newer. Any tractor still currently onsite has been marked as out of service and awaiting sale. Our current average age is 5.3 years.
- ELDs are installed in all tractors and includes GPS.
- PMs schedules are adhered to and monitored.
- Smith System Driver Training
- ROADNET Software is used to optimized routes to reduce miles traveled.
- Recycle fluids, such as used oil
- Driver Recognition program

EXHIBIT "D"

TARRANT COUNTY TAX ABATEMENT POLICY AND GUIDELINES



TARRANT COUNTY

TAX ABATEMENT POLICY GUIDELINES AND CRITERIA

I. GENERAL PURPOSE AND OBJECTIVES

As authorized under Chapter 312 of the Texas Tax Code, Tarrant County has established this policy so as to work in concert with other taxing authorities as part of an overall publicly supported incentive program designed to create job opportunities that bring new economic advantages or strengthen the current economic base of our community.

It is the intent of the Commissioners Court to consider approval or denial of any request for tax abatement for projects in unincorporated Tarrant County or participation in any tax abatement agreement agreed to and adopted by an incorporated city, which meets the minimum eligibility criteria as set forth in this policy, following the filing of a formal application for tax abatement from the County. As prescribed by Section 312.206 of the Tax Code, the Commissioners Court may approve participation with a municipality in a tax abatement agreement no later than the 90th day after the date the municipal agreement is executed. Further it is the intent of Tarrant County that the County will not approve nor join an abatement agreement that provides one Tarrant County city a competitive advantage over another Tarrant County city seeking the same project or encourages an applicant to move from one Tarrant County city to another, unless such agreement is agreeable to both such incorporated cities and both parties have indicated their approval in writing to Tarrant County.

In the case where the property is located within a municipality's extraterritorial jurisdiction, the municipality shall be the initiating taxing entity unless expressly deferred to the County. For those areas within Tarrant County that are not located within the boundaries of an incorporated municipality and a municipality has deferred to the County or in unincorporated areas not located in a municipality's extraterritorial jurisdiction, the guidelines and criteria contained in this policy will be applied by the Commissioners Court when considering the establishment of a reinvestment zone and the adoption of an abatement agreement.

II. DEFINITIONS

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real and/or personal property in a reinvestment zone designated for economic development purposes.

- (b) **"Eligible Jurisdiction"** means Tarrant County and any municipality, school district, college district, or other entity, which is located in Tarrant County, that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- (c) **"Agreement"** means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (d) **"Base Year Value"** means the assessed value of the applicant's real and personal property located in a designated reinvestment zone on January 1 of the year of the execution of the agreement, plus the agreed upon value of real and personal property improvements made after January 1, but before the execution of the agreement.
- (e) **"Economic Life"** means the number of years a property improvement is expected to be in service in a facility.
- (f) **"Deferred Maintenance"** means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) **"Disadvantaged Business Enterprise (DBE)"** means:
 - (1) a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially or economically disadvantaged because of their identification as members of certain groups that have been subject to racial or ethnic prejudice or cultural bias without regard to their qualities as individuals or capabilities as a business, and whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. "DBE" includes the State of Texas definition of historically underutilized businesses (HUBs) as defined in Texas Government Code 407.101 and as it may be updated.
 - (2) a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described in paragraph (1);
 - (3) a partnership that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by paragraph (1), and in which minority or women partners have proportionate interest in the control, operation, and management of the partnership affairs.

- (h) **"Expansion"** means the addition of buildings, structures, fixed machinery and equipment, and fixed personal property for the purposes of increasing production capacity.
- (i) **"Facility"** means property improvements completed or in the process of construction which together comprise an integral whole.
- (j) **"Fixed Machinery and Equipment and/or Personal Property"** means tangible machinery, equipment, or personal property that is securely placed or fastened and stationary within a building or structure, or which is movable but remains at and is used solely at the project site.
- (k) **"Manufacturing Facility"** means buildings and structures, including fixed machinery and equipment, and fixed personal property, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (l) **"Modernization"** means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation, and extends the economic life of the facility. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery and equipment, and fixed personal property. It shall not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.
- (m) **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (n) **"Other Basic Industry"** means buildings and structures including fixed machinery and equipment, and fixed personal property not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside Tarrant County [or the Fort Worth Consolidated Metropolitan Statistical Area] and result in the creation of new permanent jobs and bring new wealth in to Tarrant County.
- (o) **"Regional Distribution Center Facility"** means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- (p) **"Non-Manufacturing Facilities"** means buildings and structures, used to service and/or house individuals on a permanent or temporary basis.
- (q) **"Regional Service Facility"** means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used to service goods.

- (r) "Reinvestment Zone" is an area designated as such for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code.
- (s) "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of the users reside at least 100 miles from its location in the County.
- (t) "Regional Retail Facility" means buildings and structures including fixed machinery and equipment used or to be used to provide retail services from which a large portion of the revenues generated by the activity at the facility are derived from users outside the County.
- (u) "Research Facility" means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

III. ABATEMENT AUTHORIZED

- (a) Authorized Facility. A facility may be eligible for abatement if it is a Manufacturing Facility, a Research Facility, a Regional Distribution Center Facility, A Regional Service Facility, a Regional Entertainment Facility, Regional Retail Facility, a Non-Manufacturing Facility, or Other Basic Industry as defined. The economic life of a facility and any improvements must exceed the life of the abatement agreement.
- (b) Creation of New Value. Abatement may be only granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between the County and the property owner and lessee, subject to such limitations as Commissioners Court may require.
- (c) New and Existing Facilities. Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- (d) Eligible Property. Abatement may be extended to the value above the Base Year Value of buildings, structures, fixed machinery and equipment, fixed personal property, and site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- (e) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; private aircraft; deferred maintenance investments; property to be rented or leased except as provided in Section 3 (f); also, any property included in the calculation of base year value as defined.

- (f) **Owned/Leased Facilities.** If a leased facility is granted abatement the agreement shall be executed with the lessor and the lessee.
- (g) **Value and Term of Abatement.** Abatement shall be granted effective with the execution of the agreement. The value of the abatement will be determined based on the merits of the project, including, but not limited to, total capital investment value and added employment. Up to one hundred percent of the value of new eligible properties may be abated for a total term of abatement not to exceed ten years. However, a project must provide an extraordinary economic benefit to the County to be considered for a one hundred percent abatement.
- (h) **Economic Qualification.** In order to be eligible for designation as a County reinvestment zone and/or receive County tax abatement, the planned improvement:
- (1) for new businesses, must be reasonably expected to produce a minimum added value of Five Million Dollars (\$5,000,000) in real and personal property to Tarrant County and create and sustain a minimum of 25 new full-time jobs.
 - (2) for expansions or modernizations of existing businesses, must be reasonably expected to produce a minimum added value of Three Million Dollars (\$3,000,000) in real and personal property improvements to Tarrant County, and sustain existing employment levels.
 - (3) must not be expected to solely or primarily have the effect of transferring employment from one part of Tarrant County to another without a majority vote of approval from the Commissioners Court.
 - (4) must be necessary for expansion and/or modernization because the capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements.
 - (5) the above investment and employment minimums may be waived at the discretion of the Commissioners Court for projects located in Federal or State designated Enterprise Zones.
- (i) **Additional Criteria For Abatement.** To be eligible for abatement, the project must be expected to meet the specific goals and requirements as noted below. If a company is unable to meet the minimum requirements of this section, a variance must be requested with a detailed explanation as to the circumstances that preclude the company from meeting the minimum requirements.
- (1) **Use of DBE and Tarrant County Businesses.** The project must provide for the utilization of Disadvantaged Business Enterprises for a minimum of 15% of the total costs for construction contracts and annual supply and service contracts.

Additionally, the project must provide for the utilization of Tarrant County businesses for a minimum of 25% of the total costs for construction contracts and annual supply and services contracts.

- (2) **Tarrant County Employment.** The company must hire Tarrant County residents for a minimum of 25% of the new full time jobs to be created by the project. Residents, for the purpose of this policy, are those employees who reside in Tarrant County, whether through relocation or existing residency.
 - (3) **Environmental Impacts.** Environmental impact information must be provided, noting any anticipated impacts of the project on the environment, including, but not limited to, water quality, storm water and runoff, floodplain and wetlands, solid waste disposal, noise levels, and air quality. Additionally, the company must provide a written company policy on air quality mitigation, the company's plan for participation in the region's Ozone Action Program, and a report of employer assistance in encouraging alternative commute programs and employee trip reductions. For companies new to the region, the above policies and plan must be completed and presented within the first year of the abatement.
 - (4) **Employee Benefits.** The company must offer a health benefit plan to its full-time employees at a rate that is reasonable to the majority of its employees and which allows access to the plan by the employees' dependents. For additional consideration, the company may provide information on other employee benefits provided, such as retirement/pension programs and subsidies for education, job-training, transportation assistance and child/elderly care.
- (j) **Taxability.** From the execution of the abatement to the end of the agreement period taxes shall be payable as follows:
- (1) The value of ineligible property as provided in Section III (e) shall be fully taxable;
 - (2) The base year value of existing eligible property shall be fully taxable, as well as the value of any existing personal property currently on the tax rolls in Tarrant County that is either moved to a new abated location or is replaced due to modernization or expansion.
 - (3) The additional value of new eligible property shall be taxable in the manner and for the period provided for in the abatement agreement, subject to the terms described in Section III (g); and
 - (4) The additional value of new eligible property shall be fully taxable at the end of the abatement period.

IV. APPLICATION

- (a) Any present or potential owner of taxable property in Tarrant County may request the creation of a reinvestment zone and/or tax abatement by filing a written request with the County Judge.**
- (b) The application shall consist of a completed application form including, but not limited to: a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; a time schedule for undertaking and completing the proposed improvements; employment and contract information; the location of existing company locations in Tarrant County and the surrounding counties and the expected number of transferring employees; details of the environmental impacts of the project, and employee benefit information. In the case of modernization a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant, to be attached to the application.**
- (c) All applications for creation of reinvestment zones or abatements shall incorporate a feasibility study estimating the economic effect of the proposed reinvestment zone and tax abatement on Tarrant County, other eligible participating jurisdictions, and the applicant.**
- (d) Upon receipt of a completed application for creation of a reinvestment zone, the County Judge shall notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible jurisdiction.**
- (e) Upon receipt of a completed application and/or request to participate with a municipality in an abatement agreement, Tarrant County Administrator's Office must review and provide recommendation to the Commissioners Court within 30 days and before the public hearing.**
- (f) The County shall not establish a reinvestment zone, nor participate in an abatement, if it finds that the application for County reinvestment zone/tax abatement was filed after the commencement of construction, alteration, or installation of improvements related to the proposed modernization, expansion or new facility.**
- (g) Variance. Request for variance from the provisions of this policy must be made in written form to the County Judge and submitted with the application for abatement, provided, however, the total duration of an abatement shall in no instance exceed ten years. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Request for variance must**

be approved by a majority vote of the Commissioners Court.

V. PUBLIC HEARINGS AND APPROVAL

- (a) For projects in unincorporated Tarrant County, the Commissioners Court may not adopt a resolution designating a County reinvestment zone until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be clearly identified on the Commissioners Court agenda at least 30 days prior to the hearing. The presiding officers of eligible jurisdictions shall be notified in writing at least 15 days prior to the hearing.
- (b) Prior to entering into a tax abatement agreement the Commissioners Court may, at its option, hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the tax abatement agreement.
- (c) In order to enter into a tax abatement agreement, the Commissioners Court must find that the terms of the proposed agreement meet these Guidelines and Criteria and that:
 - (1) there will be no substantial adverse affect on the provision of the jurisdiction's service or tax base; and
 - (2) the planned use of the property will not constitute a hazard to public safety, health or morals.
- (d) Any application requesting a variance under Section IV (g) shall be approved by a majority vote of the Commissioners Court. No application which deviates from the requirements of these Guidelines and Criteria shall be approved unless accompanied by a request for variance as provided under Section IV (g).

VI. AGREEMENT

- (a) After approval the County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required. The Court Order shall include:
 - (1) estimated value of real and personal property to be abated and the base year value;
 - (2) percent of value to be abated each year as provided in Section III (g);
 - (3) the commencement date and the termination date of abatement;
 - (4) the proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provide in Section IV (b);

- (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections III (a), III (e), III (g) VII, VIII, and IX, or other provisions that may be required for uniformity or by state law, and;
- (6) a statement of the facility owner's policy regarding Disadvantaged Business Enterprises (DBEs), and the estimated dollar amount and percentage of total contracts to be awarded to DBEs for construction, professional services, purchases of equipment and supplies and other services required for the abated improvements;
- (7) amount of investment and average number of jobs involved; and
- (8) an assessment of the environmental impacts of the project, including a statement of the owner's policy addressing regional air quality and information on the use of alternative fuels in fleet vehicles.
- (9) a statement indicating the provision of a health care benefit plan for employees and dependents.

Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation to the County.

- (b) Participation in tax abatement agreements with municipalities requires additional information to be included in the Court Order approving the agreement, as follows:
 - (1) a copy of the agreement between the applicant and municipality shall be attached and made apart of the Court Order for all purposes;
 - (2) authorization for the County Judge to execute a signatory page on behalf of the Commissioners Court which shall be attached and made part of the original agreement.

VII. RECAPTURE

Commissioners Court reserves the right to review compliance for full or partial recapture in the event that the applicant fails to perform in "good faith." If a project is not completed as specified in the tax abatement agreement, the County has the right to cancel the abatement agreement and abated taxes shall become due to the County and other affected taxing units as provided by law. If any of the provisions contained in the tax abatement agreement, i.e., employment, amount of investment, etc., are not met, the County shall have the right to reduce or cancel the abatement agreement. If a project granted a tax abatement ceases to operate or is no longer in conformance with the tax abatement agreement, the agreement shall not be in

effect for the period of time during which the project is not operating or is not in conformance.

VIII. ADMINISTRATION

- (a) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the chief Appraiser shall notify the affected jurisdictions which levies taxes of the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of the County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- (c) Upon completion of construction the County and/or the jurisdiction creating the reinvestment zone shall annually (or at such other times as deemed appropriate by the Commissioners Court) evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the contract and agreement to the Commissioners Court and the District Attorney. On or before April 30th of every year during the life of the abatement agreement, the company or individual receiving the abatement shall complete and file a Tax Abatement Evaluation Report, along with other required written documentation, detailing and certifying the abatement recipient's compliance with the terms of the abatement agreement. Failure to provide information requested in the compliance evaluation by the prescribed deadline may result in taxes abated in the prior year being due and payable. The company or individual receiving a tax abatement shall provide information to the County for the evaluation which shall include, but not be limited to, the following:

 - (1) the number and dollar amounts of all construction contracts and subcontracts awarded on the project;
 - (2) the total number of employees of the company, their gross salaries, and the number of employees residing in Tarrant County and their gross salaries, reported in job classifications appropriate to the employee;
 - (3) the gross dollars spent on supplier and professional service contracts, indicating the amounts by contract awarded and performed by Tarrant County business and individuals;

- (4) the dollar amount of contracts awarded to Disadvantaged Business Enterprises;
- (5) detail of actions taken to mitigate any adverse environmental impacts of the project, if applicable; and
- (6) should the dollars, percentages, or actions not meet the original or modified requirements of the abatement agreement, a statement shall be provided explaining the reason for the failure to meet the requirements and a recommended course of rectification.

IX. ASSIGNMENT

Tax abatement agreements may be assigned to a new owner or lessee of the facility with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if the assignor or the assignee are indebted to the County for ad valorem taxes or other obligations.

X. SUNSET PROVISION

These Guidelines and Criteria are effective on January 1 of the year following the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the County to determine whether the goals have been achieved. Based on that review, the guidelines and Criteria will be modified, renewed or eliminated. These Guidelines and Criteria may be amended by Commissioners Court at any time during their effective period.

EXHIBIT "E"

TARRANT COUNTY TAX ABATEMENT EVALUATION FORM



Tarrant County Annual Tax Abatement Evaluation Report

Reporting Period: January 1, 201_ to December 31, 201_

I. PROJECT INFORMATION

Property Owner: "[Response]"

Company/Project Name: "[Response]"

Project Contact: "[Response]" Title: "[Response]"

Telephone: "[Response]" Fax: "[Response]" E-mail: "[Response]"

Property Owner Address: "[Response]"

Company Address (if different): "[Response]"

Address of Property Subject to Abatement: "[Response]"

TAD Tax Account Number(s) of Property Subject to Abatement:

Has construction/installation of planned improvements commenced? Yes No

If Yes, on what date? "[Response]"

If No, please explain. "[Response]"

Has construction/installation of planned improvements been completed? Yes No

If Yes, on what date? "[Response]"

If No, please estimate completion date *and* attach a current time schedule for the project:

"[Response]"

Date on which *Certificate of Occupancy* from City was received: "[Response]"

II. INVESTMENT / VALUATION

REAL PROPERTY

Beginning Year Appraised Value – Land: \$"[Response]"

Beginning Year Appraised Value – Improvements: \$"[Response]"

Construction Costs Incurred This Reporting Period: \$"[Response]"

Appraised Value of Improvements Added This Period: \$"[Response]"

PERSONAL PROPERTY

Beginning Year Appraised Value – Machinery, Equipment, Other Business Personal Property: \$ "[Response]"

New M&E, and other Business Personal Property Value Added During Period: \$"[Response]"

Beginning Year Appraised Value Inventory and Supplies: \$[Response]

New Inventory Value Added This Period: \$[Response]

Percentage/Amount of Inventory Subject to Exemption (i.e., Freeport/Foreign Trade Zone): "[Response]" %

III. JOB CREATION / RETENTION

Total Current Employees at End of Reporting Period: Full-time "[Response]" Part-time "[Response]"

Number of Current Employees Residing in Tarrant County: "[Response]"

Number of New Employees Added During Reporting Period: Full-time "[Response]" Part-time "[Response]"

Number of New Employees Added During Tax Abatement Term: Full-time "[Response]" Part-time "[Response]"

Current Workforce Diversity Percentages:

Gender: Male "[Response]" Female "[Response]"

Ethnicity: Caucasian "[Response]" Asian "[Response]" African American "[Response]"

Hispanic "[Response]" Other "[Response]"

Annual Payroll During Reporting Period: \$[Response]

Average Salary During Reporting Period: \$[Response]

IV. CONSTRUCTION & SUPPLY/SERVICES EXPENDITURES

CONSTRUCTION:

Construction Dollars Spent This Reporting Period: \$[Response]

Number of Construction Related Jobs This Period: "[Response]"

Total Construction Payroll This Period: \$[Response]

CONSTRUCTION SPENDING WITH TARRANT COUNTY & DISADVANTAGED BUSINESS ENTERPRISES (DBE):

Total Dollars of Construction Spending with Tarrant County Contractors: \$[Response]

Percent of Total Construction Spending with Tarrant County Contractors: "[Response]" %

Total Dollars of Construction Spending with DBE Contractors: \$[Response]

Percent of Total Construction Spending with DBE Contractors: "[Response]" %

ANNUAL SUPPLY/SERVICES EXPENSES:

Total Number Supply/Services Contracts This Period: "[Response]"

Total Dollars Spent on Supply/Services Expenditures This Period: \$[Response]

Total Dollars of Supply/Services Expenditures with Tarrant County Businesses: "[Response]" %

Percent of Supply/Services Expenditures with Tarrant County Businesses: "[Response]" %

Total Dollars of Supply/Services Expenditures with DBE Businesses: "[Response]" %

Percent of Supply/Services Expenditures with to DBE Businesses: "[Response]" %

V. EMPLOYEE AND ENVIRONMENTAL FACTORS

Company Sponsored Health Care Benefits Are Available To (check all that apply):

Full-time Part-time No Employees

Number of Employees Enrolled in Health Care Plan at End of Period: "[Response]"

Name of Health Care/Insurance Provider: "[Response]"

Average Percentage of Monthly Health Insurance Premiums Paid by Company: "[Response]" %

Average Monthly Employee Cost for Health Care Benefits: Individual: \$"[Response]" Family: \$"[Response]"

List Other Company Benefits Provided (life insurance, pension plan, childcare, etc.): "[Response]"

Does Your Company Encourage, Facilitate, and/or Provide Subsidies/Initiatives for Alternative Commute Options (i.e., bus, vanpools, carpools, telecommuting, etc.)? Yes No

If Yes, Please Describe: "[Response]"

Describe the Number, Type, and Fuels Used (Gas, Diesel, LPG, Electric, etc.) for Fleet Vehicles On Site:

VI. ADDITIONAL INFORMATION (TO BE ATTACHED)

- Copy of Personal Property List Rendered to the Tarrant Appraisal District
- Brief Narrative Highlighting The Progress And Status of the Project
- If Applicable, a Statement Addressing Any Failure to Meet Requirements of the Tax Abatement Agreement and a Plan for Recertification

VII. CERTIFICATION

I certify that, to the best of my knowledge and belief, the information and attachments provided herein are true and accurate and in compliance with the terms of the Tax Abatement Agreement with Tarrant County.

Name of Certifying Officer

Title

Phone

Email Address

Signature of Certifying Officer

Date

In order to remain eligible for the abatement of Tarrant County and/or Tarrant County Hospital District property taxes, you must return the completed report by April 30th to:

Lisa McMillan

**Economic Development Coordinator
Tarrant County Administrator's Office
100 E. Weatherford Street, Suite 404
Fort Worth, Texas 76196-0609**

You may also forward an electronic copy of the completed report to:

lmcmillan@tarrantcounty.com

Please note that if you do submit this form electronically, you must also submit an original hard copy of the report to the above stated physical address for proper filing and review.

For assistance call: (817) 884-2643

2. That the Commissioners Court shall have prudently reviewed each tax abatement agreement approved by a municipality having taxing jurisdiction with respect to property located in the County and within a reinvestment zone designated by such municipality or the state; and according to the here adopted guidelines and criteria for tax abatement of the County, shall prudently review and consider each proposed County tax abatement agreement providing participation in tax abatement with a municipality; and shall, solely at its discretion, approve those tax abatement agreements that it finds meet all constitutional and statutory criteria and requirements, and which it finds to be in the best interest of the taxpayers and citizens of the County; and
3. That the Commissioners Court hereby finds that the terms and conditions of the Agreement substantially meet its guidelines and criteria; that the Agreement for the abatement of certain Tarrant County taxes be and is hereby approved; that the County and its Commissioners Court hereby agree to enter into the Agreements as a party thereto; and the County Judge of the County be and is hereby authorized and directed to execute and deliver said Agreement on behalf of the County and its Commissioners Court, substantially in the form attached hereto, and carry out the terms thereof at the appropriate time(s).

PASSED AND APPROVED, IN OPEN COURT, this 11th day of June, 2019, through Court Order No. _____

B. Glen Whitley, County Judge

Roy C. Brooks
Commissioner, Precinct 1

Devan Allen
Commissioner, Precinct 2

Gary Fickes
Commissioner, Precinct 3

J.D. Johnson
Commissioner, Precinct 4

THE STATE OF TEXAS §

Tax Abatement Agreement

COUNTY OF TARRANT §

THIS Agreement is executed by and between **BEN E. KEITH COMPANY** a Texas corporation, acting by and through its authorized officer (hereafter referred to as "**COMPANY**"), and **TARRANT COUNTY, TEXAS**, acting by and through its County Judge or his designee, (hereafter referred to as "**COUNTY**").

WITNESSETH:

WHEREAS, the Tarrant County Commissioners Court has resolved that the COUNTY may elect to participate in tax abatement; and

WHEREAS, the Commissioners Court has adopted a Policy Statement for Tax Abatement, herein contained as **Exhibit "D"**, which constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the COUNTY; and

WHEREAS, the Premises (as hereafter defined) is, and the Eligible Property (as hereafter defined) will be, located in Reinvestment Zone No. 98 in the City of Fort Worth, Texas, established by Ordinance No. 23575-02-2019 (the "Ordinance") adopted on February 12, 2019, and further described in **Exhibit "A"**, being a commercial reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended (the "Zone"); and

WHEREAS, the City Council of the City of Fort Worth has approved and authorized the execution and delivery of a Tax Abatement Agreement as to the Eligible Property thereon, attached hereto as **Exhibit "B"**; and

WHEREAS, COMPANY submitted an application for tax abatement to the County concerning the contemplated Improvements to the Premises (the "Application for Tax Abatement"), attached hereto and incorporated herein as **Exhibit "C"**; and

WHEREAS, COMPANY is the owner of real property located within the Zone, more specifically described in **Exhibit "A"**, on which it plans to construct and install certain improvements in order to expand operations at its existing office and warehouse facility by approximately 185,000 square feet; and

WHEREAS, the Commissioners Court finds that the contemplated use of the Premises, the Eligible Property and the terms of this Agreement are consistent with encouraging development within the Zone;

NOW THEREFORE, the COUNTY and COMPANY, for and in consideration of the mutual premises and promises contained herein, do hereby agree, covenant and contract as set forth below:

I.
Definitions

- A. "Added Market Value" is defined as the market value of Eligible Property on the Premises above the Base Year Value.
- B. "Base Year Value" is defined as the tax year 2019 taxable value of real and personal property located on the Premises in City of Fort Worth Reinvestment Zone No. 98 on January 1, 2019, as finally determined by the Tarrant Appraisal District.
- C. "Construction Costs" are defined as site development and building costs, including, without limitation, actual site preparation and development and construction costs, signage costs, contractor fees, the costs of labor, supplies and materials, materials testing, engineering fees, architectural fees and other design, consulting, construction management and professional costs, and contractor, development and permitting fees expended directly in connection with the construction of the Real Property Improvements and landscape improvements.
- D. "DBE Companies" are defined as companies who are a Disadvantage Business Enterprise (DBE), and the term "DBE" shall mean:
- i. a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially or economically disadvantaged because of their identification as members of certain groups that have been subject to racial or ethnic prejudice or cultural bias without regard to their qualities as individuals or capabilities as a business, and whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. "DBE" includes the State of Texas definition of historically underutilized businesses (HUBs) as defined in Section 2161.001 of the Texas Government Code, and as it may be updated.
 - ii. a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described in D.i. above.
 - iii. a partnership that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by D.i. above, and in which minority or women partners have proportionate interest in the control, operation, and management of the partnership affairs.
 - iv. a limited liability company that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the company is owned by one or more persons described by D.i. above.
- E. "Effective Date" is defined as the date as of which both the County and Company have executed this Agreement.
- F. "Eligible Property" is defined as Real Property Improvements and Personal Property Improvements made for expansion of the facility, constructed, renovated, delivered to,

installed or placed on the Premises through June 30, 2021, as further described in the Application for Tax Abatement attached hereto as **Exhibit "C"**.

- G. "Job" is defined as a permanent, full-time employment position with COMPANY on the Premises that results in employment of at least forty-hours per week per position. Part-time positions shall not be included in this definition.
- H. "Personal Property Improvements" are defined as tangible personal property (except inventory or supplies) delivered to, installed or located on the Premises.
- I. "Premises" are defined as the real property (land and improvements) as described in **Exhibit "A"** which existed on January 1, 2019 within City of Fort Worth Reinvestment Zone No. 98, that are owned and/or operated by COMPANY.
- J. "Real Property Improvements" are defined as improvements to the Premises, and shall include structures or fixtures erected or affixed to the Premises.
- K. "Supply and Service Expenditures" are defined as those local discretionary expenditures made by COMPANY directly for the operation and maintenance of Premises and any improvements thereon, excluding utility service costs.
- L. "Tarrant County Companies" are defined as any corporation, partnership, limited liability company or sole proprietorship maintaining an addressed office location within Tarrant County from which such entity conducts all or a substantial part of its business operations within Tarrant County.
- M. "Zone" as used herein is defined as the real property located in City of Fort Worth Reinvestment Zone No. 98 and described by City of Fort Worth Ordinance No. 23575-02-2019, substantially in the form included within **Exhibit "A"**.

II. **General Provisions**

- A. The Premises are not in an improvement project financed by tax increment bonds.
- B. Neither the Premises nor any of the Improvements covered by this Agreement are owned or leased by any member of the Commissioners Court, or any member of the governing body of any taxing units joining in or adopting this Agreement.

III. **Improvement Conditions and Requirements**

- A. COMPANY shall improve the Premises by completing the Eligible Real and Personal Property Improvements in accordance with this Agreement.
- B. COMPANY shall provide for the completion of the Eligible Real Property Improvements no later than June 30, 2019, having a minimum Construction Cost upon completion of not less than Twenty-Two Million Dollars (\$22,000,000).

- C. COMPANY shall provide for the installation or location of the Eligible Personal Property Improvements no later than June 30, 2019, having a minimum initial cost of not less than Seven Million Dollars (\$7,000,000).
- D. COMPANY shall expend or cause to be expended at least fifteen percent (15%) of all Construction Costs of Eligible Real Property Improvements with DBE Companies.
- E. COMPANY shall expend or cause to be expended at least twenty-five percent (25%) of all Construction Costs of Eligible Real Property Improvements with Tarrant County companies.
- F. COMPANY shall expend or cause to be expended at least twenty-five percent (25%) in annual Supply and Service Expenditures with Tarrant County Companies.
- G. COMPANY shall expend or cause to be expended at least fifteen percent (15%) in annual Supply and Service Expenditures with DBE companies.
- H. COMPANY will maintain employment of eight hundred fifty-five (855) Jobs on the Premises throughout the term of this Agreement. Not later than December 31, 2024, COMPANY will add one hundred seventy-nine (179) net new Jobs on the Premises, for a total of no less than one thousand thirty-four (1,034) Jobs. Not later than December 31, 2026, COMPANY will have added two hundred eighty-three (283) net new Jobs on the Premises and will have total employment of one thousand one hundred thirty-eight (1,138) Jobs on the Premises.
- I. COMPANY shall operate and maintain on the Premises the Eligible Property as an office/warehouse facility for the duration of this Agreement.
- J. All proposed Eligible Property shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations of the City of Fort Worth and/or Tarrant County.
- K. The Premises and all Improvements must conform to all applicable state and federal laws and regulations to air pollution and air quality.

IV.
Abatement Allowed

- A. As set forth in this section, tax abatement allowed herein shall be for Tarrant County ad valorem real property and personal property taxes, relative to Added Market Value of the Eligible Property located on the Premises, subject to the following terms and conditions. Tarrant County Hospital District ad valorem taxes are not subject to the provisions of this Agreement.
- B. If the Improvement Conditions and Requirements set forth in Section III herein are met, COUNTY agrees to exempt from taxation up to fifty percent (50%) of the Added Market Value of the Eligible Property in accordance with the various requirements established by terms of this Agreement and to be calculated as set forth below. The abatement period shall be seven (7) consecutive years, beginning January 1, 2023 through December 31, 2029.

1. Base Abatement - If COMPANY (i.) improves the Premises and adds the required Eligible Property to the Premises as set forth in Section III A., B., and C., (ii.) maintains and adds employment as set forth in Section III. H., (iii.) employs Tarrant County residents for a minimum twenty-five percent (25%) of all Jobs, (iv.) makes expenditures for Construction Costs and annual Supply and Service Expenditures as set forth in Section III. D., E., F. and G., then COUNTY shall exempt from taxation forty percent (40%) of the Added Market Value of the Eligible Property.

Dollars spent with DBE Companies may also count as dollars spent with Tarrant County Companies, and vice versa, for the purposes of this Section if the DBE Company is also a Tarrant County Company as defined herein.

Failure to meet the minimum cost requirements set forth in Section III. B. and C. is a condition of Default and shall result in the termination of this Agreement in accordance with Section VII. Failure to meet the requirements for Jobs, Tarrant County resident employment, and use of DBE and Tarrant County Companies for Construction and Supply and Service Expenditures, as set forth in Section III, shall be cause for a reduction in the percentage abatement for any year in which the requirements are not met, as set forth in Section IV.B.2.

2. Reduction to Abatement

- a. Employment and Spending Deficiencies

In any year that employment and spending levels do not meet the minimum requirements set forth in Section IV.B.1., the COUNTY shall reduce the Base Abatement percentage for that year as set forth below. Each reduction is separate and individual and may be cumulative in any year.

- i. If the actual number of Jobs falls below the minimum Jobs requirements set forth in Section III.H., the Base Abatement percentage will be reduced by one percent (1%) for each four (4) Job deficiency, for that year.
- ii. If less than twenty-five percent (25%) of all Jobs are filled by Tarrant County residents, COMPANY will receive a ten percent (10%) reduction from the Base Abatement for that year.
- iii. If spending with DBE Companies is less than fifteen percent (15%) of total Construction Costs, as set forth in Section III.D., COMPANY will receive a reduction of one percent (1%) from the Base Abatement for each one percent (1%) spending deficiency, up to a maximum reduction of five percent (5%), for the life of the abatement.
- iv. If spending with Tarrant County Companies is less than twenty-five percent (25%) of total Construction Costs, as set forth in Section III.E., COMPANY will receive a reduction of one percent (1%) from the Base Abatement for each one percent (1%) spending deficiency, up to a maximum reduction of five percent (5%), for the life of the abatement.

- v. If spending with Tarrant County or DBE Companies for annual Supply and Services Expenditures is less than the minimum requirements set forth in Section III. F. and G., COMPANY will receive a one percent (1%) reduction in the Base Abatement percentage for each one percent (1%) deficiency from the minimum requirement, for that year.

3. Additional Percentage Abatement

In any year that COMPANY is eligible to receive all or a portion of the Base Abatement under Sections IV.B.1. and 2., COMPANY may receive up to an additional ten percent (10%) ad valorem tax abatement in any year (or for each year of the Abatement Term, as specified below) that COMPANY meets one or more of the additional performance requirements as set forth below.

- a. For total Jobs above (i.) one thousand thirty-four (1,034) following the commencement of the Abatement Term through December 31, 2025, or (ii.) one thousand one hundred thirty-eight beginning calendar year 2026 through the completion of the Abatement Term, COMPANY will receive an additional one percent (1%) abatement for each two (2) Jobs added, up to a maximum of ten percent (10%) additional abatement for that year.
- b. For employment of Tarrant County residents for more than sixty-five percent (65%) of all Jobs, COMPANY will receive an additional three percent (3%) abatement for that year.
- c. For spending with DBE Companies for thirty percent (30%) or greater of the total Construction Costs of the Eligible Real Property Improvements, COMPANY will receive an additional three percent (3%) abatement for each year of the Abatement Term.
- d. For spending with Tarrant County Companies for forty percent (40%) or greater of the total Construction Costs of the Eligible Real Property Improvements, COMPANY will receive an additional three percent (3%) abatement for each year of the Abatement Term.

V.

Reports, Audits and Inspections

A. Annual Certification and Reports - Pursuant to state law, COMPANY shall certify annually to taxing units that COMPANY is in compliance with the terms of the tax abatement agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the agreement, as follows:

- 1. Certification - COMPANY shall complete and certify a Tax Abatement Evaluation Report to be provided by COUNTY for each year of the tax abatement agreement, to be due annually not later than April 30. This certification shall include information supporting job creation and retention requirements, reports on Eligible Property values, costs, and spending on construction and supply and services, a narrative description of the project's progress, and other submittals required by the tax abatement agreement.

2. Eligible Property Reports - At a minimum, COMPANY shall make available upon request the following information annually on all Eligible Property for which COMPANY will seek tax abatement:
 - a. Property description;
 - b. Asset number/description;
 - c. Payment date for property located on Premises; and
 - d. Cost.

 3. Eligible Property Reports for Projects in Progress - COMPANY shall provide County, upon request, information on projects in progress for which fixed asset numbers have not been assigned. The report shall provide information in sufficient detail to identify the Eligible Property to be installed on the Premises. At a minimum, this information shall include:
 - a. Description of materials, machinery and equipment;
 - b. Vendor name, invoice date, invoice number and invoice amount; and
 - c. Payment date for property to be located on Premises.

 4. Reports on Equipment Replaced or Removed - Additionally, COMPANY agrees to provide COUNTY, upon request, information on Eligible Property for which COMPANY has received tax abatement and which has been replaced or removed from the Premises. At a minimum, this information shall include:
 - a. Property description;
 - b. Asset number/description; and
 - c. Approximate date of disposal.

 5. Report Upon Project Completion - Within one-hundred eighty (180) days of completion of the Eligible Property, COMPANY shall provide COUNTY with a final Eligible Property Report that shall describe all Eligible Property for which the Company is granted tax abatement. The report may contemplate a reconciliation of the general ledger to the personal property rendition to satisfy this requirement.

 6. Additional Reports - Additionally, throughout the term of this agreement, COMPANY shall furnish COUNTY any additional records and information reasonably requested to support the reports required by this agreement.
- B. Right to Audit Books and Records - COUNTY shall have the right to audit the books and records related to the Eligible Property and supporting the Eligible Property reports. COUNTY shall notify COMPANY in advance in writing of their intent to audit in order to allow COMPANY adequate time to make such books and records available.
- C. Inspection - At all times throughout the term of this Agreement, COUNTY and the Tarrant Appraisal District (TAD) shall have reasonable access to the Premises for the purpose of inspecting the Premises to ensure that the Eligible Property is constructed, installed, maintained and operated in accordance with the terms of this Agreement. All inspections shall be conducted in a manner as to not unreasonably interfere with the installation of the Eligible Property or the operation of the Premises. The inspections

shall be conducted within a reasonable time period after notice by COUNTY or TAD to COMPANY, provided, however, that all inspections shall be made with one (1) or more representative(s) of COMPANY present and in accordance with the safety standards of COMPANY.

VI.
Use of Premises

The Premises at all times shall be used in a manner that is consistent with the City of Fort Worth zoning ordinances and consistent with the general purpose of encouraging development within the Zone. Both parties acknowledge that the use of the Premises for an office/warehouse facility is in accordance with this Agreement is consistent with such purposes.

VII.
Breach and Recapture

- A. **Breach** - A breach of this Agreement may result in termination or modification of this Agreement and recapture by COUNTY of taxes which otherwise would have been paid since the execution of this Agreement to COUNTY without the benefit of the Abatement, as set forth in Sections VII.B. and VII.C. Penalty and interest on recaptured taxes will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas, and such taxes shall become due sixty (60) days following notice of breach and after the expiration of any cure period as provided in Section VII.B. The following conditions shall constitute a breach of this Agreement:
1. COMPANY terminates the use of the Premises as an office/warehouse facility and related activities at any time during the term of the Agreement; or
 2. COMPANY fails to meet the Abatement Conditions and Requirements as specified in Section III, A., B., C., or I., herein; or
 3. COMPANY allows its ad valorem taxes on any property located within Tarrant County owed to COUNTY to become delinquent.
- B. **Notice of Breach** - In the event that COUNTY makes a reasonable determination that COMPANY has breached this Agreement, then COUNTY shall give COMPANY written notice of such default. COMPANY has sixty (60) days following receipt of said written notice to reasonably cure such breach, or this Agreement may be terminated by COUNTY, and recapture of abated taxes may occur. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail to COMPANY at its address provided in Section IX of this Agreement. It shall be the duty of COUNTY to determine whether to require recapture and payment of abated taxes and to demand payment of such.
- C. **Recapture** - Should COMPANY commit a breach of this Agreement according to items A.1, 2, or 3 of this Section VII, and COMPANY does not cure as provided in VII.B. above during the cure period, COUNTY may terminate this Agreement and recapture taxes abated for all years during which the breach is committed.

- D. Tax Lien Not Impaired - It is expressly agreed and acknowledged between the parties to this Agreement that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the property established by Section 32.01 of the Tax Code of the State of Texas. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the property, including any taxes abated and subject to recapture under this Agreement. Any such lien may be fully enforced pursuant to the provisions of the Code. For purposes of this Subsection, "property" refers to the Premises and Eligible Property described herein.

VIII.

Assignment and Effect of Sale or Lease of Property

COMPANY may assign this Agreement and all or any portion of the benefits provided hereunder to an Affiliate, without the consent of COUNTY, provided that COMPANY provides COUNTY with written notice of such assignment, which notice shall include (a) the name and full contact information for the Affiliate, and (b) written agreement from an Affiliate assuming all terms and conditions of COMPANY under this Agreement. For purposes of this Agreement, an "Affiliate" means all entities, incorporated or otherwise, under direct or indirect common control with COMPANY, controlled by COMPANY, or controlling COMPANY. For purposes of this definition, "control" means ten percent (10%) or more ownership determined by either value or vote. Except as provided herein, the abatement granted by this Agreement shall not be otherwise assignable to any new owner or new lessee of all or a portion of the Premises or Eligible Property unless such assignment is approved in writing by the COUNTY.

IX.

Notice

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail postage prepaid or by hand delivery:

COMPANY: Ben E Keith Company
Attn: Legal Department
601 E. 7th Street
Fort Worth, TX 76102

COUNTY: Tarrant County
County Administrator's Office
100 E. Weatherford
Fort Worth, Texas 76196

X.

Commissioners Court Authorization

This Agreement was authorized by resolution of the Commissioners Court authorizing the County Judge or his designee to execute this Tax Abatement Agreement on behalf of the COUNTY.

XI.
Severability

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, 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, sentence, phrase or word.

XII.
Estoppel Certificate

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of COMPANY, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the abatement in effect and such other matters reasonably requested by the party(ies) to receive the certificates.

XIII.
Company's Standing

COMPANY, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions or City Council actions authorizing same, and COMPANY shall be entitled to intervene in said litigation.

XIV.
Applicable Law

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State's District Court of Tarrant County, Texas. This Agreement is performable in Tarrant County, Texas.

XV.
Indemnification

It is understood and agreed between the parties that the COMPANY, in performing its obligations hereunder, is acting independently, and COUNTY assumes no responsibility or liability to third parties in connection therewith, and COMPANY agrees to indemnify and hold harmless COUNTY from any such responsibility or liability. It is further understood and agreed among the parties that COUNTY, in performing its obligations hereunder, is acting independently, and the COMPANY assumes no responsibility or liability to third parties in connection therewith, and COUNTY agrees to the extent allowed by law to indemnify and hold harmless COMPANY from any such responsibility or liability.

XVI.
Force Majeure

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the requirements of this Agreement is delayed by reason of war, Act of God, fire or other casualty of a similar nature.

XVII.
Knowing Employment of Undocumented Workers

COMPANY acknowledges that the COUNTY is required to comply with Chapter 2264 of the Texas Government Code, enacted by House Bill 1196 (80th Texas Legislature), which relates to restrictions on the use of certain public subsidies. COMPANY hereby certifies that COMPANY, and any branches, divisions, or departments of COMPANY, does not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code. In the event that COMPANY, or any branch, division, or department of COMPANY, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens), subject to any appellate rights that may lawfully be available to and exercised by COMPANY, COMPANY shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the COUNTY, the aggregate amount of the value of the abatement received by COMPANY hereunder, if any, plus Simple Interest at a rate of four percent (4%) per annum. COMPANY shall not be considered in violation of this section for any actions of a subsidiary, Affiliate, franchisee of COMPANY or a person or entity with whom COMPANY contracts.

XVIII.
No Other Agreement

This Agreement embodies all of the agreements of the parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified or supplemented only by an instrument or instruments in writing executed by the parties.

XIX.
Recordation of Agreement

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Tarrant County, Texas.

XX.
Signatories

This Agreement is effective and binding on those parties that have duly signed below.

XXI.
Headings

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXII.
Successors and Assigns

The parties to this Agreement each bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.

XXIII.
Termination

This Agreement shall terminate, in accordance with the terms of this Agreement, unless extended by written agreement of the parties or a written instrument signed by all parties evidencing a delay by force majeure; provided however, that the period of abatement may not extend beyond ten (10) years.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the last date written below.

BEN E. KEITH COMPANY

By: _____

Name:

Title:

Date: _____

TARRANT COUNTY, TEXAS

By: _____

B. Glen Whitley, County Judge

Date: _____

ATTEST:

APPROVED AS TO FORM*:

Deputy County Clerk

Asst. Criminal District Attorney

**By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.*

THE STATE OF TEXAS ___ §

Ben E. Keith Company
Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **Ben E. Keith Company**, and as the _____ thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2019.

Notary Public in and for
The State of _____

My Commission Expires

Notary's Printed Name

THE STATE OF TEXAS §

Tarrant County, Texas
Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **B. GLEN WHITLEY**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of **TARRANT COUNTY, TEXAS**, as the **County Judge** thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2019.

Notary Public in and for
The State of Texas

My Commission Expires

Notary's Printed Name

EXHIBIT "A"
DESCRIPTION OF PREMISES AND
REINVESTMENT ZONE NO. 98

EXHIBIT "A"
LEGAL DESCRIPTION

Being all of Lot 4, Block 4 of the Cater Industrial Park, an addition to the City of Fort Worth, Tarrant County, Texas according to the plat recorded in Document No. D199122589, Deed Records, Tarrant County, Texas

Map generally outlining boundary of the Land, currently designated as Tarrant Appraisal District Account No. 07345925:

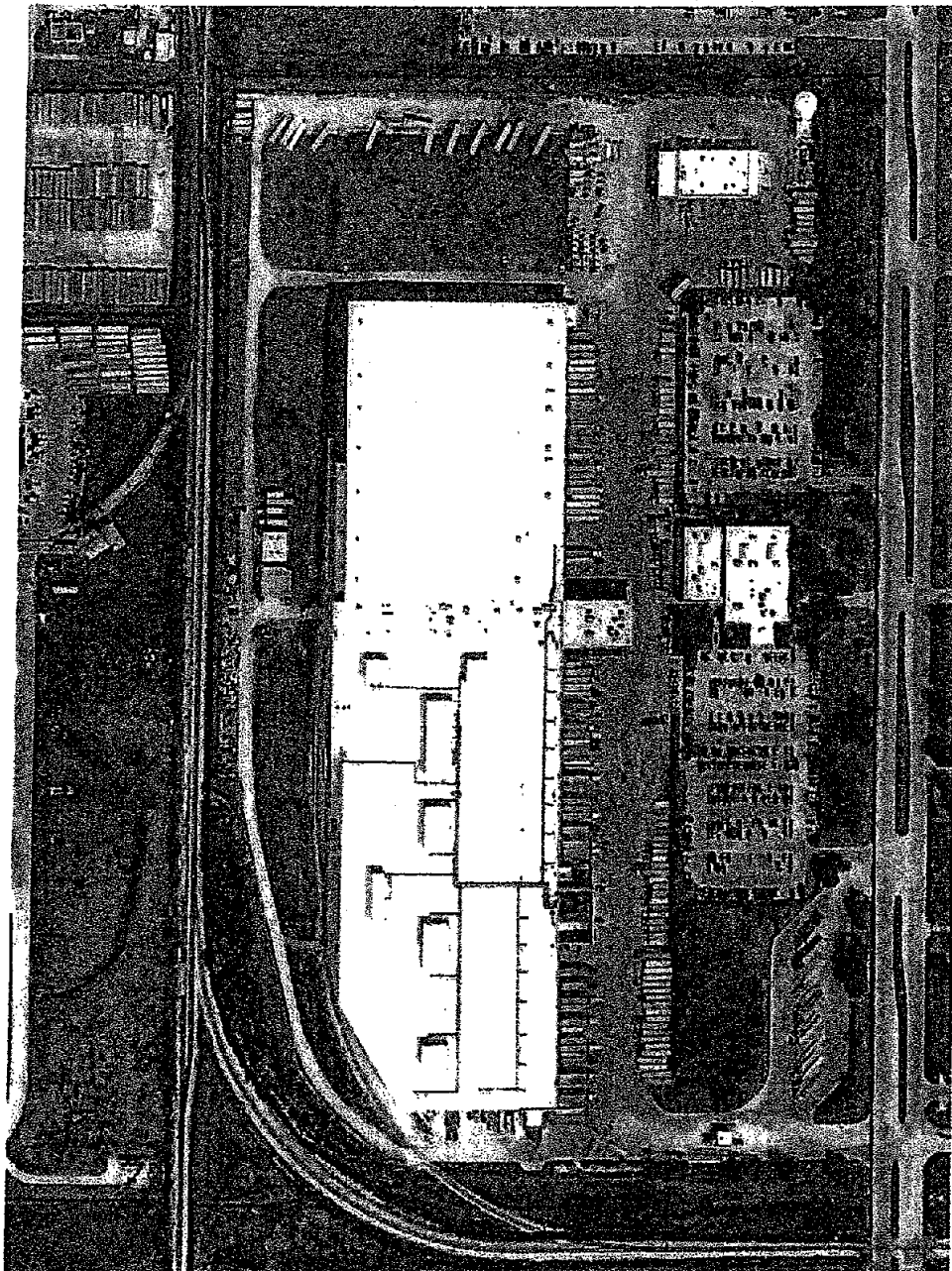


EXHIBIT "B"

CITY OF FORT WORTH TAX ABATEMENT AGREEMENT

ORDINANCE NO. _____

AN ORDINANCE DESIGNATING A CERTAIN AREA IN THE CITY OF FORT WORTH AS "TAX ABATEMENT REINVESTMENT ZONE NUMBER NINETY-EIGHT, CITY OF FORT WORTH, TEXAS"; PROVIDING THE EFFECTIVE AND EXPIRATION DATES FOR THE ZONE AND A MECHANISM FOR RENEWAL OF THE ZONE; AND CONTAINING OTHER MATTERS RELATED TO THE ZONE.

WHEREAS, pursuant to the City Council's adoption on January 29, 2019 of Resolution No. 5040-01-2019 (the "Tax Abatement Policy"), the City of Fort Worth, Texas (the "City") has elected to be eligible to participate in tax abatement and has established guidelines and criteria governing tax abatement agreements entered into between the City and various third parties, as authorized by and in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the "Code"); and

WHEREAS, the City Council desires to promote the development of the area in the City more specifically described in Exhibit "A" of this Ordinance (the "Zone") through the creation of a reinvestment zone for purposes of granting a business expansion tax abatement, as authorized by and in accordance with Chapter 312 of the Code; and

WHEREAS, Ben E. Keith Company or an affiliated entity ("Company") wishes to expend or cause to be expended at least \$22.0 million in real property improvements for the expansion of facilities and operations located on property to be located in the Zone, (collectively, the "Improvements"); and

WHEREAS, Company has applied for real and business personal property tax abatements from the City in return for the installation of the Improvements in the Zone and

compliance with certain other employment and spending commitments that will foster economic development in the Zone and the City in general; and

WHEREAS, on February 12, 2019 the City Council held a public hearing regarding the creation of the Zone, received information concerning the Improvements proposed for the Zone and afforded a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zone ("**Public Hearing**"), as required by Section 312.201(d) of the Code; and

WHEREAS, notice of the Public Hearing was published in a newspaper of general circulation in the City on February 3, 2019, which satisfies the requirement of Section 312.201(d)(1) of the Code that publication of the notice occur not later than the seventh day before the date of the public hearing; and

WHEREAS, in accordance with Sections 312.201(d)(2) and (e), of the Code notice of the Public Hearing was delivered in writing not later than the seventh day before the date of the public hearing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed Zone;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF FORT WORTH, TEXAS:**

Section 1.

FINDINGS.

That after reviewing all information before it regarding the establishment of the Zone and after conducting the Public Hearing and affording a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zone, the City Council hereby makes the following findings of fact:

- 1.1. The statements and facts set forth in the recitals of this Ordinance are true and correct. Therefore, the City has met the notice and procedural requirements established by the Code for creation of a reinvestment zone under Chapter 312 of the Code.
- 1.2. The Improvements proposed for the Zone, as more specifically outlined in the Public Hearing, are feasible and practical and, once completed will benefit the land included in the Zone as well as the City for a period of five (5) years, with an option to extend for not more than an additional five (5), but not to exceed ten (10) years, which is the statutory maximum term of any tax abatement agreement entered into under the Chapter 312 of the Code.
- 1.3. As a result of designation as a reinvestment zone, the area within the Zone is reasonably likely to contribute to the expansion of primary employment and to attract major investment in the Zone that will be a benefit to property in the Zone and will contribute to the economic development of the City.

Section 2.

DESIGNATION OF ZONE.

That the City Council hereby designates the Zone described in the boundary description attached hereto as Exhibit "A" and made a part of this Ordinance for all purposes as a reinvestment zone for purposes of granting business expansion tax abatement, as authorized by and in accordance with Chapter 312 of the Code. This Zone shall be known as "Tax Abatement Reinvestment Zone Number Ninety-Eight, City of Fort Worth, Texas." This project is eligible for commercial/industrial tax abatement pursuant as a Target Industry (Manufacturing), as defined in and in accordance with Section 4 of the Tax Abatement Policy.

Section 3.

TERM OF ZONE.

That the Zone shall take effect upon the effective date of this Ordinance and expire five (5) years thereafter. The Zone may be renewed by the City Council for one or more subsequent terms not to exceed five years.

Section 4.

SEVERABILITY.

That if any portion, section or part of a section of this Ordinance is subsequently declared invalid, inoperative or void for any reason by a court of competent jurisdiction, the remaining portions, sections or parts of sections of this Ordinance shall be and remain in full force and effect and shall not in any way be impaired or affected by such decision, opinion or judgment.

Section 5.

IMMEDIATE EFFECT.

That this Ordinance shall take effect upon its adoption.

ADOPTED AND EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Peter Vaky
Deputy City Attorney

M&C: _____

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

Being a tract of land situated in the John D. Hudson Survey, Abstract No. 741 and the William Hudson Survey, Abstract No. 738 in the City of Fort Worth, Tarrant County, Texas and being a portion of Block 4, Carter Industrial Park, per plat as recorded in Volume 388-31, Page 52 of the Deed Records of Tarrant County, Texas and being a portion of the third tract as deeded to Carter Foundation Production Company (aka Mereken Land & Production Company) per documents recorded in Volume 3587, Page 319 and Volume 3595, Page 24 of said Deed Records of Tarrant County, Texas, said tract being more particularly described by metes and bounds as follows: BEGINNING at a found ~ inch iron rod on the West R.O.W. line of Will Rogers Boulevard (a 110 foot wide R.O.W. per said plat) being or intended to be the Southeast corner of a tract deeded to Ivy Corporation per document recorded in Volume 7665, Page 584 of said Deed Records, from said found ~ inch iron rod a found 5/8 inch capped iron rod (Carter & Burgess) being or intended to be the Northeast corner of said Ivy tract bears North 00 degrees 15 minutes 30 seconds West, a distance of 592.93 feet; THENCE South 00 degrees 15 minutes 30 seconds East (Reference Bearing), along said West R. O. W. line of Will Rogers Boulevard, a distance of 2022.52 feet to a set 5/8 inch capped iron rod (BHB INC) being the Northeast corner of a tract deeded to Missouri Pacific Railroad Company per document recorded in Volume 9941, Page 1080 of said Deed Records, from said set 5/8 inch capped iron rod (BHB INC) a found 5/8 inch capped iron rod (Carter & Burgess) bears South 00 degrees 15 minutes 30 seconds East, a distance of 50.00 feet of which is being or intended to be the Northeast corner of a tract deeded to Mereken Land & Production Company per document recorded in Volume 12575, Page 2311 of said Deed Records; THENCE South 89 degrees 45 minutes 00 seconds West, leaving said West R.O.W. line of Will

Rogers Boulevard and along the North line of said Missouri Pacific Railroad Company tract, a distance of 624.22 feet to a set 5/8 inch capped iron rod (BHB INC), said set 5/8 inch capped iron rod (BHB INC) also being the beginning of a curve to the right whose chord bears North 48 degrees 04 minutes 00 seconds West, a distance of 736.90 feet and having a radius of 548.69 feet; THENCE Northwesterly, along said curve to the right along the Northerly line of said Missouri Pacific Railroad Company tract, through a central angle of 84 degrees 22 minutes 01 seconds, an arc length of 807.94 feet to a set 5/8 inch capped iron rod (BHB INC) for the end of said curve; THENCE North 05 degrees 52 minutes 59 seconds West, along the Easterly line of said Missouri Pacific Railroad Company tract, a distance of 249.38 feet to a set 5/8 inch capped iron rod (BHB INC) on the West line of said Block 4; THENCE North 00 degrees 09 minutes 30 seconds West, along said West line of Block 4, a distance of 1279.51 feet to a found 5/8 inch iron rod being or intended to be the Southwest corner of a tract deeded to Miller Brewing Company per document recorded in Volume 6822, Page 1602 of said Deed Record~; THENCE North 89 degrees 45 minutes 00 seconds East, along the South line of said Miller Brewing Company tract, passing a found ~ inch iron rod at 428.70 feet and continuing along the South line of said Ivy tract for a total distance of 1192.40 feet to the POINT OF BEGINNING and containing 2,336,380 square feet or 53.64 Gross acres of land of which 90,846 square feet or 2.09 acres lies within a drainage area located along the southerly portion of said described tract between the 30 foot building setback line and the top of bank as located in the field in the month of May, 1997 and the area of the Chevron Pipeline Company Right of Way Easement lying Easterly of a 30 foot building setback line being 8,573 square feet or 0.20 acre, leaving a net area of 2,236,961 square feet or 51.35 acres of land, more or less.

STATE OF TEXAS §

COUNTY OF TARRANT §

TAX ABATEMENT AGREEMENT

This TAX ABATEMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF FORT WORTH, TEXAS (the "City"), a home rule municipality organized under the laws of the State of Texas, and BEN E. KEITH COMPANY, a Texas corporation ("Company").

RECITALS

A. On January 29, 2019, the City Council adopted Resolution No. 5040-01-2019, stating that the City elects to be eligible to participate in tax abatement and setting forth guidelines and criteria governing tax abatement agreements entered into between the City and various parties, entitled "General Tax Abatement Policy" (the "Policy"), which is incorporated herein by reference and hereby made a part of this Agreement for all purposes.

B. The Policy contains appropriate guidelines and criteria governing tax abatement agreements to be entered into by the City as contemplated by Chapter 312 of the Texas Tax Code, as amended (the "Code").

C. On February 12, 2019 the City Council adopted Ordinance No. 23575-02-2019 (the "Ordinance") establishing Tax Abatement Reinvestment Zone No. 98, City of Fort Worth, Texas (the "Zone").

D. Company owns approximately 51.35 acres of real property at 7650 Will Rogers Boulevard in Carter Industrial Park in the City, which real property is located within the Zone and is more specifically described in Exhibit "A" (the "Land"), attached hereto and hereby made a part of this Agreement for all purposes. Contingent upon receipt of the tax abatement herein, Company intends to expand its business operations on the Land by expanding its office and warehouse facility by approximately 185,000 square feet (more specifically defined herein as the "Required Improvements"), as more specifically set forth in this Agreement.

E. On August 30, 2018 Company submitted an application for tax abatement (the "Application") to the City concerning Company's plans for development of the Land, including construction of the Required Improvements, which Application is attached hereto as Exhibit "B" and hereby made a part of this Agreement for all purposes.

RECEIVED
APR 29 2019
CITY OF FORT WORTH
CITY SECRETARY

F. The contemplated use of the Land and the terms of this Agreement are consistent with encouraging development of the Zone and generating economic development and increased employment opportunities in the City, in accordance with the purposes for creation of the Zone, and are in compliance with the Policy, the Ordinance and other applicable laws, ordinances, rules and regulations.

G. Company provides food and beverage distributing services and has had a leading corporate presence in the City since 1906. Under this Agreement, Company is committing to expend at least \$22 million in Construction Costs for the Required Improvements. Company is also committing to maintain a minimum of 855 Full-time Jobs by the end of the First Operating Year, increasing to a total of 1,034 Full-time Jobs by the end of 2023, and further increasing to a total of 1,138 Full-time Jobs by the end of 2025, with average annual Salaries of at least \$73,000.00. Therefore, the provisions of this Agreement, as well as the proposed use of the Land and nature of the proposed Required Improvements, as defined herein, satisfy the eligibility criteria for commercial/industrial tax abatement pursuant to Section 5 of the Policy (Existing Business Expansion Projects).

H. Written notice that the City intends to enter into this Agreement, along with a copy of this Agreement, has been furnished in the manner prescribed by the Code to the presiding officers of the governing bodies of each of the taxing units that have jurisdiction over the Land.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. INCORPORATION OF RECITALS.

The City Council has found, and the City and Company hereby agree, that the recitals set forth above are true and correct and form the basis upon which the parties have entered into this Agreement.

2. DEFINITIONS.

In addition to terms defined in the body of this Agreement, the following terms shall have the definitions ascribed to them as follows:

Abatement means (i) the abatement of a percentage (not to exceed fifty percent (50%) in any year of the Abatement Term) of the City's incremental ad valorem real property taxes on the Land and any improvements located on the Land, based on the increase in values of the Land and all improvements located on the Land from the 2019 tax

year (which is the year in which the parties entered into this Agreement), and (ii) the abatement of a percentage (not to exceed fifty percent (50%) in any year of the Abatement Term) of the City's incremental ad valorem taxes on New Taxable Tangible Personal Property, all calculated in accordance with this Agreement.

Abatement Term means the term of seven (7) consecutive calendar years, commencing on January 1 of the Second Operating Year, in which Company will receive the Abatement in accordance with this Agreement.

Affiliate means all entities, incorporated or otherwise, under common control with, controlled by or controlling Company. For purposes of this definition, "control" means fifty percent (50%) or more of the ownership determined by either value or vote.

Annual Salary Commitment has the meaning ascribed to it in Section 4.4.4.

Application has the meaning ascribed to it in Recital E.

Central City means that area in the corporate limits of the City within Loop 820 (i) consisting of all Community Development Block Grant ("CDBG") eligible census block groups; (ii) all state-designated enterprise zones; and (iii) all census block groups that are contiguous by seventy-five percent (75%) or more of their perimeter to CDBG-eligible block groups or enterprise zones, as well as any CDBG-eligible block in the corporate limits of the City outside Loop 820, as more specifically depicted in the map of **Exhibit "C"**, attached hereto and hereby made a part of this Agreement for all purposes. The Company's Central City resident employee headcount can be verified by using the following website:

<https://mapit.fortworthtexas.gov/Html5Viewer/?viewer=economicdevelopment>.

Central City Employment Commitment has the meaning ascribed to it in Section 4.4.3.

Central City Employment Percentage has the meaning ascribed to it in Section 6.6.

Central City Resident means an individual whose primary residence is at a location within the Central City.

Certificate of Completion has the meaning ascribed to it in Section 5.

Certified M/WBE Company means a minority or woman-owned business that (i) has received certification as either a minority business enterprise (MBE), a woman business enterprise (WBE), or a disadvantaged business enterprise (DBE) by the North Central Texas Regional Certification Agency (NCTRCA), D/FW Minority Supplier Development Council (MSDC), or Women's Business Council - Southwest (WBC), and that has a principal office located within Tarrant, Dallas, Denton, Johnson, Parker, or Wise Counties, Texas. For purposes of this definition, a "principal office" means an office facility that is

fully operational and has sufficient equipment, supplies, and personnel to provide the product or service of the business in question to clients in the City without significant reliance on the resources of another entity or affiliate or of an auxiliary facility of the business which is located outside of Tarrant, Dallas, Denton, Johnson, Parker, and Wise Counties, Texas.

Code has the meaning ascribed to it in Recital B.

Completion Date means the date as of which all occupiable space within the Required Improvements have received a temporary or permanent certificate of occupancy.

Completion Deadline means June 30, 2021.

Compliance Auditing Term means the term of seven (7) consecutive years, commencing on January 1 of the First Operating Year, in which the City will verify and audit Company's compliance with the various commitments set forth in Section 4 that form the basis for calculation of the amount of each annual Abatement percentage hereunder.

Construction Costs means Hard Construction Costs, plus the following costs expended by Company either directly or through its general contractor, for the Required Improvements: engineering fees, architectural and design fees; permit fees; and costs of third party consultants, including attorneys and environmental consultants. Construction Costs specifically excludes any real property acquisition costs.

Director means the director of the City's Economic Development Department.

Effective Date has the meaning ascribed to it in Section 3.

Event of Default means a breach of this Agreement by a party, either by act or omission, as more specifically set forth in Section 7 of this Agreement.

Fifth Operating Year means the fifth full calendar year following the year in which the Completion Date occurred.

First Operating Year means the first full calendar year following the year in which the Completion Date occurred.

Fort Worth Company means business that a principal office located within the corporate limits of the City of Fort Worth. For purposes of this definition, a "principal office" means an office facility that is fully operational and has sufficient equipment, supplies, and personnel to provide the product or service of the business in question to clients in the City without significant reliance on the resources of another entity or affiliate or of an auxiliary facility of the business which is located outside of the corporate limits of the City of Fort Worth.

Fort Worth Construction Spending Commitment has the meaning ascribed to in Section 4.2.

Fort Worth Construction Percentage has the meaning ascribed to it in Section 6.2.

Fort Worth Employment Commitment has the meaning ascribed to it in Section 4.4.2.

Fort Worth Employment Percentage has the meaning ascribed to it in Section 6.5.

Fort Worth Resident means an individual whose principal place of residence is at a location within the corporate limits of the City of Fort Worth.

Fourth Operating Year means the fourth full calendar year following the year in which the Completion Date occurred.

Full-time Job means a job provided to and filled by one (1) individual by Company or an Affiliate working on, or considered to be based out of, the Land for at least forty (40) hours per week.

Hard Construction Costs means actual site development and construction costs, including, but not limited to, directly-related contractor fees and costs of supplies, labor, and materials, regardless of whether Company pays directly or through its general contractor.

Land has the meaning ascribed to it in Recital D.

Legal Requirements means federal, state and local laws, ordinances, rules and regulations, including, but not limited to, all provisions of the City's charter and ordinances, as amended.

M/WBE Construction Spending Commitment has the meaning ascribed to it in Section 4.3.

M/WBE Construction Percentage has the meaning ascribed to it in Section 6.3.

New Taxable Tangible Personal Property means any personal property other than inventory or supplies that (i) is subject to ad valorem taxation by the City; (ii) is located on the Land; (iii) is owned or leased by Company and used by Company for the business purposes outlined in this Agreement; and (iv) was not previously owned by Company, on the City's ad valorem property tax roll, and located in the City prior to the Effective Date of this Agreement.

Ordinance has the meaning ascribed to it in Recital C.

Overall Employment Commitment has the meaning ascribed to it in Section 4.4.1.

Overall Employment Percentage has the meaning ascribed to it in Section 6.4.

Policy has the meaning ascribed to it in Recital A.

Real Property Improvement Commitment has the meaning ascribed to it in Section 4.1.

Real Property Improvement Percentage has the meaning ascribed to it in Section 6.1

Records has the meaning ascribed to it in Section 4.8.

Required Improvements means an expanded office and warehouse facility constructed on the Land consisting of at least 185,000 square feet, as verified in the Certificate of Completion issued by the Director in accordance with Section 5 of this Agreement.

Salary means the cash payment or remuneration made to a person holding a Full-time Job, including paid time off, commissions, withholding taxes and non-discretionary bonuses. A Salary does not include any benefits, such as health insurance or retirement contributions, reimbursements for employee expenses, or any discretionary bonuses.

Second Operating Year means the second full calendar year following the year in which the Completion Date occurred.

Supply and Service Expenditures means those local discretionary expenditures made by Company directly for the operation and maintenance of the Land and any improvements thereon, excluding amounts paid for electric, natural gas, water, and any other utilities (but not excluding fuel or gas purchased, stored on the Land, and used for vehicles/transportation; or cable, internet or television services).

Supply and Service Spending Commitment has the meaning ascribed to it in Section 4.5.

Supply and Service Percentage has the meaning ascribed to it in Section 6.7.

Term has the meaning ascribed to it in Section 3.

Third Operating Year means the third full calendar year following the year in which the Completion Date occurred.

Zone has the meaning ascribed to it in Recital C.

3. TERM.

This Agreement shall take effect on the date as of which both the City and Company have executed this Agreement (the "Effective Date") and, unless terminated earlier in accordance with its terms and conditions, shall expire upon expiration of the Abatement Term (the "Term").

4. COMPANY'S OBLIGATIONS AND COMMITMENTS.

4.1. Real Property Improvements.

Company must expend or cause to be expended at least Twenty-two Million Dollars (\$22,000,000.00) in Construction Costs for the Required Improvements by the Completion Date, of which at least Twenty Million Dollars (\$20,000,000) must be Hard Construction Costs, and the Completion Date for the Required Improvements must occur on or before the Completion Deadline (collectively, the "Real Property Improvement Commitment"). Notwithstanding anything to the contrary herein, if the Real Property Improvement Commitment is not met, an Event of Default will occur, as set forth in Section 7.1 of this Agreement.

4.2. Construction Spending Commitment for Fort Worth Companies.

By the Completion Date, Company must have expended or caused to be expended at least Three Million Dollars (\$3,000,000.00) in Hard Construction Costs with Fort Worth Companies (the "Fort Worth Construction Spending Commitment").

4.3. Construction Spending Commitment for Certified M/WBE Companies.

By the Completion Date, Company must have expended or caused to be expended at least fifteen percent (15%) of all Construction Costs for the Required Improvements, regardless of the total amount of such Construction Costs, with Certified M/WBE Companies (the "M/WBE Construction Spending Commitment"). Expenditures made with any Certified M/WBE Company that also qualifies as a Fort Worth Company under this Agreement will additionally be counted as expenditures made with a Fort Worth Company for purposes of measuring the Fort Worth Construction Spending Commitment.

4.4. Employment Commitments.

Determination each year of compliance with the following employment commitments will be based on the employment data provided to the City pursuant to Section 4.6.2 for the year under evaluation.

4.4.1. Overall Employment.

Company must meet or exceed the following levels of overall employment for the calendar years specified below (for each year below, the "Overall Employment Commitment").

4.4.1.1. First and Second Operating Years.

In the First Operating Year and Second Operating Year, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 855 Full-time Jobs. Notwithstanding anything to the contrary herein, because the Overall Employment Commitment for the First Operating Year and the Second Operating Year is 855 Full-time Jobs, if the Overall Employment Commitment is not met in either of these years, an Event of Default will occur, as set forth in Section 7.2 of this Agreement.

4.4.1.2. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 1,034 Full-time Jobs.

4.4.1.3. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 1,138 Full-time Jobs.

4.4.2. Employment of Fort Worth Residents.

Company must meet or exceed the following levels of employment of Fort Worth Residents for the calendar years specified below (for each year below, the "Fort Worth Employment Commitment"). Full-time Jobs held by Fort Worth Residents will also be counted as Full-time Jobs for purposes of measuring the Overall Employment Commitment outlined

in Section 4.4.1. A Fort Worth Employment Commitment will not apply in either the First Operating Year or Second Operating Year.

4.4.2.1. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Fort Worth Employment Commitment if in the year under evaluation Company provided at least 338 Full-time Jobs to Fort Worth Residents.

4.4.2.2. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Fort Worth Employment Commitment if in the year under evaluation Company provided at least 377 Full-time Jobs to Fort Worth Residents.

4.4.3. Employment of Central City Residents.

Company must meet or exceed the following levels of employment of Central City Residents for the calendar years specified below (for each year below, the "Central City Employment Commitment"). Full-time Jobs held by Central City Residents will also be counted as Full-time Jobs for purposes of measuring the Fort Worth Employment Commitment outlined in Section 4.4.2 as well as for the Overall Employment Commitment outlined in Section 4.4.1. A Central City Employment Commitment will not apply in either the First Operating Year or Second Operating Year.

4.4.3.1. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Central City Employment Commitment if in the year under evaluation Company provided at least 94 Full-time Jobs to Central City Residents.

4.4.3.2. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Central City Employment Commitment if in the year under evaluation Company provided at least 103 Full-time Jobs to Central City Residents.

4.4.4. Average Annual Salary.

Throughout the Third Operating Year and in each year of the Compliance Auditing Term thereafter, the average annual Salary, measured on a calendar year basis, for all Full-time Jobs, regardless of the total number of such Full-time Jobs, must equal at least Seventy-three Thousand Dollars (\$73,000.00) (the "Annual Salary Commitment").

4.5. Annual Supply and Service Spending Commitment.

In the First Operating Year and in each year thereafter during the Compliance Auditing Term, Company annually must expend at least Nine Hundred Thousand Dollars (\$900,000.00) in Supply and Service Expenditures with Fort Worth Companies (the "Supply and Service Spending Commitment").

4.6. Reports and Filings.

4.6.1. Construction Reports.

4.6.1.1. M/WBE Plan.

Within sixty (60) calendar days following the Effective Date of this Agreement, Company must provide the Director with a report that outlines Company's plan to utilize Certified M/WBE Companies for construction of the Required Improvements. Company agrees to meet with the Director and other City staff members to discuss such plan and to consider in good faith any recommendations by the City to increase utilization of Certified M/WBE Companies for construction of the Required Improvements.

4.6.1.2. Semi-Annual Progress.

By June 30 and December 31 of each year prior to the Completion Date, Company must provide the Director with a report in a form reasonably acceptable to the City that specifically outlines the then-aggregate Construction Costs expended for the Required Improvements; the then-aggregate Hard Construction Costs expended with Fort Worth Companies for the Required Improvements; and the then-aggregate Construction Costs expended with Certified M/WBE Companies for the Required Improvements. Company agrees to meet with the Director and other City staff members to discuss any concerns by the City with respect to Company's progress in utilizing Fort Worth Companies and Certified M/WBE Companies for construction of the Required Improvements as of the date of any such report.

4.6.1.3. Final Construction Report.

Within sixty (60) calendar days following the Completion Date, in order for the City to assess whether the Real Property Improvement Commitment was met, as outlined in Section 4.1, and the extent to which the Fort Worth Construction Spending Commitment and the M/WBE Construction Spending Commitment were met, Company must provide the Director with a report in a form reasonably acceptable to the City that specifically outlines the total Construction Costs expended for the Required Improvements; the total Hard Construction Costs expended with Fort Worth Companies for the Required Improvements; and the total Construction Costs expended with Certified M/WBE Companies for the Required Improvements, together with supporting invoices and other documents necessary to demonstrate that such amounts were actually paid by Company, including, without limitation, final lien waivers signed by Company's general contractor.

4.6.2. Annual Employment Report.

On or before February 1 of the Second Operating Year and of each year thereafter for the remainder of the Compliance Auditing Term, in order for the City to assess the extent to which Company met the Overall Employment Commitment and the Annual Salary Commitment in the previous year, Company must provide the Director with a report in a form reasonably acceptable to the City, that sets forth the total number of individuals who held Full-time Jobs, as well as the Salary of each, all as of December 31 (or such other date requested by Company and reasonably acceptable to the City) of the previous calendar year, together with reasonable supporting documentation. Beginning with the report due by February 1 of the Fourth Operating Year, in order for the City to assess the extent to which Company met the Fort Worth Employment Commitment and the Central City Employment Commitment in the previous year, the report must also set forth, in a form reasonably acceptable to the City, the total number of Fort Worth Residents and Central City Residents who held Full-time Jobs in the previous year, together with reasonable supporting documentation. Failure of Company to submit the report pursuant to this Section by February 1 of the Second Operating Year and each year thereafter shall be an Event of Default pursuant to Section 7.7 requiring notice by the City of such delinquency.

4.6.3. Annual Supply and Service Spending Report.

On or before February 1 of the Second Operating Year of each year thereafter for the remainder of the Compliance Auditing Term, in order for

the City to assess the extent to which Company met the Supply and Service Spending Commitment in the previous calendar year, Company must provide the City with a report in a form reasonably acceptable to the City, that sets forth the aggregate Supply and Service Expenditures made during such year with Fort Worth Companies, together with reasonable supporting documentation. Failure of Company to submit the report pursuant to this Section by February 1 of the Second Operating Year and each year thereafter shall be an Event of Default pursuant to Section 7.7 requiring notice by the City of such delinquency.

4.6.4. General.

Company will supply any additional information reasonably requested by the City that is pertinent to the City's evaluation of compliance with each of the terms and conditions of this Agreement, provided that such information is available to Company as part of its or an Affiliate's Records, as that term is defined in Section 4.8.

4.7. Inspections.

At any time during Company's normal business hours throughout the Term and following reasonable notice to Company which shall be no less than twenty-four hour advance notice, the City will have the right to inspect and evaluate the Land, and any improvements thereon, and Company will provide or cause to be provided full access to the same to the extent that no safety hazards are present and not more than a 24 hour delay in construction might reasonably occur as a direct result of such inspection, in order for the City to monitor compliance with the terms and conditions of this Agreement. Company will cooperate fully with the City during any such inspection and evaluation. Notwithstanding the foregoing, Company shall have the right to require that any representative of the City be escorted by a Company representative or security personnel during any such inspection and evaluation.

4.8. Audits.

The City will have the right throughout the Term to audit the financial and business records of Company or an Affiliate that relate directly to the Required Improvements and the Land and any other documents necessary to evaluate Company's compliance with this Agreement and with the commitments set forth in this Agreement, including, but not limited to construction documents and invoices (collectively "Records"). Company shall make all Records available to the City on the Land or at another location in the City acceptable to both parties following reasonable advance notice by the City and shall otherwise cooperate fully with the City during any audit.

4.9. Use of Land.

The Land and any improvements thereon, including, but not limited to, the Required Improvements, must be used at all times during the Term of this Agreement for Company's lawful business operations, as set forth in this Agreement, and otherwise in a manner that is consistent with the general purposes of encouraging development or redevelopment of the Zone.

4.10. Abatement Application Fee.

The City acknowledges receipt from Company of the required Application fee of Five Thousand Dollars (\$5,000.00). Of such amount, Two Thousand Dollars (\$2,000.00) is strictly nonrefundable and shall be used by the City for the purposes set forth in the Policy. If construction work on the Required Improvements begins within one (1) year from the date of the Application, the remaining Three Thousand Dollars (\$3,000.00) of such fee shall be credited to Company's benefit against any permit, impact, inspection or other lawful fee required by the City in connection with the Required Improvements. If construction work for the Required Improvements does not begin within one (1) year from the date of the Application, Company will not receive a credit or refund of any portion of the fee. If there is a balance of any of the remaining Application Fee funds after the date on which the Director issues a Certificate of Completion in accordance with Section 5, Company will be entitled to a refund of such remaining Application Fee funds, but only if Company submits a letter to the Director requesting such refund within ninety (90) calendar days following the date of issuance of the Certificate of Completion.

5. CERTIFICATE OF COMPLETION.

Within ninety (90) calendar days following receipt by the City of the final construction spending report for the Required Improvements submitted in accordance with Section 4.6.1.3, and assessment by the City of the information contained therein pursuant to Sections 4.7 and 4.8, if the City is able to verify that the Real Property Improvement Commitment was met, as outlined in Section 4.1, the Director will issue Company a certificate stating the amount of Construction Costs expended for the Required Improvements; the amount of Hard Construction Costs expended for the Required Improvements specifically with Fort Worth Companies; and the amount of Construction Costs expended for the Required Improvements specifically with Certified M/WBE Companies (the "Certificate of Completion"). The Certificate of Completion will serve as the basis for determining the extent to which the Fort Worth Construction Spending Commitment and the M/WBE Construction Spending Commitment was met.

6. **TAX ABATEMENT.**

Subject to the terms and conditions of this Agreement, provided that the Real Property Improvement Commitment was met, as outlined in Section 4.1 and as confirmed in the Certificate of Completion issued by the Director in accordance with Section 5, Company will be entitled to receive and the City agrees to provide Company an Abatement in each year of the Abatement Term. City agrees to take any required steps to effectuate the Abatement in each year of the Abatement Term, including, but not limited to, providing any necessary notices to the Tarrant Appraisal District. The City and Company agree to work together in an expeditious manner to effectuate the Abatement in each year of the Abatement Term and reasonably cooperate to submit the necessary documentation to any third parties to effectuate the Abatement. The amount of each Abatement that Company is entitled to receive and which the City will provide during such years will be a percentage of the City's incremental ad valorem taxes on the Land and any improvements located thereon, and on New Taxable Tangible Personal Property attributable to increases in the value of such Land, improvements, and New Taxable Tangible Personal Property over their taxable values for the 2019 tax year, which percentage will equal the sum of the Real Property Improvement Percentage; the Fort Worth Construction Percentage; the M/WBE Construction Percentage; the Overall Employment Percentage; the Fort Worth Employment Percentage (to the extent applicable); the Central City Employment Percentage (to the extent applicable); and the Supply and Service Percentage, as defined in Sections 6.1 through 6.7 (not to exceed fifty percent (50%)), as follows:

6.1. **Completion of Required Improvements (20% in Years 1 and 2 of the Abatement Term; 5% Thereafter).**

Company will be entitled to receive a percentage of the Abatement on account of Company's having met the Real Property Improvement Commitment in accordance with Section 4.1 (the "Real Property Improvement Percentage"), as follows:

6.1.1. **Years 1 and 2 of the Abatement Term.**

For the Abatement granted in the first and second years of the Abatement Term, the Real Property Improvement Percentage will equal twenty percent (20%).

6.1.2. **All Subsequent Years of the Abatement Term.**

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Real Property Improvement Percentage will equal five percent (5%).

6.2. Fort Worth Hard Construction Cost Spending (Up to 5% in Years 1 and 2 of the Abatement Term; Up to 2.5% Thereafter).

A percentage of the Abatement will be based on the extent to which the Fort Worth Construction Spending Commitment, as outlined in Section 4.2, was met (the "Fort Worth Construction Percentage"), as follows:

6.2.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, the Fort Worth Construction Percentage will equal the product of five percent (5%) multiplied by the percentage by which the Fort Worth Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended for the Required Improvements by the Completion Date with Fort Worth Companies by \$3,000,000.00, which is the number of dollars comprising the Fort Worth Construction Commitment, as set forth in Section 4.2. For example, if Company only expended \$2,550,000.00 in Hard Construction Costs with Fort Worth Companies by the Completion Date, the Fort Worth Construction Percentage would be 4.25% instead of 5% (or $.05 \times [\$2.55 \text{ million}/\$3 \text{ million}]$, or $.05 \times .85$, or $.0425$). If the Fort Worth Construction Commitment was met or exceeded, the Fort Worth Construction Percentage will be five percent (5%).

6.2.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Fort Worth Construction Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the Fort Worth Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended for the Required Improvements by the Completion Date with Fort Worth Companies by \$3,000,000.00, which is the number of dollars comprising the Fort Worth Construction Commitment, as set forth in Section 4.2. For example, if Company only expended \$2,550,000.00 in Hard Construction Costs with Fort Worth Companies by the Completion Date, the Fort Worth Construction Percentage would be 2.125% instead of 2.5% (or $.05 \times [\$2.55 \text{ million}/\$3 \text{ million}]$, or $.025 \times .85$, or $.02125$). If the Fort Worth Construction Commitment was met or exceeded, the Fort Worth Construction Percentage will be two and one-half percent (2.5%).

6.3. M/WBE Construction Spending (10%).

A percentage of the Abatement granted in each year of the Abatement Term will be based on the whether the M/WBE Construction Spending Commitment, as outlined in Section 4.3, was met (the "M/WBE Construction Percentage"). If

Company met or exceeded the M/WBE Construction Spending Commitment, the M/WBE Construction Percentage for each Abatement hereunder will be ten percent (10%). If Company failed to meet the M/WBE Construction Spending Commitment, the M/WBE Construction Percentage for each Abatement hereunder will be zero percent (0%).

6.4. Overall Employment (10% in Years 1 and 2 of the Abatement Term; Up to 25% Thereafter).

A percentage of the Abatement will be based on the extent to which the applicable Overall Employment Commitment, as outlined in Section 4.4.1, was met (the "Overall Employment Percentage"), as follows:

6.4.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, if Company met the Overall Employment Commitment in the previous year, the Overall Employment Percentage will equal ten percent (10%). Notwithstanding anything to the contrary herein, because the Overall Employment Commitment applicable for the Abatement granted in these two years is 855 Full-time Jobs, if the Overall Employment Commitment was not met in the previous year in either case, an Event of Default will occur, as set forth in Section 7.2 of this Agreement.

6.4.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and in each subsequent year of the Abatement Term, subject to Section 7.2 of this Agreement, the Overall Employment Percentage will equal the product of twenty-five percent (25%) multiplied by the percentage by which the applicable Overall Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided in the previous year by the number of Full-time Jobs constituting the Overall Employment Commitment for that year. For example, in accordance with Section 4.4.1.2, the Overall Employment Commitment for the Fourth Operating Year is 1,034 Full-time Jobs. If, instead, only 931 Full-time Jobs were provided in Fourth Operating Year, the Overall Employment Percentage for the Abatement granted in the following year would be 22.5% instead of 25% (or $.25 \times [931/1,034]$), or $.25 \times .90$, or $.225$. If the applicable Overall Employment Commitment is met or exceeded in a given year, the Overall Employment Percentage for the Abatement granted in the following year will be twenty-five percent (25%).

6.5. Fort Worth Employment (Up to 2.5% in Year 3 and All Subsequent Years of the Abatement Term).

A Fort Worth Employment Commitment does not apply for the Abatements granted in the first two years of the Abatement Term. For the Abatement granted in the third and in each subsequent year of the Abatement Term, a percentage of the Abatement will be based on the extent to which the applicable Fort Worth Employment Commitment, as outlined in Section 4.4.2, was met (the "Fort Worth Employment Percentage"). The Fort Worth Employment Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the applicable Fort Worth Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided to Fort Worth Residents in the previous year by the number of Full-time Jobs constituting the Fort Worth Employment Commitment for that year. For example, the Fort Worth Employment Commitment for the Fifth Operating Year is, in accordance with Section 4.4.2.2, 377 Full-time Jobs. If in that year only 300 Full-time Jobs were provided to Fort Worth Residents, the Fort Worth Employment Percentage for the Abatement granted in following year would be 1.99% instead of 2.5% (or $.025 \times [300/377]$), or $.025 \times .796$, or $.0199$. If the applicable Fort Worth Employment Commitment is met or exceeded in a given year, the Fort Worth Employment Percentage for the Abatement granted in the following year will be two and one-half percent (2.5%).

6.6. Central City Employment (Up to 2.5% in Year 3 and All Subsequent Years of the Abatement Term).

A Central City Employment Commitment does not apply for the Abatements granted in the first two years of the Abatement Term. For the Abatement granted in the third and in each subsequent year of the Abatement Term, a percentage of the Abatement will be based on the extent to which the applicable Central City Employment Commitment, as outlined in Section 4.4.3, was met (the "Central City Employment Percentage"). The Central City Employment Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the applicable Central City Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided to Central City Residents in the previous year by the number of Full-time Jobs constituting the Central City Employment Commitment for that year. For example, the Central City Employment Commitment for the Third Operating Year is, in accordance with Section 4.4.3.1, 94 Full-time Jobs. If in that year only 80 Full-time Jobs were provided to Central City Residents, the Central City Employment Percentage for the Abatement granted in following year would be 2.12% instead of 2.5% (or $.025 \times [80/94]$), or $.025 \times .851$, or $.0212$. If the applicable Central City Employment Commitment is met or exceeded in a given year, the Central City Employment Percentage for the Abatement granted in the following year will be two and one-half percent (2.5%).

6.7. Supply and Service Spending (Up to 5% in Years 1 and 2 of the Abatement Term; Up to 2.5% Thereafter).

A percentage of the Abatement will be based on the extent to which the Supply and Service Spending Commitment, as outlined in Section 4.5, was met (the "Supply and Service Percentage"), as follows:

6.7.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, the Supply and Service Percentage will equal the product of five percent (5%) multiplied by the percentage by which the Supply and Service Spending Commitment was met in the previous calendar year, which will be calculated by dividing the actual Supply and Service Expenditures made in the previous calendar year with Fort Worth Companies by \$900,000.00, which is the Supply and Service Spending Commitment established under Section 4.5. For example, if in a given year Company only expended \$675,000.00 in Supply and Service Expenditures with Fort Worth Companies, the Supply and Service Percentage for the following year would be 3.75% instead of 5% (or $.05 \times [\$675,000/\$900,000]$, or $.05 \times .75$, or $.0375$). If the Supply and Spending Commitment is met or exceeded in a given year, the Supply and Service Percentage for the following year will be five percent (5%).

6.7.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Supply and Service Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the Supply and Service Spending Commitment was met in the previous calendar year, which will be calculated by dividing the actual Supply and Service Expenditures made in the previous calendar year with Fort Worth Companies by \$900,000.00, which is the Supply and Service Spending Commitment established under Section 4.5. For example, if in a given year Company only expended \$675,000.00 in Supply and Service Expenditures with Fort Worth Companies, the Supply and Service Percentage for the following year would be 1.875% instead of 2.5% (or $.025 \times [\$675,000/\$900,000]$, or $.025 \times .75$, or $.01875$). If the Supply and Spending Commitment is met or exceeded in a given year, the Supply and Service Percentage for the following year will be two and one-half percent (2.5%).

6.8. Abatement Limitations.

In accordance with Section 15.5 of the Policy and notwithstanding anything to the contrary herein, Company's Abatement on the Land and any

improvements thereon in any given year of the Abatement Term will be based on the increase in the real property value of the Land and all improvements thereon over their value as of January 1, 2019, up to a maximum increase of Thirty-three Million Dollars (\$33,000,000.00). In other words, with regard to the real property tax Abatement, in any year in which the taxable value of the Land and all improvements thereon exceeds (i) the value of the Land and all improvements thereon as of January 1, 2019, plus (ii) \$33,000,000.00, Company's real property tax Abatement for that tax year will be capped and calculated as if the increase on the Land and all improvements thereon since January 1, 2019 had only been \$33,000,000.00. For example, and as an example only, if in a given year of the Abatement Term the value of the Land and all improvements on the Land is \$45,000,000.00 over their value as of January 1, 2019, Company would receive a maximum real property tax Abatement of fifty percent (50%) of \$33,000,000.00 in valuation for that year and would pay full taxes on the \$12,000,000.00 difference over the cap. The cap outlined in Section 15.5 of the Policy applies only to the Abatement on real property, and does not apply to the Abatement on the incremental value of New Taxable Tangible Personal Property.

7. **DEFAULT, TERMINATION AND FAILURE BY COMPANY TO MEET VARIOUS DEADLINES AND COMMITMENTS.**

7.1. **Failure to Meet Real Property Improvement Commitment.**

Notwithstanding anything to the contrary herein, if the Real Property Improvement Commitment, as outlined in Section 4.1, is not met, an Event of Default will occur and the City will have the right to terminate this Agreement, effective immediately, by providing written notice to Company without further obligation to Company hereunder.

7.2. **Failure to Maintain a Minimum of 855 Full-time Jobs.**

If Company and its Affiliates fail to maintain at least 855 Full-time Jobs in any year of the Compliance Auditing Term, as determined by the City on the basis of Company's employment report for such year submitted in accordance with Section 4.6.2 and the City's rights under Sections 4.7 and 4.8 of this Agreement, then notwithstanding anything to the contrary herein, an Event of Default will occur, and the City will have the right to terminate this Agreement, effective immediately, by providing written notice to Company without further obligation to Company hereunder.

7.3. Forfeiture for Failure to Meet Annual Salary Commitment.

Notwithstanding anything to the contrary herein, if the Annual Salary Commitment in the Third Operating Year or any subsequent year during the Compliance Auditing Term is not met, as determined by the City on the basis of Company's employment report submitted in accordance with Section 4.6.2 for such year and the City's rights under Sections 4.7 and 4.8 of this Agreement, an Event of Default will not occur, but Company will forfeit the entirety of the Abatement that would otherwise have been granted in the following year. In this event, Company will nevertheless have been deemed to have received an Abatement in that year for purposes of calculating the remaining number of years in the Abatement Term and the number of future Abatements that Company will be entitled to receive.

7.4. Foreclosure on Land or Required Improvements.

Subject to Section 11, the City will have the right to terminate this Agreement immediately upon provision of written notice to Company of any of the following events: (i) the conveyance of the Land or the Required Improvements to a non-Affiliate pursuant to an action to foreclose or otherwise enforce a lien, mortgage or deed of trust on the Land or the Required Improvements; (ii) the involuntary conveyance to a third party of the Land or the Required Improvements; (iii) execution of any assignment of the Land or Required Improvements to a non-Affiliate or deed in lieu of foreclosure to the Land or Required Improvements to a non-Affiliate; or (iv) appointment of a trustee or receiver for the Land or Required Improvements and such appointment is not terminated within one hundred twenty (120) calendar days after the appointment occurs.

7.5. Failure to Pay Taxes or Non-Compliance with Other Legal Requirements.

An Event of Default will occur if any ad valorem taxes owed to the City by Company become delinquent and Company does not timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes, or Company is in violation of any material Legal Requirement due to any act or omission connected with Company's operations on the Land; provided, however, that an Event of Default shall not exist under this sentence if Company cures the applicable failure or violation within thirty (30) calendar days (or such additional time as may be reasonably required) after City provides written notice of such failure or violation.

7.6. Knowing Employment of Undocumented Workers.

Company acknowledges that effective September 1, 2007, the City is required to comply with Chapter 2264 of the Texas Government Code, enacted by House Bill 1196 (80th Texas Legislature), which relates to restrictions on the use of certain public subsidies. *Company hereby certifies that Company, and any*

branches, divisions, or departments of Company, does not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code. In the event that Company, or any branch, division, or department of Company, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens) and such violation occurs during the Term of this Agreement:

- if such conviction occurs during the Term of this Agreement, this Agreement shall terminate contemporaneously upon such conviction (subject to any appellate rights that may lawfully be available to and exercised by Company) and Company shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the City, the aggregate amount of Abatement received by Company hereunder, if any, plus Simple Interest at a rate of two percent (2%) per annum based on the amount of Abatement received in each previous year as of December 31 of the tax year for which the Abatement was received; or*
- if such conviction occurs after expiration or termination of this Agreement, subject to any appellate rights that may lawfully be available to and exercised by Company, Company shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the City, the aggregate amount of Abatement received by Company hereunder, if any, plus Simple Interest at a rate of two percent (2%) per annum based on the amount of Abatement received in each previous year as of December 31 of the tax year for which the Abatement was received.*

For the purposes of this Section 7.6, "Simple Interest" is defined as a rate of interest applied only to an original value, in this case the aggregate amount of Abatement. This rate of interest can be applied each year, but will only apply to the aggregate amount of Abatement and is not applied to interest calculated. For example, if the aggregate amount of Abatement is \$10,000 and it is required to be paid back with two percent (2%) interest five years later, the total amount would be $\$10,000 + [5 \times (\$10,000 \times 0.02)]$, which is \$11,000. This Section 7.6 does not apply to convictions of any subsidiary or affiliate entity of Company, by any franchisees of Company, or by a person or entity with whom Company contracts. Notwithstanding anything to the contrary herein, this Section 7.6 shall survive the expiration or termination of this Agreement.

7.7. General Breach.

In addition to Sections 7.1, 7.2, 7.4, and 7.6, and subject to Sections 7.3 and 7.8, an Event of Default under this Agreement will occur if either party materially breaches any term or condition of this Agreement, in which case the non-defaulting party must provide the defaulting party with written notice specifying the nature of the Default. Subject to Sections 7.1, 7.2, and 7.4, in the event that any Event of

Default hereunder remains uncured after thirty (30) calendar days following receipt of such written notice (or, if the defaulting party has diligently and continuously attempted to cure following receipt of such written notice but reasonably requires more than thirty (30) calendar days to cure, then such additional amount of time as is reasonably necessary to effect cure, as determined by both parties mutually and in good faith), the non-defaulting party will have the right to terminate this Agreement, effective immediately, by providing written notice to the defaulting party.

7.8. Failure to Meet Other Commitments.

A failure to meet the Fort Worth Construction Commitment, the M/WBE Construction Spending Commitment, the Overall Employment Commitment (but subject to Section 7.2), the Fort Worth Employment Commitment, the Central City Employment Commitment, or the Supply and Service Spending Commitment will not constitute an Event of Default hereunder or provide the City with the right to terminate this Agreement, but, rather, shall only cause the percentage or amount of Abatement available to Company pursuant to this Agreement to be reduced in accordance with this Agreement.

7.9. Statutory Damages.

Company acknowledges and agrees that termination of this Agreement due to an Event of Default by Company will (i) harm the City's economic development and redevelopment efforts on the Land and in the vicinity of the Land; (ii) require unplanned and expensive additional administrative oversight and involvement by the City; and (iii) be detrimental to the City's general economic development programs, both in the eyes of the general public and by other business entities and corporate relocation professionals, and Company agrees that the exact amounts of actual damages sustained by the City therefrom will be difficult or impossible to ascertain. Therefore, upon termination of this Agreement for any Event of Default, and as authorized by Section 312.205(b)(6) of the Code, Company must pay the City, as damages authorized by the Code, an amount equal to all taxes that were abated in accordance with this Agreement for each year in which an Event of Default existed and which otherwise would have been paid to the City in the absence of this Agreement. The City and Company agree that this amount is a reasonable approximation of actual damages that the City will incur as a result of an uncured Event of Default and that this Section 7.9 is intended to provide the City with compensation for actual damages, as authorized by the Code, and is not a penalty. This amount may be recovered by the City through adjustments made to Company's ad valorem property tax appraisal by the appraisal district that has jurisdiction over the Land and over any taxable tangible personal property located thereon. Otherwise, this amount will be due, owing and paid to the City within one hundred twenty (120) days following the effective date of termination of this Agreement. In the event that all or any portion of this amount is not paid to the City within one hundred twenty (120) days following the effective date of

termination of this Agreement, Company shall also be liable for all penalties and interest on any outstanding amount at the statutory rate for delinquent taxes, as determined by the Code at the time of the payment of such penalties and interest (currently, Section 33.01 of the Code).

7.10 Failure to Submit Reports or Grant Abatement.

7.10.1. By Company.

If Company is required by Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder to file, submit, or complete any kind of documentation or report as a condition necessary for Company to receive any Abatement pursuant to this Agreement, Company shall solely be responsible for fulfilling that obligation and shall have no recourse against the City if Company fails to receive any Abatement as a result of Company's failure to file, submit, or complete such documentation.

7.10.2. By the City.

If City is required by Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder to file, submit, or complete any documentation or report necessary for Company to receive any Abatement pursuant to this Agreement, or if City fails to grant and/or effectuate an Abatement due to Company pursuant to this Agreement in any given year during the Term, and if no Event of Default exists due to Company's failure to comply with this Agreement, the Term of this Agreement and the Abatement Term shall be automatically extended on a year-to-year basis (the "Extension Term") until the Company receives and the City provides the Abatement provided by this Agreement. In this event, the aggregate value of any future Abatement or Abatements that Company may be granted during the Extension Term may not exceed the aggregate value of the Abatement or Abatements that Company did not receive but otherwise would have received if the City had granted, effectuated, or filed, submitted, and completed the necessary documentation or reports.

7.10.3. Dispute Resolution.

If Company fails to receive any Abatement on account of a failure of documentation to be filed, submitted, or completed to Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder, and there is a reasonably-based dispute between the City and Company as to whether the City or Company was responsible for such failure, then the City and Company agree to meet promptly and in good faith attempt to negotiate a

mutually-acceptable and equitable remedy, with the understanding that this Section 7.10 does not guarantee that the City and Company will be able to agree on any particular remedy.

8. INDEPENDENT CONTRACTOR.

It is expressly understood and agreed that Company shall operate as an independent contractor in each and every respect hereunder and not as an agent, representative or employee of the City. Company shall have the exclusive right to control all details and day-to-day operations relative to the Land and any improvements thereon and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees and invitees. Company acknowledges that the doctrine of *respondeat superior* will not apply as between the City and Company, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. Company further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the City and Company.

9. INDEMNIFICATION.

COMPANY, AT NO COST TO THE CITY, AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS SERVANTS AND EMPLOYEES (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO COMPANY'S BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY (i) COMPANY'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (ii) ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF COMPANY, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS (OTHER THAN THE CITY) OR SUBCONTRACTORS, RELATED TO THE REQUIRED IMPROVEMENTS, THE LAND AND ANY OPERATIONS AND ACTIVITIES THEREON, OR THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS AGREEMENT SHALL OBLIGATE OR REQUIRE COMPANY TO DEFEND, INDEMNIFY, AND HOLD THE INDEMNIFIED PARTIES HARMLESS FOR ANY CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF ANY OR ALL OF THE INDEMNIFIED PARTIES. THIS SECTION SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

10. NOTICES.

All written notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail, postage prepaid, or by hand delivery:

City:

City of Fort Worth
Attn: City Manager
200 Texas Street
Fort Worth, TX 76102

Company:

Ben E. Keith Company
Attn: Legal Dept.
601 E. 7th Street
Ft. Worth, TX 76102

with copies to:

the City Attorney at the same address and
to the Director at:

City of Fort Worth
Attn: Director
Economic Development Department
1150 South Freeway
Fort Worth, TX 76104

11. EFFECT OF SALE OF LAND AND/OR REQUIRED IMPROVEMENTS;
ASSIGNMENT AND SUCCESSORS.

Company may assign this Agreement and all or any of the benefits provided hereunder to (a) an Affiliate that owns or takes title to the Land and any improvements thereon or any New Taxable Tangible Personal Property or (b) a successor to Company by merger or consolidation only if (i) prior to or contemporaneously with the effectiveness of such assignment, Company provides the City with written notice of such assignment, which notice must include the name of the Affiliate or successor by merger or consolidation and a contact name, address and telephone number for the Affiliate or successor, and (ii) the Affiliate or successor by merger or consolidation agrees in writing to assume all terms and conditions of Company under this Agreement. Otherwise, Company may not assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any other person or entity without the prior consent of the City Council, which consent will not be unreasonably withheld, conditioned on (i) the proposed assignee or successor agrees to take title to the Land and all improvements thereon and any New Taxable Tangible Personal Property; (ii) the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement; and (iii) prior execution by the proposed assignee or successor of a written agreement with the City under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of Company under this Agreement. Any attempted assignment without the City Council's prior consent shall

constitute an Event of Default under this Agreement. Any lawful assignee or successor in interest of Company of all rights under this Agreement shall be deemed "Company" for all purposes under this Agreement.

12. **COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.**

This Agreement is subject to all applicable Legal Requirements.

13. **GOVERNMENTAL POWERS.**

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

14. **SEVERABILITY.**

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. **NO WAIVER.**

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

16. **VENUE AND JURISDICTION.**

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

17. **NO THIRD PARTY RIGHTS.**

The provisions and conditions of this Agreement are solely for the benefit of the City and Company, and any lawful assign or successor of Company, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

18. **INTERPRETATION.**

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement shall be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement. In the event of any conflict between the body of this Agreement and the Application, the body of this Agreement shall control.

19. **CAPTIONS.**

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

20. **ENTIRETY OF AGREEMENT.**

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Company, and any lawful assign and successor of Company, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. Notwithstanding anything to the contrary herein, this Agreement shall not be amended unless executed in writing by both parties and approved by the City Council of the City in an open meeting held in accordance with Chapter 551 of the Texas Government Code.

21. **COUNTERPARTS.**

This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

22. **BONDHOLDER RIGHTS.**

The Required Improvements will not be financed by tax increment bonds. This Agreement is subject to the rights of holders of outstanding bonds of the City.

23. CONFLICTS OF INTEREST.

Neither the Land nor any improvements thereon are owned or leased by any member of the City Council, any member of the City Plan or Zoning Commission or any member of the governing body of any taxing unit with jurisdiction in the Zone.

EXECUTED as of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT THREE (3) PAGES]

CITY OF FORT WORTH:

By: Kevin Gunn
Susan Alanis Kevin Gunn
Acting Assistant City Manager

Date: 4/18/2019

APPROVED AS TO FORM AND LEGALITY:

By: Peter Vaky
Peter Vaky
Deputy City Attorney

Attested by: Mary J. Kayser
Mary J. Kayser, City Secretary



M&C: C-29042 02-12-2019

Form 1295: 2019-444916

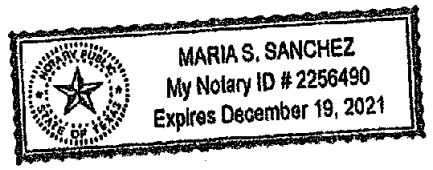
STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared ^{Gunn} ~~Susan~~ Alanis, Assistant City Manager of the CITY OF FORT WORTH, a municipal corporation organized under the laws of the State of Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the CITY OF FORT WORTH, that he was duly authorized to perform the same by appropriate resolution of the City Council of the City of Fort Worth and that he executed the same as the act of the CITY OF FORT WORTH for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of April, 2019.

Maria S. Sanchez
Notary Public in and for
the State of Texas
MARIA S. SANCHEZ
Notary's Printed Name



BEN E. KEITH COMPANY,
a Texas corporation:

By: MSA
Name: Mike Sweet
Title: President, Ben E. Keith Foods

Date: 4-15-19

STATE OF TEXAS §

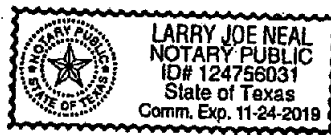
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Mike Sweet, President of BEN E. KEITH COMPANY, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of BEN E. KEITH COMPANY.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 2019.

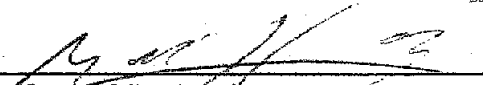
Larry Joe Neal
Notary Public in and for
the State of Texas

Larry Joe Neal
Notary's Printed Name



CONTRACT COMPLIANCE MANAGER:

By signing below, I hereby acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements:

By: 
Name of City Employee:
Title: *BUSINESS DEVELOPMENT COORDINATOR*

EXHIBITS

"A" – Description and Map Depicting the Land

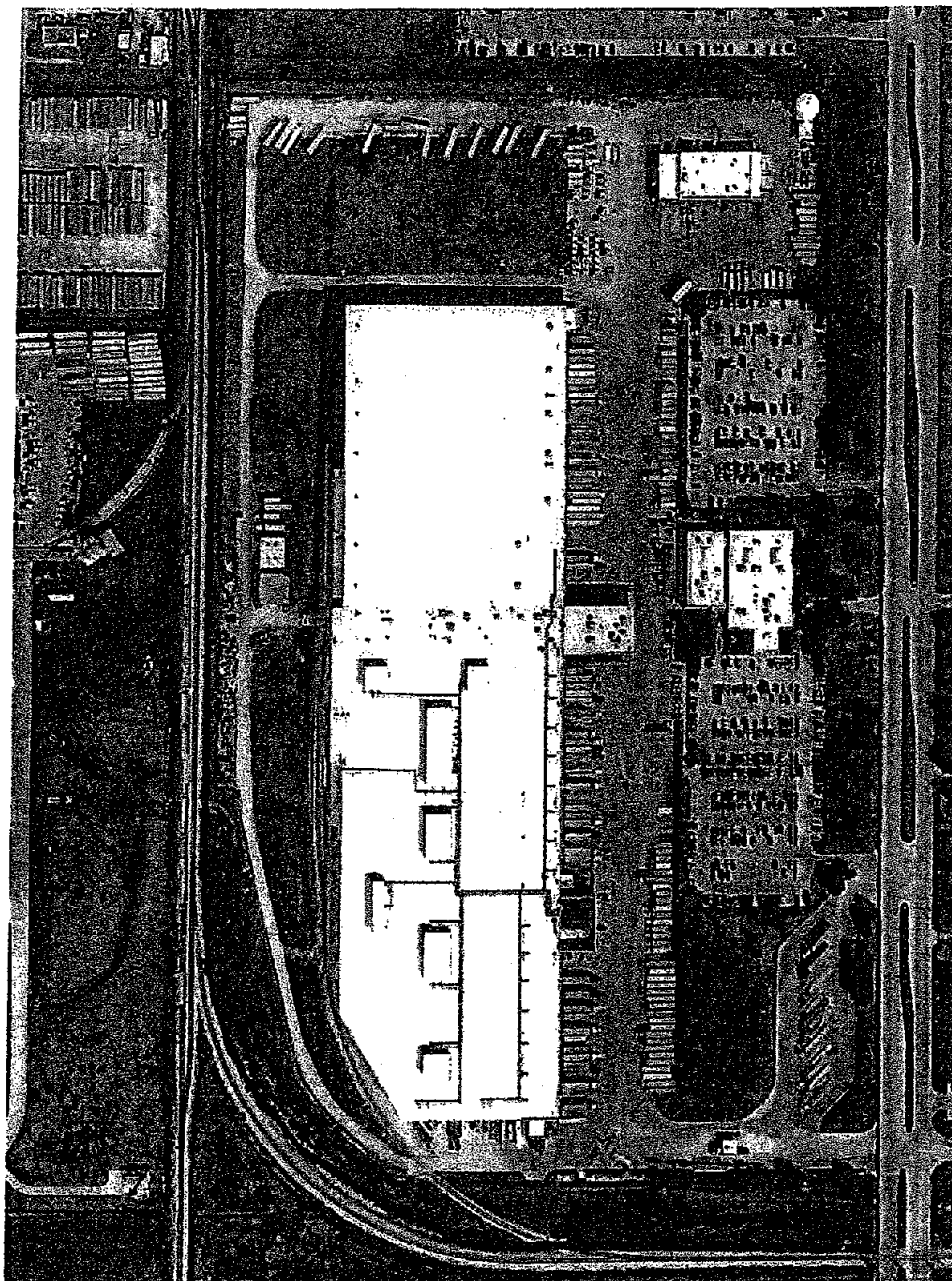
"B" – Company's Tax Abatement Application

"C" – Map of Central City

EXHIBIT "A"
LEGAL DESCRIPTION

Being all of Lot 4, Block 4 of the Cater Industrial Park, an addition to the City of Fort Worth, Tarrant County, Texas according to the plat recorded in Document No. D199122589, Deed Records, Tarrant County, Texas

Map generally outlining boundary of the Land, currently designated as Tarrant Appraisal District Account No. 07345925:



FORT WORTH[®]



Economic Development Incentive Application

Economic Development Department
1150 South Freeway
Fort Worth, Texas 76104
(817) 871-6021

Incentive Application

APPLICANT INFORMATION

Date: August 30, 2018

Company Name: Ben E. Keith Company

Company Address: 601 E. 7th Street

City: Fort Worth

State: TX

Zip: 76102

Contact Person: Eric Alexander

Title/Position: Associate General Counsel

Telephone Number: 817-759-6107

Mobile Telephone Number: _____

Fax Number: _____

E-Mail Address: ebalexander@benekeith.com

1. If the applicant represents a Company: (If a Developer and not a Company, proceed to #2.)

A. Company Ownership (check one): Publicly Traded Stock Privately Held

B. Form of Business (choose one): Corporation

C. How long has the company been in operation (Years)? 112

D. Company Industry: Broadline foodservice distribution

E. Describe the Company's principal business:

See attached "Project Description"

F. Describe the Company's international presence, if any:

BEK's DFW regional HQ has no international presence. BEK's San Antonio Division does a small amount of business in Mexico.

G. Describe the Company's corporate citizenship practices:

See attached "Corporate Citizenship Practices"

2. If the applicant represents a Developer:

A. Describe the Developer's experience and background. Please include similar projects that you have constructed including the project type and location (attach additional sheets as necessary):

B. Development Partners (Architect, Engineering Team, Interior Design, General Contract, etc.)

II PROJECT INFORMATION

Please include below the project description, project benefits and how the project positively impacts the community. Any incentives given by the City should be considered only "gap" financing and should not be considered a substitute for debt and equity. However, the City is under no obligation to provide gap financing just because a gap exists. In order for a Company or Developer to be eligible to receive incentives for a project, the Company/Developer:

- A. Must complete and submit this application and the application fee to the City;
- B. Company/Developer or Company/Developer's principals must not be delinquent in paying property taxes for any property owned in Fort Worth;
- C. Company/Developer or Company/Developer's principals must not have ever been subject to the City of Fort Worth's Building Standards Commission's Review;
- D. Company/Developer or Company/Developer's principals must not have any City of Fort Worth liens filed against any other property owned by the applicant property owner/developer. "Liens" includes, but is not limited to, weed liens, demolition liens, board-up/open structure liens and paving liens.

1. Project Description (attach additional sheets as necessary):

See attached "Project Description"

2. In what way will the project benefit the surrounding area or serve as a catalyst for additional development and/or business opportunities for the local economy (i.e. attract suppliers or customers)?

See attached "Project Description"

3. Describe how the project positively impacts the community.

See attached "Project Description"

III PROJECT DETAILS

1. Proposed Project Site Address: 7650 Will Rogers Blvd., Fort Worth, TX 76140

2. Proposed Project Site Land Size (Acres): 51+ acres

3. Will environmental remediation be required? No

4. Is this an existing facility or will a new facility be constructed? New Existing

A. If new, what is the construction: Anticipated Start Date: 11/2018 Anticipated Completion Date: 06/2020

B. If existing, is this an adaptive reuse? It is an expansion to the existing facility so it is not an adaptive reuse

5. Type of Project (choose one): Commercial/Industrial

6. Building Area (Square Feet) Requirements:

(a) Office _____

(b) Manufacturing _____

(c) Warehouse 183,000

(d) Showroom/Retail _____

(e) Other _____

Total Area (a+b+c+d+e): 183,000 SF

7. Will this facility be LEED certified, and if so, at what level? No

8. Public open space included within the proposed project site: None SF/Acres

III PROJECT DETAILS (continued)

9. If the applicant represents a Company: (If a Developer and not a Company, proceed to #10.)

A. Is the Company expanding its existing local operations or relocating its operations from somewhere else to our area?

Expansion Relocation

B. If a relocation, where is the company currently located? N/A

C. Does the company plan to lease or own the facility in Fort Worth? Lease Own

D. If the company is planning to lease space in Fort Worth, what is the lease term? N/A Years

E. Describe the specific operations and services to be provided or products to be manufactured at the proposed Fort Worth facility (attach additional sheets as necessary):

BEK is primarily a distribution company, and no products will be manufactured at this site. BEK will continue its existing operation as a broadline foodservice distribution company, and will be receiving products from suppliers and shipping products to its customers from this facility. This facility will retain its sales and administrative offices as well, as it operates as the DFW regional HQ.

10. Development requests that will be sought for the project (select all that apply):

Replat

Rezoning Current Zoning: _____ Requested Zoning: _____

Variances If yes, please describe: _____

Downtown Design Review Board

Landmark Commission

Public Infrastructure Assistance

11. Real Estate Investment

A. Current Assessed Valuation of: Land \$ 3,504,570 Improvements \$ 17,095,430

B. Total Construction Costs: \$ 27,000,000 [estimated]

C. Hard Construction Costs: \$ 25,000,000 [estimated]

12. Business Personal Property and Inventory

A. Business Personal Property

Total investment on equipment, machinery, furnishing, etc.: \$ 11,000,000.00 Lease Purchase

*Estimated taxable value of equipment, machinery, furnishing, etc.: \$ See "BPP Explanation"

*This is the value that will be on the tax rolls which includes all tangible property.

B. Inventory and Supplies

Value of Inventory: \$ See email explanation Value of Supplies: \$ See email explanation

Percent of Inventory eligible for Freeport Exemption (inventory, exported from Texas within 175 days) 0 %

13. Total Capital Investment (Real Estate and Business Personal Property): \$ 36,000,000.00

IV EMPLOYMENT AND JOB CREATION

On the Project Site

1. How many persons are currently employed? 855

2. What percent of current employees above are Fort Worth residents? 34.15 %

3. What percent of current employees above are Central City residents? 9.59 %

IV. EMPLOYMENT AND JOB CREATION (Continued)

4. Please complete the following table for new jobs to be created from direct hire by applicant.

	Currently	At Completion	Estimated By Fifth Year	Estimated By Tenth Year
Retained Jobs	855	952	1235	1235
New Jobs to be Created	-	97	283	283
Total Jobs at Project Site	855	952	1235	1235
% of Net Jobs to be filled by Fort Worth Residents	34.15%	not available	not available	not available
% of Net Jobs to be filled by Central City residents	9.59%	not available	not available	not available

5. Please attach a description of the jobs to be created, tasks to be performed for each and wage rate for each classification.

6. Does the applicant provide the following benefits: Retirement Health Dental Domestic Partner

7. Average wage paid to employees to be located at the project site: \$ 73,000.00 (2018 average)

8. Describe the Company's talent recruitment efforts:

BEK works with many organizations to recruit employees. In 2018 alone, BEK already participated in 17 recruiting & outreach events, with more to come. Some of the organizations include Fort Worth Housing Authority, Texas Work Force, Tarrant County College, Fort Worth ISD, Tarrant County Housing, Young Adult Job Fair, and Resource Connection. BEK also utilizes job posting websites such as Indeed.com and LinkedIn.

V. INCENTIVES REQUEST

Incentive(s) Requested: Tax Abatement Chapter 380 Economic Development Program Grant

Do you intend to pursue abatement of County taxes? Yes No

If requesting a Tax Abatement, please refer to the Tax Abatement Policy for a comprehensive explanation of eligibility requirements.

VI. LOCAL COMMITMENTS

During Construction

1. What percent of the total construction costs described in Section III, Question 11 will be committed to:

A. Fort Worth businesses? _____ %

B. Fort Worth Certified Minority and Women Business Enterprises? _____ %

For Annual Supply and Service Needs

Regarding discretionary supply and service expenses (i.e landscaping, office or manufacturing supplies, janitorial services, etc., excluding utilities):

2. What is the annual amount of discretionary supply and service expenses? \$ 6,021,000 in FY 2018

3. What percentage will be committed to Fort Worth businesses? _____

4. What percentage will be committed to Fort Worth Certified Minority and Women Business Enterprises? _____

VII. DISCLOSURES

Is any person or firm receiving any form of compensation, commission or other monetary benefit based on the level of incentive obtained by the applicant from the City of Fort Worth? If yes, please explain and/or attach details.

No

VII. ADDITIONAL INFORMATION (TO BE ATTACHED)

These documents must be submitted with the application, otherwise the application will be deemed incomplete and will not be reviewed:

- a.) Attach a site plan of the project.
- b.) Explain why incentives are necessary for the success of this project. Include a business pro-forma or other documentation to substantiate your request.
- c.) Describe any environmental impacts associated with this project.
- d.) Describe the infrastructure improvements (water, sewer, streets, etc.) that will be constructed as part of this project.
- e.) Attach a talent recruitment plan, if applicable.
- f.) Attach a legal description or surveyor's certified metes and bounds description.
- g.) Attach a copy of the most recent property tax statement from the appropriate appraisal district for all parcels involved in the project.
- h.) Attach a brief description of the employee benefit package(s) offered (i.e. health insurance, retirement, public transportation assistance, day care provisions, etc.) including portion paid by employee and employer respectively.
- i.) Attach a plan for the utilization of Fort Worth Certified M/WBE companies.
- j.) Attach a listing of the applicant's Board of Directors, if applicable.
- k.) Attach a copy of Incorporation Papers noting all principals, partners, and agents and all Fort Worth properties owned by each.
- l.) Attach the purchasing representative's company contact information if known.

The company is responsible for paying \$5,000 as an application fee. If the application is withdrawn before the project is presented to City Council in Executive Session, the fee is refunded. Upon presentation to City Council in Open Session, \$2,000 is non-refundable and is applied to offset costs incurred by the Economic Development Department. Upon approval by City Council, the balance of \$3,000 can be credited towards required building permits, inspections fees, replatting fees, and other costs of doing business with the City related to the development. Any unused credit balance upon completion of the project will be refunded upon request from the company.

IX. CERTIFICATION

On behalf of the applicant, I certify the information contained in this application, including all attachments to be true and correct. I further certify that, on behalf of the applicant, I have read the current Incentive Policy and all other pertinent City of Fort Worth policies and I agree with the guidelines and criteria state therein.

Printed Name: Eric Alexander

Title: Associate General Counsel

Date: 08/30/2018

Signature: 

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Printed Name: Eric Alexander

Title: Associate General Counsel

Date: 08/30/2018

Signature: 

Project Description

Ben E. Keith Company d/b/a Ben E. Keith Foods ("BEK") is a broadline foodservice distribution company which offers more than 20,000 products to its customers. BEK's customer base includes independent restaurants, chain restaurants, hospitals, hotels, schools, country clubs, bars, and other businesses preparing/serving food on-site.

BEK is considering adding approximately 183,000 square feet to its existing Dallas-Fort Worth Division regional headquarters facility located at 7650 Will Rogers Blvd., Fort Worth, Texas. The expansion would not require a replat or zoning changes. BEK anticipates the total hard cost of construction to be approximately \$25 million, and the total investment in business personal property to be approximately \$11 million.

The expansion is projected to create approximately 283 new full-time jobs (administrative, sales, transportation, warehouse) five years following the expansion completion. The DFW Division's gross payroll for fiscal year 2018 was \$62.6 million, which is expected to increase to \$111.1 million five years following the expansion completion. In BEK's fiscal year 2018, the average sales and administrative employee at the DFW Division was paid \$101,651 and the average transportation and warehouse employee was paid \$58,581 (vs. Tarrant County per capita income of \$48,050 and median household income of \$61,553, per the 2016 US Census). After the first year following the expansion completion, the average annual wage for sales and administrative employees at the DFW Division is projected to be \$111,700 while the average annual wage for transportation and warehouse employees is projected to be \$63,900. After five years following completion, the average projections increase to \$126,200 for sales and administrative employees and \$71,900 for transportation and warehouse employees.

Aside from the increase in full-time jobs and taxable property, BEK's expansion will benefit the surrounding area due to BEK's continued philanthropical commitments to local organizations, its focus on serving independent businesses, and its local purchasing commitments. BEK is a longtime Fort Worth company and its continued presence will positively impact the community by providing both its existing employees and new employees hired as a result of this expansion with above average compensation and very competitive retirement and insurance benefits. BEK's compensation and benefits structure makes it less likely that its employees will require governmental assistance.

Corporate Citizenship Practices

BEK's DFW Division partners with many local organizations in pursuit of maintaining its reputation as an exemplary corporate citizen. BEK strongly believes in giving back to the community and has partnered with organizations such as Folds of Honor (a non-profit organization that provides educational scholarships to spouses and children of fallen or disabled military service members) as well as the American Heart Association, American Cancer Association, March of Dimes, Habitat for Humanity, and local food banks, shelters, and schools.

BEK believes being an exemplary corporate citizen also means employing environmental-friendly measures in its day-to-day operations. Some examples of green initiatives undertaken by the BEK DFW Division are:

- BEK trucks are equipped with next generation engines to produce less carbon emissions. Excessive idle on the trucks is monitored, which will automatically shut off if left idling.
- 3rd party audits on refrigeration systems, lighting and all energy usage. Conference calls are routinely held to monitor such usage.

- All lighting is LED. The warehouse has motion-sensing LED lighting, which will automatically shut off after a certain period of time when no movement has been detected.
- Recycling program that includes shrink wrap and cardboard.
- White reflective roof to reduce energy usage.
- BEK uses Roadnet route optimization software to reduce miles traveled and fuel used for deliveries.
- Several paperless technologies employed, such as electronic driver logs, online ordering platform for customers, and ACH payments.

Response to Section IV.5

The jobs to be created are generally broken down into 2 categories: (i) administrative and sales positions and (ii) transportation and warehouse positions.

Administrative and Sales Positions

Description: Five years following the expansion completion, BEK projects 95 additional administrative and sales positions to have been created with the average projected annual wage for an administrative or sales employee being \$126,200.

Administrative employees generally work in an office setting and perform various tasks depending on the department they are assigned to, such as compliance, credit, human resources, information services, logistics, marketing, purchasing, safety, etc. The specific duties of each position vary depending on which department an employee is assigned.

Sales employees generally are tasked with servicing existing customers and obtaining new customers. Sales representatives, sales managers, and business development specialists all use their product knowledge to help customers make the right purchases for their businesses.

Transportation and Warehouse Positions

Description: Five years following the expansion completion, BEK projects 188 additional transportation and warehouse positions to have been created with the average projected wage for a transportation and warehouse employee being \$71,900.

Transportation employees are involved in ensuring products are delivered to customers in a safe and timely manner from the warehouse. Drivers sometimes have helpers who accompany drivers on routes to assist with deliveries.

Warehouse employees are involved in receiving inbound product, ensuring all product is properly and safely stored in the warehouse, and preparing product to be shipped to customers. There are several categories of warehouse positions and several layers of management within the warehouse employee group.

BPP Explanation

At this moment, BEK cannot currently provide the "estimated taxable value of equipment, machinery, furnishing, etc." as requested in Section III, Question 12.A. Instead, BEK offers the following explanation, but could possibly supplement the application at a later date with an estimated value once the breakdown of BPP investment is more defined:

"The equipment is depreciated by the appraisal district based upon its original cost installed, and year of acquisition. The appraisal districts and assessors use their depreciation schedules to depreciate the original cost of the equipment. Each year the original cost of the equipment accumulates more depreciation as it ages, until it reaches a "floor value".

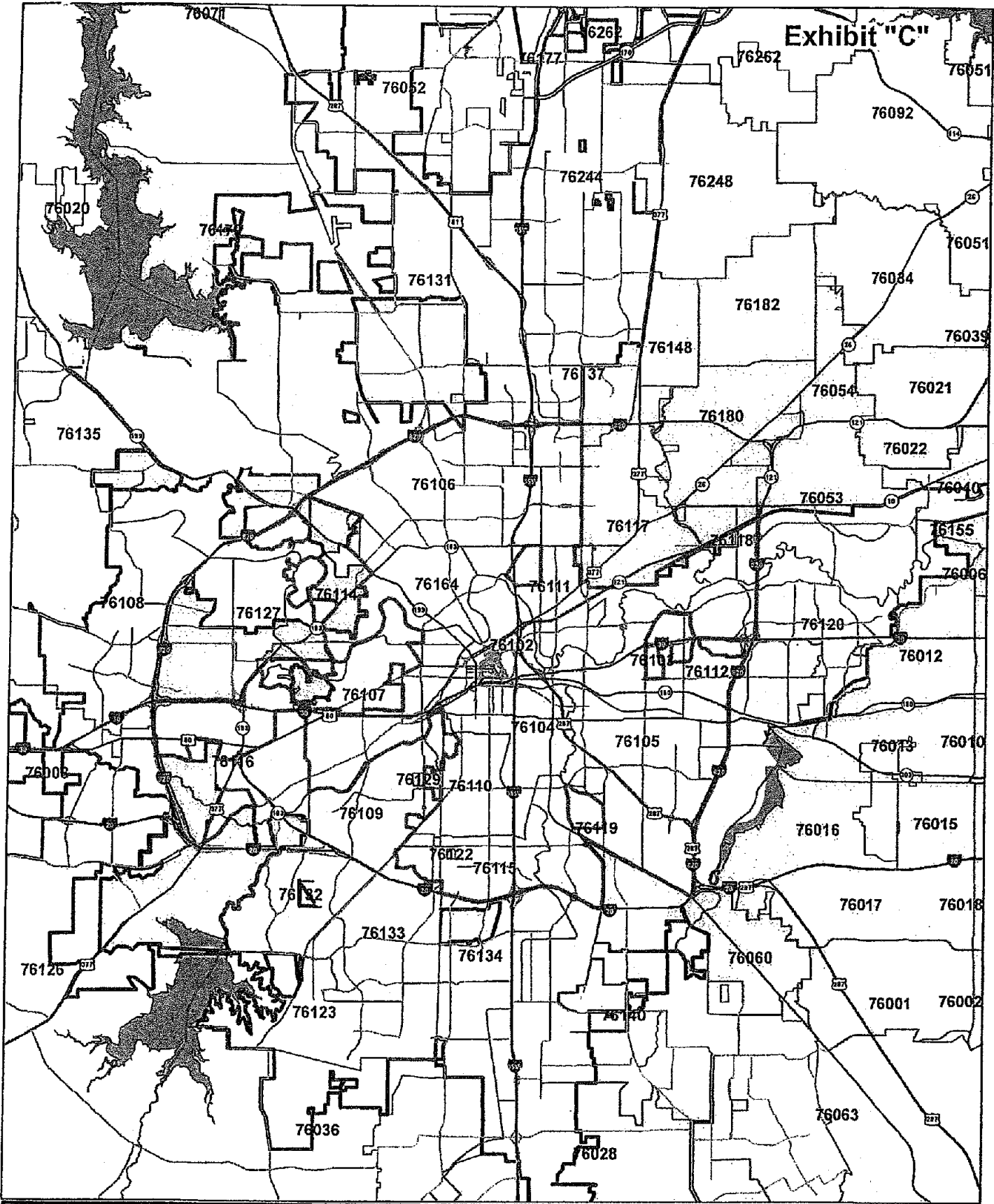
There are different categories of equipment with varying degrees of depreciation, depending upon the asset category, i.e., computers, machinery, furniture, vehicles, etc.

The standard for valuation in Texas is the fair market value of the equipment. At times, there are additional factors that may increase depreciation in order to arrive at fair market value."

Section VIII – Additional Information

- a. See attached "Ex. A - Fort Worth Site Plan"
- b. Economic incentives make the project feasible for BEK and help the project advance as planned. If incentives are not obtained, BEK may consider other options for expansion, whether at another facility or a new location. The foodservice distribution industry is a low-margin business and economic incentives are very helpful in allowing BEK to expand its operations.
- c. The expansion will produce no known or anticipated environmental impacts.
- d. The expansion will require no known or anticipated infrastructure improvements aside from extending the existing utilities to the expansion area as needed.
- e. See Section IV.8 of the Application.
- f. See attached "Ex. F - Fort Worth metes & bounds description"
- g. See attached "Ex. G1 - Real Property Statement 2017" and "Ex. G2 - Personal Property Statement 2017"
- h. BEK offers health, dental, and vision insurance. In addition, BEK offers a 401(k) plan with a 4% match (the plan also includes company-funded profit sharing benefits), educational assistance, life insurance, and long-term and short-term disability programs. Please see the attached "Ex. H - BEK Insurance Benefits" for further information.
- i. BEK conducts business with several historically underutilized business (HUB) certified vendors. BEK and the City of Fort Worth will work together to identify which HUBs are currently "Fort Worth Certified M/WBE" companies, in addition to other "M/WBE" companies.
- j. Robert Hallam, Howard Hallam, John H. Hallam, Robert Hallam, Jr., John C. Hallam, James Hallam, Kevin Bartholomew, Mike Sweet, Gordon Crow, Craig Woodcock
- k. See attachment "Ex. K - BEK Incorporation Papers"
- l. Not applicable to this project.

Exhibit "C"



Legend

- Central City Boundary
- Zip Codes
- CDBG Eligible Area
- City Limit

FORT WORTH

Housing and Economic Development

CDBG Eligible Areas & Central City

Updated 08/27/2014

EXHIBIT "C"

TARRANT COUNTY TAX ABATEMENT APPLICATION



Tarrant County

Application for Tax Abatement/Reinvestment Zone

I. APPLICANT INFORMATION

Applicant/Property Owner: Ben E. Keith Company

Company/Project Name: Ben E. Keith Company

Mailing Address: 601 E. 7th Street, Fort Worth, TX 76102

Telephone: 817-759-6107

Fax:

Applicant's Representative for contact regarding abatement request:

Name and Title: Eric Alexander

Mailing Address: 601 E. 7th Street, Fort Worth, TX 76102

Telephone: 817-759-6107

Fax:

E-mail: cbalexander@benkeith.com

II. PROPERTY AND PROJECT DESCRIPTION

Address and legal description of property to be considered for Tax Abatement/Reinvestment Zone: 7650 Will Rogers Blvd, Fort Worth, TX 76140 (Please see attached "Exhibit A - Fort Worth metes & bounds description" for legal description)

Project Description: Please see attached "Exhibit B - Additional Information"

Description of activities, products, or services produced and/or provided at project location: Broadline foodservice distribution

Current Assessed Value: Real Property: \$21,687,000 (2018) Personal Property: \$67,311,420 (2018)

Estimated start date of construction/site improvements: July 31, 2019

Projected date of occupancy/commencement of operations at project site: June 30, 2021

Please indicate dates for phases if applicable: N/A

Location of existing company facilities: 7650 Will Rogers Blvd, Fort Worth, TX 76140

Requested level of Tax Abatement: 50% of eligible real and personal property for 7 years (same as City of Fort Worth committed)

Explain why tax abatement is necessary for the success of this project. Include business pro-formas or other information to substantiate your request. Tax abatements make the project feasible for BEK and help the project advance as planned. If abatements are not obtained, BEK may consider other options for expansion, whether at another facility or a new location. The foodservice distribution industry is a low-margin business and economic incentives are very helpful in allowing BEK to expand its operations.

III. PROJECTED VALUE OF IMPROVEMENTS

Estimated Value of Real Property Improvements \$27,000,000

Estimated Value of Personal Property Improvements \$11,000,000

Will any infrastructure improvements (roads, drainage, etc.) be requested of Tarrant County for this project?

Yes No

If yes, describe requested infrastructure improvements: Potentially require extension of existing utilities to the expansion area as needed

Detail any direct benefits to Tarrant County as a result of this project (i.e., inventory tax, etc.): Aside from the increase in full-time jobs and taxable property, BEK's expansion will benefit the County due to BEK's continued philanthropical commitments to local organizations, its focus on serving independent business, and its local purchasing commitments. BEK is a longtime Tarrant County company and its continued presence will positively impact the community by providing both its existing employees and new employees hired as a result of this expansion with compensation well above the County average and very competitive retirement and insurance benefits. BEK's compensation and benefits structure makes it less likely that its employees will require governmental assistance.

IV. EMPLOYMENT IMPACT AT PROJECT LOCATION

A. NEW EMPLOYMENT

Projected number of new jobs created as a result of the proposed improvements:

Full-time 283 by end of 2025 Part-Time 0

Provide types of jobs created and average salary levels: Please see attached "Exhibit B - Additional Information"

Start date and annual payroll of new permanent positions (if positions to be phased in, provide figures for each phase year): Hiring will be ongoing, as there will be a "ramp up" period prior to completion of construction, and then employees will be hired throughout the following 5+ years. Payroll of new employees will vary, as BEK will hire employees ranging from no experience to several years of experience. For purposes of any payroll requirement, BEK will use its average annual payroll figure from 2018 as reflected in Section C. below.

Percentage of new jobs too be filled be Tarrant County residents: At least 25%

Number of employees transferring from other company locations: None (expansion of existing facility)

B. CONSTRUCTION RELATED EMPLOYMENTS

Projected number of construction related jobs: approximately 300

Estimated total construction payroll: BEK estimates approximately 40% of all construction costs will be attributable to labor

Commitment as to percentage of construction dollars to be spent with Tarrant County contractors or subcontractors: \$3 million (same commitment to City of Fort Worth)

Commitment as to percentage & total dollars of construction contracts to be awarded to DBE: at least 15%

(same commitment as to City of Fort Worth)

C. CURRENT COMPANY/PROJECT LOCATION EMPLOYMENT

Current Number of Employees (as of 2018): Full-time 877 Part-time 14

Average annual payroll (as of 2018): \$73,000

Detail on workforce diversity – percentage breakdown of current employees by gender and ethnicity:

Gender:

Male – 781

Female - 96

Ethnicity:

American Indian – 5

Asian – 8

Black – 172

Hispanic – 263

Not Specified – 1

Pacific – 2

Multiple Ethnicities – 9

White - 417

D. COMPANY SPONSORED HEALTH CARE BENEFITS ARE AVAILABLE

Full-time Employees Part-time Employees Employee Dependents Not Available

Average monthly employee cost for health care benefits: Please see attached “Exhibit C – BEK Insurance Benefits”

Individual: \$ Information not readily available Family: \$ Information not readily available

Other employee benefits provided or offered: Please see attached “Exhibit C – BEK Insurance Benefits”

V. LOCAL BUSINESS & DISADVANTAGED BUSINESS ENTERPRISES (DBE) IMPACT

Estimated amount of annual supply and services expenses: \$ 5,800,000.00

Detail any supply/services expenses that are sole source: Premier (Freightliner trucks), Bruckner (Volvo trucks), and W&B Service (refrigeration units for trailers)

Percentage of total supplier/services expenses committed to Tarrant County businesses: \$900,000.00 (same commitment to City of Fort Worth)

Percentage of total supplier and services expenses committed to DBE: \$500,000.00

VI. ENVIRONMENTAL IMPACT OF PROJECT

Indicate if development, construction, equipment, distribution methods, and/or operational processes may impact the environment in the following areas, attach detail if necessary:

Air Quality Water Quality Solid Waste Disposal Storm/Water Runoff
Floodplain/Wetlands Noise levels Other (specify) The expansion will produce no known or anticipated environmental impacts

Provide detail on existing and new fleet vehicles, specifying types of vehicles, quantities and fuel used (gasoline, diesel, LP gas, CNG, etc.): See attached Exhibit G – Fleet and Emissions Reduction Information

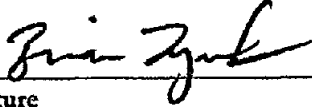
VII. ADDITIONAL INFORMATION (TO BE ATTACHED)

- Letter addressing Economic Qualifications and additional criteria for abatement, Section III (h) and (i) of Tarrant County Tax Abatement Policy (Please see attached "Exhibit F – Economic Qualifications & Additional Criteria")
- Descriptive list and value of real and personal property improvements (Please see attached "Exhibit B – Additional Information")
- Plat/Map of Project Location (See attached "Exhibit D – Site Plan")
- Project Time Schedule (Please see attached "Exhibit B – Additional Information")
- Owner's policy regarding use of disadvantaged Business Enterprises (Please see attached "Exhibit F – Economic Qualifications & Additional Criteria")
- Owner's policy addressing regional air quality/non-attainment status (use of alternative fuels, employee trip reduction, etc.) and plan for participation in regional Ozone Action Program (Please see attached "Exhibit F – Economic Qualifications & Additional Criteria")
- Tax Certificate showing property taxes paid for most recent year* (Please see attached "Exhibit E – Tax Information")

VIII. CERTIFICATION

Upon receipt of a completed application, Tarrant County may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.*

I certify the information contained in this application (including all attachments) to be true and correct to the best of my knowledge. I further certify that I have read the "Tarrant County Tax Abatement Policy" and agree to comply with the guidelines and criteria stated therein.



Signature

Vice President
Title

Brian Lynch

Printed Name

February 21, 2019

Date

Return completed application and attachments to:

**Economic Development Coordinator
Tarrant County Administrator's Office
100 E. Weatherford Street, Suite 404
Fort Worth, Texas 76196-0609**

You may also forward an electronic copy of the completed report to:

lmcmillan@tarrantcounty.com

Please note that if you do submit this form electronically, you must also submit an original hard copy of the report to the above stated physical address for proper filing and review.

For assistance call: (817) 884-2643

*** As per Section IV (f) of the Tarrant County Tax Abatement Policy Guidelines and Criteria, this application must be filed prior to commencement of construction or installation of improvements in order to be eligible for County tax abatement.**

Exhibit B - Project Description

Ben E. Keith Company d/b/a Ben E. Keith Foods ("BEK") is a broadline foodservice distribution company which offers more than 20,000 products to its customers. BEK's customer base includes independent restaurants, chain restaurants, hospitals, hotels, schools, country clubs, bars, and other businesses preparing/serving food on-site.

BEK is considering adding approximately 185,000 square feet to its existing Dallas-Fort Worth Division regional headquarters facility located at 7650 Will Rogers Blvd., Fort Worth, Texas. The expansion would not require a replat or zoning changes. BEK anticipates the total cost of construction to be approximately \$27 million, and the total investment in business personal property to be approximately \$11 million. Construction is expected to begin by July 31, 2019 and will commence no later than June 30, 2021.

The expansion is projected to create approximately 283 new full-time jobs (administrative, sales, transportation, warehouse) after the completion of five years following the expansion completion. The DFW Division's gross payroll for fiscal year 2018 was \$62.6 million, which is expected to increase to \$111.1 million five years following the expansion completion. In BEK's fiscal year 2018, the average sales and administrative employee at the DFW Division was paid \$101,651 and the average transportation and warehouse employee was paid \$58,581 (vs. Tarrant County per capita income of \$48,050 and median household income of \$61,553, per the 2016 US Census). After the first year following the expansion completion, the average annual wage for sales and administrative employees at the DFW Division is projected to be \$111,700 while the average annual wage for transportation and warehouse employees is projected to be \$63,900. After five years following completion, the average projections increase to \$126,200 for sales and administrative employees and \$71,900 for transportation and warehouse employees.

Employment Impact at Project Location

The jobs to be created are generally broken down into 2 categories: (i) administrative and sales positions and (ii) transportation and warehouse positions. Average salary levels are based on the existing workforce, and therefore, estimated salary levels for the new employees to be hired are unknown at this time and will vary based on experience.

Administrative and Sales Positions

Description: Five years following the expansion completion, BEK projects 95 additional administrative and sales positions will have been created with the average projected annual wage for an administrative or sales employee being \$126,200.

Administrative employees generally work in an office setting and perform various tasks depending on the department they are assigned to, such as compliance, credit, human resources, information services, logistics, marketing, purchasing, safety, etc. The specific duties of each position vary depending on which department an employee is assigned.

Sales employees generally are tasked with servicing existing customers and obtaining new customers. Sales representatives, sales managers, and business development specialists all use their product knowledge to help customers make the right purchases for their businesses.

Transportation and Warehouse Positions

Description: Five years following the expansion completion, BEK projects 188 additional transportation and warehouse positions will have been created with the average projected wage for a transportation and warehouse employee being \$71,900.

Transportation employees are involved in ensuring products are delivered to customers in a safe and timely manner from the warehouse. Drivers sometimes have helpers who accompany them on routes to assist with deliveries.

Warehouse employees are involved in receiving inbound product, ensuring all product is properly and safely stored in the warehouse, and preparing product to be shipped to customers. There are several categories of warehouse positions and several layers of management within the warehouse employee group.

Community Involvement

BEK's DFW Division partners with many local organizations in pursuit of maintaining its reputation as an exemplary corporate citizen. BEK strongly believes in giving back to the community and has partnered with organizations such as Folds of Honor (a non-profit organization that provides educational scholarships to spouses and children of fallen or disabled military service members) as well as the American Heart Association, American Cancer Association, March of Dimes, Habitat for Humanity, and local food banks, shelters, and schools.



Exhibit C

Summary of Ben E. Keith Employee Benefits for 2019

MEDICAL INSURANCE with UnitedHealthcare – myuhc.com or 1-844-587-8503

Employees are eligible for medical coverage the first of the month following 60 days of continuous employment. For in-network care, you pay:

FEATURES	BEK HSA MEDICAL PLAN	BEK PPO MEDICAL PLAN
Company contribution	\$1,000 individual / \$2,000 family	None
Preventive care	\$0 – plan pays 100%	
Annual calendar year deductible	\$2,700 individual / \$5,400 family	\$1,000 individual / \$3,000 family
Coinsurance	30%	
Annual calendar year out-of-pocket maximum	\$6,450 individual / \$12,900 family	\$3,000 individual / \$6,000 family
Doctor office visits	Deductible + 30% coinsurance until you reach your out-of-pocket maximum <i>except</i> \$49 for a virtual doctor visit	<ul style="list-style-type: none"> • \$35 for primary care visit • \$50 for specialist visit • \$20 for virtual doctor visit
Inpatient hospital stays	Deductible + 30% coinsurance until you reach your out-of-pocket maximum	
Emergency room visit	Deductible + 30% coinsurance until you reach your out-of-pocket maximum	\$200 copay then deductible + 30% coinsurance until you reach your out-of-pocket maximum
Urgent care visit	Deductible + 30% coinsurance until you reach your out-of-pocket maximum	\$75 copay per visit
Diabetic care	No cost for maintenance medications and doctor visits when you complete required activities	
Most other health care services	Deductible and 30% coinsurance until you reach your out-of-pocket maximum	
Wellness programs	Tobacco cessation (QuitLogix), weight loss (Real Appeal) and wellness (Rally)	
Non-maintenance prescription drugs	30% coinsurance after you meet your annual deductible; use money in your HSA or pay out of your own pocket	\$75 annual calendar year deductible per person <ul style="list-style-type: none"> • \$15 generic • \$35 preferred brand-name • \$75 non-preferred brand-name
Maintenance prescription drugs	<i>A 90-day supply</i> 30% coinsurance after you meet your annual deductible; use money in your HSA or pay out of your own pocket	<i>A 90-day supply</i> <ul style="list-style-type: none"> • \$30 generic • \$70 preferred brand-name • \$150 non-preferred brand-name

DENTAL INSURANCE with MetLife – mybenefits.metlife.com or 1-800-942-0854 or 1-800-880-1800 for DHMO

Employees are eligible for dental coverage on the first day of the month following 60 days of continuous employment.

The BEK DHMO dental plan is available only to Texas residents.

VISION INSURANCE with Superior Vision – superiorvision.com or 1-800-507-3800

Employees are eligible for vision coverage on the first day of the month following 60 days of continuous employment.

Summary of Ben E. Keith Employee Benefits for 2019

LIFE/AD&D INSURANCE with Unum – unum.com or 1-866-679-3054

BEK BASIC LIFE/AD&D INSURANCE PLAN

Ben E. Keith provides all full-time employees with \$50,000 in Company-paid life/AD&D insurance on the first day of the month following 60 days of full-time employment. You do not need to enroll and there is no cost to you.

BEK SUPPLEMENTAL LIFE/AD&D INSURANCE PLAN

If you'd like your beneficiaries to receive a higher payment amount than the BEK-paid life/AD&D insurance provides, purchase additional life insurance of \$50,000 to \$950,000. Choose a coverage amount in \$50,000 increments. Rates are based on the age of the employee. Unum must approve requests over \$300,000 before coverage becomes effective.

BEK SPOUSE AND CHILD LIFE/AD&D INSURANCE PLAN

- **Spouse life/AD&D:** Cover your spouse from \$50,000 to \$250,000 in \$50,000 increments. You must enroll in supplemental life/AD&D if you want to cover your spouse. Spouse coverage can be up to 50% of the employee life/AD&D amount, not to exceed \$250,000. Rates are based on the age of the employee. Unum must approve requests over \$50,000 before coverage becomes effective.
- **Child life/AD&D:** Cover children up to age 26 in \$10,000 of life/AD&D coverage. Be sure to list the names of each child during enrollment when requested.

RETIREMENT SAVINGS PLAN with Empower – empowermyretirement.com or 1-833-BEK-SAVE (1-833-235-7283)

PROFIT SHARING

Ben E. Keith has contributed \$40 million to the Profit Sharing plan during the last 10 years. Full-time Ben E. Keith employees are eligible to receive a Company-funded profit sharing contribution after one year of service. You are 100% vested after six years and will receive a lump sum benefit when you retire.

401(k)

Ben E. Keith matches your contributions \$1 for \$1 up to 4% of your pay. You choose how to invest your 401(k). New employees are automatically enrolled in the 401(k) at a contribution rate of 4% of your pay on the first day of the month after 60 days of Company service. You can increase, decrease or stop your contributions at any time.

WHEN YOU CONTRIBUTE...	BEK WILL CONTRIBUTE...	TOTAL AMOUNT...
0%	0%	0%
1%	1%	2%
2%	2%	4%
3%	3%	6%
4%	4%	8%
5% of pay or more	4%	9% or more

Summary of Ben E. Keith Employee Benefits for 2019

VACATION

Full-time employees are eligible for vacation based on their service. Vacation days earned before your 2nd anniversary must be used by your 2nd anniversary. Vacation days cannot be rolled over for use the following year.

5 DAYS AFTER 6 MONTHS OF SERVICE	ADDITIONAL 5 DAYS AFTER 1 YEAR OF SERVICE FOR A TOTAL OF 10 DAYS	10 DAYS AFTER 2-4 YEARS OF SERVICE
15 DAYS AFTER 5-7 YEARS OF SERVICE	15 DAYS AFTER 8-19 YEARS OF SERVICE	20 DAYS AFTER 20+ YEARS OF SERVICE

HOLIDAYS

Ben E. Keith provides seven paid holidays each year.

NEW YEAR'S DAY INDEPENDENCE DAY CHRISTMAS DAY	MARTIN LUTHER KING JR. DAY LABOR DAY	MEMORIAL DAY THANKSGIVING DAY
---	---	----------------------------------

PERSONAL HOLIDAY

Full-time employees receive one personal holiday each year on January 1. If you are a new hire, your personal holiday may become available at a date other than January 1.

EDUCATIONAL ASSISTANCE PROGRAM – mybenekeith.com

Ben E. Keith provides full-time employees with at least one year of service with financial assistance for tuition, fees and books related to qualified degree programs.

EMPLOYEE ASSISTANCE PROGRAM – 1-800-343-3822

Ben E. Keith provides free, confidential counseling for marital, financial, alcohol and drug-related issues. Employees can access six visits per issue each year.

CREDIT UNION – bekefcu.org

You are eligible to join the Ben E. Keith Federal Credit Union on your first day of employment. Membership includes access to many great products and services including:

ONLINE BANKING	DEBIT AND CREDIT CARDS	SAVINGS ACCOUNT
FREE CHECKING ACCOUNT	AUTO LOANS	PERSONAL LOANS
CHRISTMAS/VACATION CLUB ACCOUNTS	SIX FLAGS DISCOUNTS	PAYROLL DEDUCTIONS TO SAVINGS

DIRECT DEPOSIT – mybenekeith.com

Your paycheck is electronically deposited into your checking account each pay period using direct deposit. All employees are required to utilize direct deposit.

YOUR 2019 COSTS

Choose your pay period (weekly, semi-monthly or monthly) to see the rates that apply to you.

MEDICAL

IF YOU ARE PAID...	AND YOU ENROLL	BEK HSA MEDICAL PLAN* (NON-TOBACCO USER)	BEK PPO MEDICAL PLAN* (NON-TOBACCO USER)
Weekly	You only	\$45.00	\$53.77
	You + spouse	\$86.64	\$104.08
	You + child(ren)	\$79.62	\$96.00
	You + family	\$114.23	\$141.00
Semi-monthly	You only	\$97.50	\$116.50
	You + spouse	\$187.50	\$225.50
	You + child(ren)	\$172.50	\$208.00
	You + family	\$247.50	\$305.50
Monthly	You only	\$195.00	\$233.00
	You + spouse	\$375.00	\$451.00
	You + child(ren)	\$345.00	\$416.00
	You + family	\$495.00	\$611.00

*A \$100 monthly tobacco surcharge and a \$100 monthly working spouse surcharge are not reflected in the above rates.

DENTAL & VISION

IF YOU ARE PAID...	AND YOU ENROLL	BEK DHMO DENTAL PLAN	BEK PPO DENTAL PLAN	BEK VISION PLAN
Weekly	You only	\$2.69	\$8.90	\$1.43
	You + 1 dependent	\$4.33	\$17.99	\$2.62
	You + 2 or more dependents	\$6.61	\$24.36	\$4.39
Semi-monthly	You only	\$5.83	\$19.28	\$3.09
	You + 1 dependent	\$9.39	\$38.99	\$6.12
	You + 2 or more dependents	\$14.32	\$52.78	\$9.52
Monthly	You only	\$11.66	\$36.55	\$6.18
	You + 1 dependent	\$18.78	\$77.97	\$12.24
	You + 2 or more dependents	\$28.64	\$105.55	\$19.04

BEK SUPPLEMENTAL EMPLOYEE AND SPOUSE LIFE/AD&D

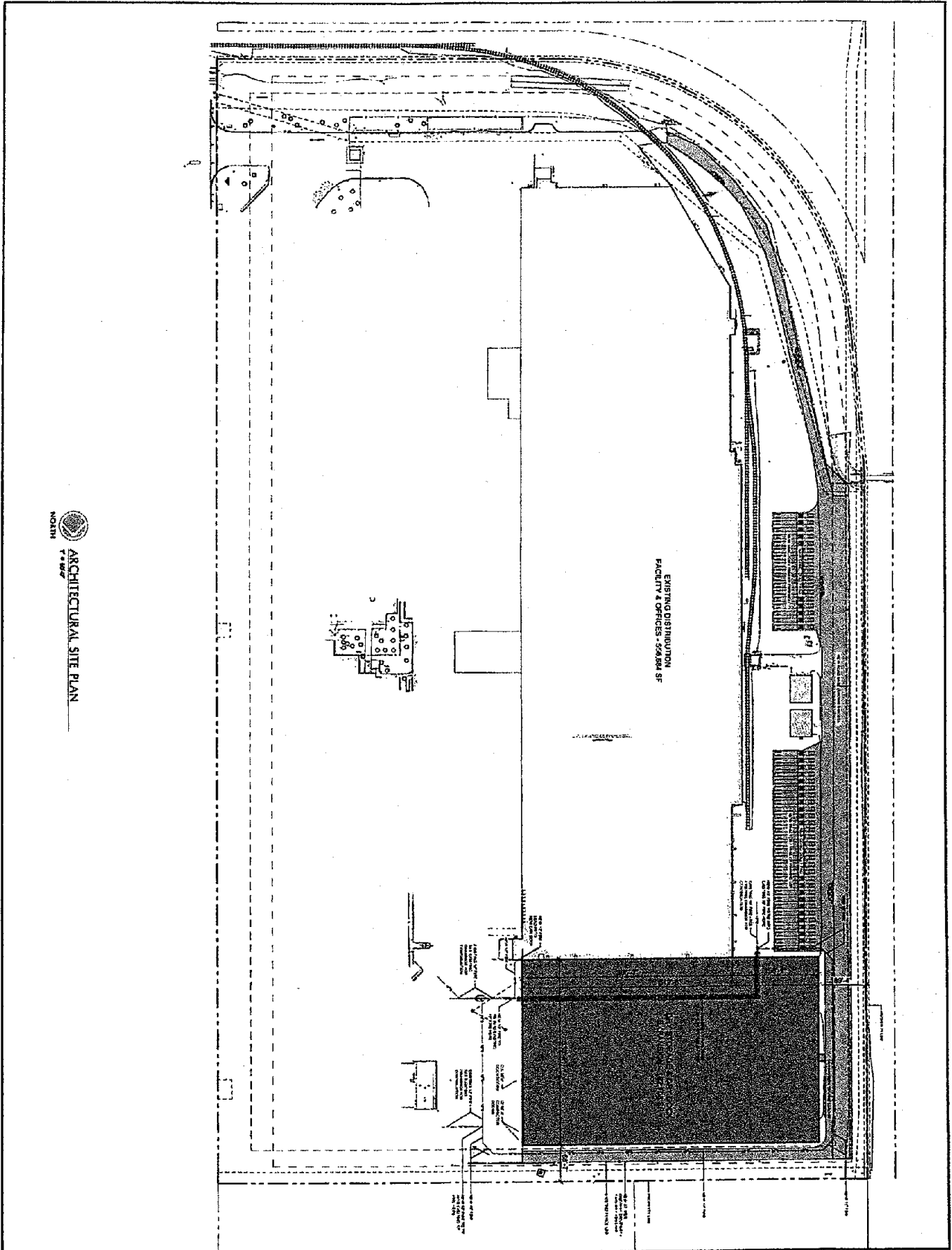
EMPLOYEE'S AGE ON 1/1/19	BEK EMPLOYEE SUPPLEMENTAL LIFE/AD&D	BEK SPOUSE LIFE AD&D
Under 25	\$0.073	\$0.073
25 - 29	\$0.081	\$0.081
30 - 34	\$0.098	\$0.098
35 - 39	\$0.107	\$0.107
40 - 44	\$0.115	\$0.115
45 - 49	\$0.158	\$0.158
50 - 54	\$0.226	\$0.226
55 - 59	\$0.396	\$0.396
60 - 64	\$0.592	\$0.592
65 - 69	\$1.111	\$1.111
70 - 74	\$1.783	\$1.783
75 or older	\$1.783	\$1.783
Example: 48-year old chooses \$50,000 of coverage	$\$50,000 \div \$1,000 = 50;$ $50 \times \$0.158 = \7.90 per month	$\$50,000 \div \$1,000 = 50;$ $50 \times \$0.158 = \7.90 per month

BEK CHILD LIFE/AD&D

IF YOU ARE PAID...	BEK CHILD LIFE/AD&D
Weekly	\$0.35 per pay period
Semi-monthly	\$0.75 per pay period
Monthly	\$1.50 per pay period

This summary provides only a brief overview of the benefits provided to employees and does not include all provisions and limitations. The full provisions of the benefits plans and programs are described in the plan documents and contracts. If there are any discrepancies between the official plan documents and the contents of this summary, the plan documents and contracts will govern. Ben E. Keith reserves the right to amend, modify, suspend or terminate the plans (or any part of the plans), or to provide different cost sharing between the Company and participants, at any time and for any reason.

Exhibit D



ARCHITECTURAL SITE PLAN

ARCHITECTURAL
A010

PREPARED BY	DATE
CHECKED BY	DATE
APPROVED BY	DATE
SCALE	
SHEET NO.	

SEAL OF THE ARCHITECT

ARCHITECTURAL SITE PLAN

EXPANSION & RENOVATIONS
BEN E. KEITH COMPANY
7650 WILL ROGERS BLVD.
FORT WORTH, TX 76140

ESI
DESIGN SERVICES
FORT WORTH, TEXAS

Exhibit E

THIS DOCUMENT HAS A COLORED BACKGROUND AND A GLOSSY FINISH. THE PAPER IS 100% RECYCLED AND MADE IN THE U.S.A. WATER MARK



L&B Property Tax LLC
 PO Box 2250
 Universal City, TX 78148
 512-665-6885

Broadway Bank
 1177 N.E. Loop 410
 San Antonio, TX 78209

88-2193
 1148 220

1176

DATE **1/4/2019**

Reference:

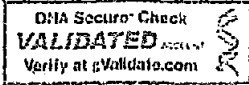
PAY **Tarrant County Tax Assessor-Collector**

\$ **3,332,320.17**

THREE-MILLION THREE-HUNDRED-THIRTY-TWO-THOUSAND THREE-HUNDRED-TWENTY AND 17/100 DOLLARS

Void after 90 days

TO THE ORDER OF
Tarrant County Tax Assessor-Collector
 Tarrant County Tax Office
 P.O. Box 961018
 Fort Worth, TX 76161-0018



Memo **Ben E Keith Tax Payments - 12 Tax Bills**

L&B Property Tax LLC		1176
Tarrant County Tax Assessor-Collector		1/4/2019
1-Property Tax	0.	
1-Property Tax		
1-Property Tax		
1-Property Tax	00007345925	596,587.47
1-Property Tax		
1-Property Tax	00011010495	1,851,669.19
1-Property Tax		
1-Property Tax		
1-Property Tax	201	
1-Property Tax		

Ben E. Keith (BEK)- Ben E Keith Tax Payments - 12 Tax Bills

L&B Property Tax LLC		1176
Tarrant County Tax Assessor-Collector		1/4/2019
1-Property Tax		
1-Property Tax		
1-Property Tax		
1-Property Tax	00007345925	596,587.47
1-Property Tax		
1-Property Tax	00011010495	1,851,669.19
1-Property Tax		
1-Property Tax		
1-Property Tax	20	
1-Property Tax		
1-Property Tax		

Ben E. Keith (BEK)- Ben E Keith Tax Payments - 12 Tax Bills



RON WRIGHT
TARRANT COUNTY
TAX ASSESSOR-COLLECTOR

Facebook.com/TarrantCountyTAC
@TarrantCoTax

100 E. Weatherford, Fort Worth, TX 76106
(817) 884-1100
e-mail: taxoffice@tarrantcounty.com
web: www.tarrantcounty.com
IN GOD WE TRUST

DATE: 10/04/2018
ACCOUNT: 00007345925
LEGAL: CARTER INDUSTRIAL PARK ADDN BL
OGR 4 LOT 4

2018 TAX STATEMENT

Ben / 10/21/11

V.11

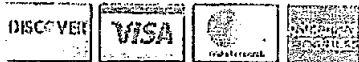
OWNER: BEN E KEITH CO
PARCEL ADDRESS: 0007631 WEL ROGERS BLVD
EXEMPTIONS:

5550000786

LAND VALUE	IMPRV VALUE	APPRAISED VAL		TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
3,594,570	18,182,430	21,887,000					
TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT		TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
FT WORTH CITY	21,887,000	0	0	21,887,000	0.785000	170,242.95	170,242.95
TARRANT COUNTY	21,887,000	0	0	21,887,000	0.234000	50,747.58	50,747.58
REG WATER DIST	21,887,000	0	0	21,887,000	0.019400	4,207.28	4,207.28
T C HOSPITAL	21,887,000	0	0	21,887,000	0.224429	48,671.92	48,671.92
T C COLLEGE	21,887,000	0	0	21,887,000	0.135070	29,565.50	29,565.50
FT WORTH ISD	21,887,000	0	0	21,887,000	1.892000	293,289.24	293,289.24
					TOTAL TAXES	596,587.47	596,587.47

TOTAL AMOUNT DUE INCLUDES PAYMENT RECEIVED 596,587.47

Pay by Credit Card or Check



Pay online with these cards
Or by phone at 817-884-1110



YOUR CHECK WILL BE CONVERTED INTO AN ELECTRONIC FUND TRANSFER

BEN E KEITH CO
5550000786

7018 0680 0001 6210 4422

00007345925 2018
-6535-4-TC



00026671 AADC 0.105 T 04
MORRISON & HEAD LP
4210 SPICEWOOD SPRINGS RD # 211
AUSTIN, TX 78759-8354



RETURN WITH PAYMENT

PAY THIS AMOUNT

\$596,587.47

Delinquent after: 01/31/2019

IF PAID IN	AMOUNT DUE
FEB	638,348.60
MAR	650,280.35

Make checks payable to:
RON WRIGHT, TAX ASSESSOR-COLLECTOR

PO BOX 961018
FORT WORTH TX 76161-0018

00007345925

0059658747

0063534860

0065028035

1004201800000



RON WRIGHT
TARRANT COUNTY
TAX ASSESSOR-COLLECTOR

@TarrantCoTax
 Facebook.com/TarrantCountyTAC

100 E. Weatherford, Fort Worth, TX 76196
 (817) 884-1100
 e-mail: taxoffice@tarrantcounty.com
 web: www.tarrantcounty.com

DATE: 10/22/2018

2018 TAX STATEMENT

IN GOD WE TRUST

ACCOUNT: 00011010495

LEGAL: BEN E KEITH CO DFW FOOD DIV
 PERSONAL PROPERTY TANGIBLE
 COMMERCIAL

e-STATEMENT

OWNER: BEN E KEITH CO

PARCEL ADDRESS: 0007650 WILL ROGERS BLVD

EXEMPTIONS:

V1.5

TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT	TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
FT WORTH CITY	67,311,420	0	67,311,420	0.785000	520394.65	528394.65
TARRANT COUNTY	67,311,420	0	67,311,420	0.234000	157508.72	157508.72
REG WATER DIST	67,311,420	0	67,311,420	0.019400	13058.42	13058.42
T C HOSPITAL	67,311,420	0	67,311,420	0.224429	151066.35	151066.35
T C COLLEGE	67,311,420	0	67,311,420	0.136070	91590.65	91590.65
FT WORTH ISD	67,311,420	0	67,311,420	1.352000	910050.40	910050.40
TOTAL TAXES						1,851,669.19

TOTAL AMOUNT DUE 1,851,669.19
 INCLUDES PAYMENTS RECEIVED

Pay by Credit Card or eCheck



Pay online with these cards
 Or by phone at 817-884-1100

****YOUR CHECK WILL BE CONVERTED INTO AN ELECTRONIC FUND TRANSFER****

BEN E KEITH CO

RETURN WITH PAYMENT

7018 0680 0001 6210 4422

00011010495
 00011010495

PAY THIS AMOUNT	\$1,851,669.19
Delinquent after: 12/31/2019	

00011010495 2018

M 825834.6

77092654
 77092654

IF PAID IN	AMOUNT DUE
NOV	1,851,669.19
DEC	1,851,669.19

BEN E KEITH CO ATTN: TAX DEPT
 7650 WILL ROGERS BLVD
 FORT WORTH, TX 76140-8022

Make checks payable to:
RON WRIGHT, TAX-ASSESSOR-COLLECTOR
 PO BOX 961018
 FORT WORTH TX 76161-0018

00011010495 0185166919 0185166919 0185166919 1022201800000

Exhibit F - Letter Addressing Economic Qualifications and Additional Criteria for Abatement

Section III(h) - Economic Qualifications

BEK's potential expansion of its DFW regional headquarters facility will produce over \$3 million in added value in real and personal property improvements to Tarrant County. BEK will sustain existing employment levels during and after the expansion, and projects the addition of approximately 283 new full-time jobs by the end of the fifth calendar year following completion of the expansion. BEK's project is an expansion so no employees will be transferred.

BEK's potential expansion is necessary because BEK's current facility is close to maximum capacity. If BEK wishes to grow its DFW Division, it will need to do one of the following: (i) expand on the existing property, (ii) relocate to a larger site (possibly outside of Tarrant County), or (iii) shift the future business growth to its other divisions located in and out of Texas.

Section III(i) - Additional Criteria for Abatement

Use of DBE and Tarrant County Businesses

BEK will strive to utilize (i) Disadvantaged Business Enterprises for a minimum of 15% of its total costs of construction and annual service and supply contracts, and (ii) Tarrant County businesses for a minimum of 25% of its total costs of construction and annual service and supply contracts. However, due to the necessity to hire contractors which provide specialty work not otherwise offered in Tarrant County, BEK may not be able to meet some or all of these requirements even with BEK's good faith efforts.

Although BEK does not have a formal policy in place regarding the use of Disadvantaged Business Enterprises and Tarrant County businesses, BEK is nonetheless committed to transacting with businesses which fall into either or both categories. BEK requests the assistance of Tarrant County in helping BEK identify appropriate DBEs and Tarrant County businesses to include in BEK's bidding process for the expansion construction, as well as for BEK to consider using for its annual service and supply expenditures.

Tarrant County Employment

BEK is committed to hiring Tarrant County residents to fill the new full-time positions that will be created as a result of the expansion and anticipates a minimum of 25% of such positions to be filled by Tarrant County residents.

Environmental Impacts

BEK does not anticipate any environmental impacts to result from the project. Although BEK does not have formal policies in place concerning air quality mitigation, participation in the region's Ozone Action Program, and alternative commute programs/employee trip reductions, BEK continuously strives to be an exemplary corporate citizen and has employed (and continues to employ) environmental-friendly measures in its day-to-day operations. Some examples of green initiatives undertaken by the BEK DFW Division are:

- BEK trucks are equipped with next generation engines to produce less carbon emissions. Excessive idle on the trucks is monitored, which will automatically shut off if left idling.
- 3rd party audits on refrigeration systems, lighting and all energy usage. Conference calls are routinely held to monitor such usage.
- All lighting is LED. The warehouse has motion-sensing LED lighting, which will automatically shut off after a certain period of time when no movement has been detected.
- Recycling program that includes shrink wrap and cardboard.
- White reflective roof to reduce energy usage.
- BEK uses Roadnet route optimization software to reduce miles traveled and fuel used for deliveries.
- Several paperless technologies employed, such as electronic driver logs, online ordering platform for customers, and ACH payments.

Please also reference Exhibit G – Fleet and Emissions Reduction Information for more information on measures BEK has undertaken to reduce emissions from its fleet vehicles.

Employee Benefits

BEK offers a competitive benefit plans to its full-time employees at reasonable rates. BEK benefit plans include medical, dental, vision, and life insurance, all of which allow access by the employees' dependents. BEK also offers several other benefits at no additional cost to employees, such as a 401(k) plan with a 4% matching contribution and long-term and short-term disability programs. For more information on BEK's employee benefits, please see the attached "Exhibit C – BEK Insurance Benefits."

Exhibit G

Fleet and Emissions Reduction Information

General Fleet Information

Straight trucks – 8

Tractors - 200 (132 single axle and 68 double axles)

Type of fuel used: TEXLED ULSD

Ave. # of gallons per week: 33,132

- All tractors are programmed to automatically shut off if left idling for 5 minutes.
- All RSAs are monitored for idle time during routes.
- RSAs are regularly coached to assist in keeping idle time to minimum
- Current telematic system, ELD, calculates idle time and other applicable data for drivers. This is used as a training tool to set goals to lower idle.
- Evaluate and monitor number of tractors to optimize fleet size.
- Published retirement schedule for all vehicles.
- Using TXLED ULSD diesel
- Perform yearly DOT inspections
- Proper tire pressure maintained
- Pre and Post trip inspections are performed each time tractor is taken out on route
- Check engine lights are address immediately and/or tractor is put on repair line and fixed before going back into service.
- Fleet is 2010 and newer. Any tractor still currently onsite has been marked as out of service and awaiting sale. Our current average age is 5.3 years.
- ELDs are installed in all tractors and includes GPS.
- PMs schedules are adhered to and monitored.
- Smith System Driver Training
- ROADNET Software is used to optimized routes to reduce miles traveled.
- Recycle fluids, such as used oil
- Driver Recognition program

EXHIBIT "D"

TARRANT COUNTY TAX ABATEMENT POLICY AND GUIDELINES



TARRANT COUNTY

TAX ABATEMENT POLICY GUIDELINES AND CRITERIA

I. GENERAL PURPOSE AND OBJECTIVES

As authorized under Chapter 312 of the Texas Tax Code, Tarrant County has established this policy so as to work in concert with other taxing authorities as part of an overall publicly supported incentive program designed to create job opportunities that bring new economic advantages or strengthen the current economic base of our community.

It is the intent of the Commissioners Court to consider approval or denial of any request for tax abatement for projects in unincorporated Tarrant County or participation in any tax abatement agreement agreed to and adopted by an incorporated city, which meets the minimum eligibility criteria as set forth in this policy, following the filing of a formal application for tax abatement from the County. As prescribed by Section 312.206 of the Tax Code, the Commissioners Court may approve participation with a municipality in a tax abatement agreement no later than the 90th day after the date the municipal agreement is executed. Further it is the intent of Tarrant County that the County will not approve nor join an abatement agreement that provides one Tarrant County city a competitive advantage over another Tarrant County city seeking the same project or encourages an applicant to move from one Tarrant County city to another, unless such agreement is agreeable to both such incorporated cities and both parties have indicated their approval in writing to Tarrant County.

In the case where the property is located within a municipality's extraterritorial jurisdiction, the municipality shall be the initiating taxing entity unless expressly deferred to the County. For those areas within Tarrant County that are not located within the boundaries of an incorporated municipality and a municipality has deferred to the County or in unincorporated areas not located in a municipality's extraterritorial jurisdiction, the guidelines and criteria contained in this policy will be applied by the Commissioners Court when considering the establishment of a reinvestment zone and the adoption of an abatement agreement.

II. DEFINITIONS

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real and/or personal property in a reinvestment zone designated for economic development purposes.

- (b) **"Eligible Jurisdiction"** means Tarrant County and any municipality, school district, college district, or other entity, which is located in Tarrant County, that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- (c) **"Agreement"** means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (d) **"Base Year Value"** means the assessed value of the applicant's real and personal property located in a designated reinvestment zone on January 1 of the year of the execution of the agreement, plus the agreed upon value of real and personal property improvements made after January 1, but before the execution of the agreement.
- (e) **"Economic Life"** means the number of years a property improvement is expected to be in service in a facility.
- (f) **"Deferred Maintenance"** means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) **"Disadvantaged Business Enterprise (DBE)"** means:
- (1) a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially or economically disadvantaged because of their identification as members of certain groups that have been subject to racial or ethnic prejudice or cultural bias without regard to their qualities as individuals or capabilities as a business, and whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. "DBE" includes the State of Texas definition of historically underutilized businesses (HUBs) as defined in Texas Government Code 407.101 and as it may be updated.
 - (2) a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described in paragraph (1);
 - (3) a partnership that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by paragraph (1), and in which minority or women partners have proportionate interest in the control, operation, and management of the partnership affairs.

- (h) "Expansion" means the addition of buildings, structures, fixed machinery and equipment, and fixed personal property for the purposes of increasing production capacity.
- (i) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (j) "Fixed Machinery and Equipment and/or Personal Property" means tangible machinery, equipment, or personal property that is securely placed or fastened and stationary within a building or structure, or which is movable but remains at and is used solely at the project site.
- (k) "Manufacturing Facility" means buildings and structures, including fixed machinery and equipment, and fixed personal property, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (l) "Modernization" means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation, and extends the economic life of the facility. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery and equipment, and fixed personal property. It shall not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.
- (m) "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (n) "Other Basic Industry" means buildings and structures including fixed machinery and equipment, and fixed personal property not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside Tarrant County [or the Fort Worth Consolidated Metropolitan Statistical Area] and result in the creation of new permanent jobs and bring new wealth in to Tarrant County.
- (o) "Regional Distribution Center Facility" means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- (p) "Non-Manufacturing Facilities" means buildings and structures, used to service and/or house individuals on a permanent or temporary basis.
- (q) "Regional Service Facility" means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used to service goods.

- (r) "Reinvestment Zone" is an area designated as such for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code.
- (s) "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of the users reside at least 100 miles from its location in the County.
- (t) "Regional Retail Facility" means buildings and structures including fixed machinery and equipment used or to be used to provide retail services from which a large portion of the revenues generated by the activity at the facility are derived from users outside the County.
- (u) "Research Facility" means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

III. ABATEMENT AUTHORIZED

- (a) **Authorized Facility.** A facility may be eligible for abatement if it is a Manufacturing Facility, a Research Facility, a Regional Distribution Center Facility, A Regional Service Facility, a Regional Entertainment Facility, Regional Retail Facility, a Non-Manufacturing Facility, or Other Basic Industry as defined. The economic life of a facility and any improvements must exceed the life of the abatement agreement.
- (b) **Creation of New Value.** Abatement may be only granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between the County and the property owner and lessee, subject to such limitations as Commissioners Court may require.
- (c) **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- (d) **Eligible Property.** Abatement may be extended to the value above the Base Year Value of buildings, structures, fixed machinery and equipment, fixed personal property, and site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- (e) **Ineligible Property.** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; private aircraft; deferred maintenance investments; property to be rented or leased except as provided in Section 3 (f); also, any property included in the calculation of base year value as defined.

- (f) **Owned/Leased Facilities.** If a leased facility is granted abatement the agreement shall be executed with the lessor and the lessee.
- (g) **Value and Term of Abatement.** Abatement shall be granted effective with the execution of the agreement. The value of the abatement will be determined based on the merits of the project, including, but not limited to, total capital investment value and added employment. Up to one hundred percent of the value of new eligible properties may be abated for a total term of abatement not to exceed ten years. However, a project must provide an extraordinary economic benefit to the County to be considered for a one hundred percent abatement.
- (h) **Economic Qualification.** In order to be eligible for designation as a County reinvestment zone and/or receive County tax abatement, the planned improvement:
- (1) for new businesses, must be reasonably expected to produce a minimum added value of Five Million Dollars (\$5,000,000) in real and personal property to Tarrant County and create and sustain a minimum of 25 new full-time jobs.
 - (2) for expansions or modernizations of existing businesses, must be reasonably expected to produce a minimum added value of Three Million Dollars (\$3,000,000) in real and personal property improvements to Tarrant County, and sustain existing employment levels.
 - (3) must not be expected to solely or primarily have the effect of transferring employment from one part of Tarrant County to another without a majority vote of approval from the Commissioners Court.
 - (4) must be necessary for expansion and/or modernization because the capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements.
 - (5) the above investment and employment minimums may be waived at the discretion of the Commissioners Court for projects located in Federal or State designated Enterprise Zones.
- (i) **Additional Criteria For Abatement.** To be eligible for abatement, the project must be expected to meet the specific goals and requirements as noted below. If a company is unable to meet the minimum requirements of this section, a variance must be requested with a detailed explanation as to the circumstances that preclude the company from meeting the minimum requirements.
- (1) **Use of DBE and Tarrant County Businesses.** The project must provide for the utilization of Disadvantaged Business Enterprises for a minimum of 15% of the total costs for construction contracts and annual supply and service contracts.

Additionally, the project must provide for the utilization of Tarrant County businesses for a minimum of 25% of the total costs for construction contracts and annual supply and services contracts.

- (2) **Tarrant County Employment.** The company must hire Tarrant County residents for a minimum of 25% of the new full time jobs to be created by the project. Residents, for the purpose of this policy, are those employees who reside in Tarrant County, whether through relocation or existing residency.
 - (3) **Environmental Impacts.** Environmental impact information must be provided, noting any anticipated impacts of the project on the environment, including, but not limited to, water quality, storm water and runoff, floodplain and wetlands, solid waste disposal, noise levels, and air quality. Additionally, the company must provide a written company policy on air quality mitigation, the company's plan for participation in the region's Ozone Action Program, and a report of employer assistance in encouraging alternative commute programs and employee trip reductions. For companies new to the region, the above policies and plan must be completed and presented within the first year of the abatement.
 - (4) **Employee Benefits.** The company must offer a health benefit plan to its full-time employees at a rate that is reasonable to the majority of its employees and which allows access to the plan by the employees' dependents. For additional consideration, the company may provide information on other employee benefits provided, such as retirement/pension programs and subsidies for education, job-training, transportation assistance and child/elderly care.
- (j) **Taxability.** From the execution of the abatement to the end of the agreement period taxes shall be payable as follows:
- (1) The value of ineligible property as provided in Section III (e) shall be fully taxable;
 - (2) The base year value of existing eligible property shall be fully taxable, as well as the value of any existing personal property currently on the tax rolls in Tarrant County that is either moved to a new abated location or is replaced due to modernization or expansion.
 - (3) The additional value of new eligible property shall be taxable in the manner and for the period provided for in the abatement agreement, subject to the terms described in Section III (g); and
 - (4) The additional value of new eligible property shall be fully taxable at the end of the abatement period.

IV. APPLICATION

- (a) Any present or potential owner of taxable property in Tarrant County may request the creation of a reinvestment zone and/or tax abatement by filing a written request with the County Judge.**
- (b) The application shall consist of a completed application form including, but not limited to: a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; a time schedule for undertaking and completing the proposed improvements; employment and contract information; the location of existing company locations in Tarrant County and the surrounding counties and the expected number of transferring employees; details of the environmental impacts of the project, and employee benefit information. In the case of modernization a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant, to be attached to the application.**
- (c) All applications for creation of reinvestment zones or abatements shall incorporate a feasibility study estimating the economic effect of the proposed reinvestment zone and tax abatement on Tarrant County, other eligible participating jurisdictions, and the applicant.**
- (d) Upon receipt of a completed application for creation of a reinvestment zone, the County Judge shall notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible jurisdiction.**
- (e) Upon receipt of a completed application and/or request to participate with a municipality in an abatement agreement, Tarrant County Administrator's Office must review and provide recommendation to the Commissioners Court within 30 days and before the public hearing.**
- (f) The County shall not establish a reinvestment zone, nor participate in an abatement, if it finds that the application for County reinvestment zone/tax abatement was filed after the commencement of construction, alteration, or installation of improvements related to the proposed modernization, expansion or new facility.**
- (g) Variance. Request for variance from the provisions of this policy must be made in written form to the County Judge and submitted with the application for abatement, provided, however, the total duration of an abatement shall in no instance exceed ten years. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Request for variance must**

be approved by a majority vote of the Commissioners Court.

V. PUBLIC HEARINGS AND APPROVAL

- (a) For projects in unincorporated Tarrant County, the Commissioners Court may not adopt a resolution designating a County reinvestment zone until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be clearly identified on the Commissioners Court agenda at least 30 days prior to the hearing. The presiding officers of eligible jurisdictions shall be notified in writing at least 15 days prior to the hearing.
- (b) Prior to entering into a tax abatement agreement the Commissioners Court may, at its option, hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the tax abatement agreement.
- (c) In order to enter into a tax abatement agreement, the Commissioners Court must find that the terms of the proposed agreement meet these Guidelines and Criteria and that:
 - (1) there will be no substantial adverse affect on the provision of the jurisdiction's service or tax base: and
 - (2) the planned use of the property will not constitute a hazard to public safety, health or morals.
- (d) Any application requesting a variance under Section IV (g) shall be approved by a majority vote of the Commissioners Court. No application which deviates from the requirements of these Guidelines and Criteria shall be approved unless accompanied by a request for variance as provided under Section IV (g).

VI. AGREEMENT

- (a) After approval the County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required. The Court Order shall include:
 - (1) estimated value of real and personal property to be abated and the base year value;
 - (2) percent of value to be abated each year as provided in Section III (g);
 - (3) the commencement date and the termination date of abatement;
 - (4) the proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provide in Section IV (b);

- (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections III (a), III (e), III (g) VII, VIII, and IX, or other provisions that may be required for uniformity or by state law, and;
- (6) a statement of the facility owner's policy regarding Disadvantaged Business Enterprises (DBEs), and the estimated dollar amount and percentage of total contracts to be awarded to DBEs for construction, professional services, purchases of equipment and supplies and other services required for the abated improvements;
- (7) amount of investment and average number of jobs involved; and
- (8) an assessment of the environmental impacts of the project, including a statement of the owner's policy addressing regional air quality and information on the use of alternative fuels in fleet vehicles.
- (9) a statement indicating the provision of a health care benefit plan for employees and dependents.

Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation to the County.

- (b) Participation in tax abatement agreements with municipalities requires additional information to be included in the Court Order approving the agreement, as follows:
 - (1) a copy of the agreement between the applicant and municipality shall be attached and made apart of the Court Order for all purposes;
 - (2) authorization for the County Judge to execute a signatory page on behalf of the Commissioners Court which shall be attached and made part of the original agreement.

VII. RECAPTURE

Commissioners Court reserves the right to review compliance for full or partial recapture in the event that the applicant fails to perform in "good faith." If a project is not completed as specified in the tax abatement agreement, the County has the right to cancel the abatement agreement and abated taxes shall become due to the County and other affected taxing units as provided by law. If any of the provisions contained in the tax abatement agreement, i.e., employment, amount of investment, etc., are not met, the County shall have the right to reduce or cancel the abatement agreement. If a project granted a tax abatement ceases to operate or is no longer in conformance with the tax abatement agreement, the agreement shall not be in

effect for the period of time during which the project is not operating or is not in conformance.

VIII. ADMINISTRATION

- (a) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the chief Appraiser shall notify the affected jurisdictions which levies taxes of the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of the County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- (c) Upon completion of construction the County and/or the jurisdiction creating the reinvestment zone shall annually (or at such other times as deemed appropriate by the Commissioners Court) evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the contract and agreement to the Commissioners Court and the District Attorney. On or before April 30th of every year during the life of the abatement agreement, the company or individual receiving the abatement shall complete and file a Tax Abatement Evaluation Report, along with other required written documentation, detailing and certifying the abatement recipient's compliance with the terms of the abatement agreement. Failure to provide information requested in the compliance evaluation by the prescribed deadline may result in taxes abated in the prior year being due and payable. The company or individual receiving a tax abatement shall provide information to the County for the evaluation which shall include, but not be limited to, the following:

 - (1) the number and dollar amounts of all construction contracts and subcontracts awarded on the project;
 - (2) the total number of employees of the company, their gross salaries, and the number of employees residing in Tarrant County and their gross salaries, reported in job classifications appropriate to the employee;
 - (3) the gross dollars spent on supplier and professional service contracts, indicating the amounts by contract awarded and performed by Tarrant County business and individuals;

- (4) the dollar amount of contracts awarded to Disadvantaged Business Enterprises;
- (5) detail of actions taken to mitigate any adverse environmental impacts of the project, if applicable; and
- (6) should the dollars, percentages, or actions not meet the original or modified requirements of the abatement agreement, a statement shall be provided explaining the reason for the failure to meet the requirements and a recommended course of rectification.

IX. ASSIGNMENT

Tax abatement agreements may be assigned to a new owner or lessee of the facility with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if the assignor or the assignee are indebted to the County for ad valorem taxes or other obligations.

X. SUNSET PROVISION

These Guidelines and Criteria are effective on January 1 of the year following the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the County to determine whether the goals have been achieved. Based on that review, the guidelines and Criteria will be modified, renewed or eliminated. These Guidelines and Criteria may be amended by Commissioners Court at any time during their effective period.

EXHIBIT "E"

TARRANT COUNTY TAX ABATEMENT EVALUATION FORM



Tarrant County Annual Tax Abatement Evaluation Report

Reporting Period: January 1, 201_ to December 31, 201_

I. PROJECT INFORMATION

Property Owner: "[Response]"

Company/Project Name: "[Response]"

Project Contact: "[Response]" Title: "[Response]"

Telephone: "[Response]" Fax: "[Response]" E-mail: "[Response]"

Property Owner Address: "[Response]"

Company Address (if different): "[Response]"

Address of Property Subject to Abatement: "[Response]"

TAD Tax Account Number(s) of Property Subject to Abatement:

Has construction/installation of planned improvements commenced? Yes No

If Yes, on what date? "[Response]"

If No, please explain. "[Response]"

Has construction/installation of planned improvements been completed? Yes No

If Yes, on what date? "[Response]"

If No, please estimate completion date *and* attach a current time schedule for the project:

"[Response]"

Date on which *Certificate of Occupancy* from City was received: "[Response]"

II. INVESTMENT / VALUATION

REAL PROPERTY

Beginning Year Appraised Value – Land: \$"[Response]"

Beginning Year Appraised Value – Improvements: \$"[Response]"

Construction Costs Incurred This Reporting Period: \$"[Response]"

Appraised Value of Improvements Added This Period: \$"[Response]"

PERSONAL PROPERTY

Beginning Year Appraised Value – Machinery, Equipment, Other Business Personal Property: \$ "[Response]"

New M&E, and other Business Personal Property Value Added During Period: \$"[Response]"

Beginning Year Appraised Value Inventory and Supplies: \$[Response]

New Inventory Value Added This Period: \$[Response]

Percentage/Amount of Inventory Subject to Exemption (i.e., Freeport/Foreign Trade Zone): "[Response]" %

III. JOB CREATION / RETENTION

Total Current Employees at End of Reporting Period: Full-time "[Response]" Part-time "[Response]"

Number of Current Employees Residing in Tarrant County: "[Response]"

Number of New Employees Added During Reporting Period: Full-time "[Response]" Part-time "[Response]"

Number of New Employees Added During Tax Abatement Term: Full-time "[Response]" Part-time "[Response]"

Current Workforce Diversity Percentages:

Gender: Male "[Response]" Female "[Response]"

Ethnicity: Caucasian "[Response]" Asian "[Response]" African American "[Response]"

Hispanic "[Response]" Other "[Response]"

Annual Payroll During Reporting Period: \$[Response]

Average Salary During Reporting Period: \$[Response]

IV. CONSTRUCTION & SUPPLY/SERVICES EXPENDITURES

CONSTRUCTION:

Construction Dollars Spent This Reporting Period: \$[Response]

Number of Construction Related Jobs This Period: "[Response]"

Total Construction Payroll This Period: \$[Response]

CONSTRUCTION SPENDING WITH TARRANT COUNTY & DISADVANTAGED BUSINESS ENTERPRISES (DBE):

Total Dollars of Construction Spending with Tarrant County Contractors: \$[Response]

Percent of Total Construction Spending with Tarrant County Contractors: "[Response]" %

Total Dollars of Construction Spending with DBE Contractors: \$[Response]

Percent of Total Construction Spending with DBE Contractors: "[Response]" %

ANNUAL SUPPLY/SERVICES EXPENSES:

Total Number Supply/Services Contracts This Period: "[Response]"

Total Dollars Spent on Supply/Services Expenditures This Period: \$[Response]

Total Dollars of Supply/Services Expenditures with Tarrant County Businesses: "[Response]" %

Percent of Supply/Services Expenditures with Tarrant County Businesses: "[Response]" %

Total Dollars of Supply/Services Expenditures with DBE Businesses: "[Response]" %

Percent of Supply/Services Expenditures with to DBE Businesses: "[Response]" %

V. EMPLOYEE AND ENVIRONMENTAL FACTORS

Company Sponsored Health Care Benefits Are Available To (check all that apply):

Full-time Part-time No Employees

Number of Employees Enrolled in Health Care Plan at End of Period: "[Response]"

Name of Health Care/Insurance Provider: "[Response]"

Average Percentage of Monthly Health Insurance Premiums Paid by Company: "[Response]" %

Average Monthly Employee Cost for Health Care Benefits: Individual: \$"[Response]" Family: \$"[Response]"

List Other Company Benefits Provided (life insurance, pension plan, childcare, etc.): "[Response]"

Does Your Company Encourage, Facilitate, and/or Provide Subsidies/Initiatives for Alternative Commute Options (i.e., bus, vanpools, carpools, telecommuting, etc.)? Yes No

If Yes, Please Describe: "[Response]"

Describe the Number, Type, and Fuels Used (Gas, Diesel, LPG, Electric, etc.) for Fleet Vehicles On Site:

VI. ADDITIONAL INFORMATION (TO BE ATTACHED)

- Copy of Personal Property List Rendered to the Tarrant Appraisal District
- Brief Narrative Highlighting The Progress And Status of the Project
- If Applicable, a Statement Addressing Any Failure to Meet Requirements of the Tax Abatement Agreement and a Plan for Recertification

VII. CERTIFICATION

I certify that, to the best of my knowledge and belief, the information and attachments provided herein are true and accurate and in compliance with the terms of the Tax Abatement Agreement with Tarrant County.

Name of Certifying Officer

Title

Phone

Email Address

Signature of Certifying Officer

Date

In order to remain eligible for the abatement of Tarrant County and/or Tarrant County Hospital District property taxes, you must return the completed report by April 30th to:

Lisa McMillan

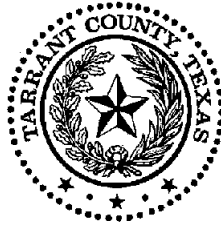
**Economic Development Coordinator
Tarrant County Administrator's Office
100 E. Weatherford Street, Suite 404
Fort Worth, Texas 76196-0609**

You may also forward an electronic copy of the completed report to:

lmcmillan@tarrantcounty.com

Please note that if you do submit this form electronically, you must also submit an original hard copy of the report to the above stated physical address for proper filing and review.

For assistance call: (817) 884-2643



RESOLUTION

PARTICIPATION IN TAX ABATEMENT FOR BEN E. KEITH COMPANY, FORT WORTH, TX

WHEREAS, Ben E. Keith Company, a Texas corporation, acting by and through its authorized officers (hereafter referred to as "Company"), plans to expand its office and warehouse facility on real property under its ownership, more particularly described in the Tax Abatement Agreement attached hereto and incorporated herein by reference ("Real Property"); and

WHEREAS, the Real Property is located within Tarrant County (the "County"), a political subdivision of the State of Texas, which Real Property is located within the City of Fort Worth; and

WHEREAS, the Real Property and all improvements and tangible personal property thereon, whether now existing or hereinafter to be constructed or installed, are subject to ad valorem taxation by the City of Fort Worth and the County; and

WHEREAS, the City Council of the City of Fort Worth has adopted Ordinance No. 23575-02-2019 establishing Tax Abatement Reinvestment Zone No. 98, City of Fort Worth, and has approved and executed a Tax Abatement Agreement as it relates to improvements made on the Real Property; and

WHEREAS, the Tax Abatement Agreement (the "Agreement") between Tarrant County and Company, provides for the construction and installation of certain improvements at an estimated cost of \$29,000,000 to be completed by June 30, 2021; and

WHEREAS, the Agreement with the Company is conditioned upon specific real and personal property improvements, continued operation of the facility and the addition of new jobs; and

WHEREAS, the Commissioners Court has been requested by the Company to take the steps required pursuant to the Code to permit tax abatement with respect to that portion of the Real Property and the improvements thereon which are subject to the taxing jurisdiction of the County, and has further requested that the County enter in the Agreement; and

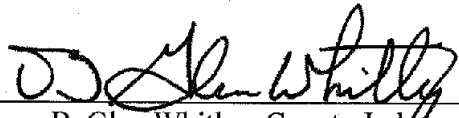
WHEREAS, the County has approved the Tarrant County Tax Abatement Policy Statement Guidelines and Criteria for granting tax abatement in reinvestment zones in Tarrant County;

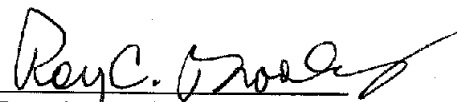
NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Commissioners Court of Tarrant County, Texas:


1. That all recitals set forth in the preamble are hereby found to be true and correct;

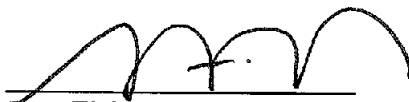
2. That the Commissioners Court shall have prudently reviewed each tax abatement agreement approved by a municipality having taxing jurisdiction with respect to property located in the County and within a reinvestment zone designated by such municipality or the state; and according to the here adopted guidelines and criteria for tax abatement of the County, shall prudently review and consider each proposed County tax abatement agreement providing participation in tax abatement with a municipality; and shall, solely at its discretion, approve those tax abatement agreements that it finds meet all constitutional and statutory criteria and requirements, and which it finds to be in the best interest of the taxpayers and citizens of the County; and
3. That the Commissioners Court hereby finds that the terms and conditions of the Agreement substantially meet its guidelines and criteria; that the Agreement for the abatement of certain Tarrant County taxes be and is hereby approved; that the County and its Commissioners Court hereby agree to enter into the Agreements as a party thereto; and the County Judge of the County be and is hereby authorized and directed to execute and deliver said Agreement on behalf of the County and its Commissioners Court, substantially in the form attached hereto, and carry out the terms thereof at the appropriate time(s).

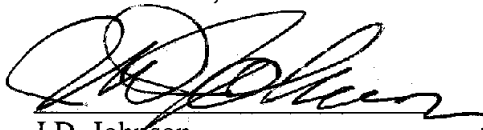
PASSED AND APPROVED, IN OPEN COURT, this 11th day of June, 2019, through Court Order No. 130368.


B. Glen Whitley, County Judge


Roy C. Brooks
Commissioner, Precinct 1


Devan Allen
Commissioner, Precinct 2


Gary Fickes
Commissioner, Precinct 3


J.D. Johnson
Commissioner, Precinct 4

THE STATE OF TEXAS §

Tax Abatement Agreement

COUNTY OF TARRANT §

THIS Agreement is executed by and between **BEN E. KEITH COMPANY** a Texas corporation, acting by and through its authorized officer (hereafter referred to as "**COMPANY**"), and **TARRANT COUNTY, TEXAS**, acting by and through its County Judge or his designee, (hereafter referred to as "**COUNTY**").

WITNESSETH:

WHEREAS, the Tarrant County Commissioners Court has resolved that the COUNTY may elect to participate in tax abatement; and

WHEREAS, the Commissioners Court has adopted a Policy Statement for Tax Abatement, herein contained as **Exhibit "D"**, which constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the COUNTY; and

WHEREAS, the Premises (as hereafter defined) is, and the Eligible Property (as hereafter defined) will be, located in Reinvestment Zone No. 98 in the City of Fort Worth, Texas, established by Ordinance No. 23575-02-2019 (the "Ordinance") adopted on February 12, 2019, and further described in **Exhibit "A"**, being a commercial reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended (the "Zone"); and

WHEREAS, the City Council of the City of Fort Worth has approved and authorized the execution and delivery of a Tax Abatement Agreement as to the Eligible Property thereon, attached hereto as **Exhibit "B"**; and

WHEREAS, COMPANY submitted an application for tax abatement to the County concerning the contemplated Improvements to the Premises (the "Application for Tax Abatement"), attached hereto and incorporated herein as **Exhibit "C"**; and

WHEREAS, COMPANY is the owner of real property located within the Zone, more specifically described in **Exhibit "A"**, on which it plans to construct and install certain improvements in order to expand operations at its existing office and warehouse facility by approximately 185,000 square feet; and

WHEREAS, the Commissioners Court finds that the contemplated use of the Premises, the Eligible Property and the terms of this Agreement are consistent with encouraging development within the Zone;

NOW THEREFORE, the COUNTY and COMPANY, for and in consideration of the mutual premises and promises contained herein, do hereby agree, covenant and contract as set forth below:

I.
Definitions

- A. "Added Market Value" is defined as the market value of Eligible Property on the Premises above the Base Year Value.
- B. "Base Year Value" is defined as the tax year 2019 taxable value of real and personal property located on the Premises in City of Fort Worth Reinvestment Zone No. 98 on January 1, 2019, as finally determined by the Tarrant Appraisal District.
- C. "Construction Costs" are defined as site development and building costs, including, without limitation, actual site preparation and development and construction costs, signage costs, contractor fees, the costs of labor, supplies and materials, materials testing, engineering fees, architectural fees and other design, consulting, construction management and professional costs, and contractor, development and permitting fees expended directly in connection with the construction of the Real Property Improvements and landscape improvements.
- D. "DBE Companies" are defined as companies who are a Disadvantage Business Enterprise (DBE), and the term "DBE" shall mean:
- i. a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially or economically disadvantaged because of their identification as members of certain groups that have been subject to racial or ethnic prejudice or cultural bias without regard to their qualities as individuals or capabilities as a business, and whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. "DBE" includes the State of Texas definition of historically underutilized businesses (HUBs) as defined in Section 2161.001 of the Texas Government Code, and as it may be updated.
 - ii. a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described in D.i. above.
 - iii. a partnership that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by D.i. above, and in which minority or women partners have proportionate interest in the control, operation, and management of the partnership affairs.
 - iv. a limited liability company that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the company is owned by one or more persons described by D.i. above; or
 - v. a minority or woman-owned business that (i) has received certification as either a minority business enterprise (MBE), a woman business enterprise (WBE), or a disadvantaged business enterprise (DBE) by the North Central Texas Regional Certification Agency (NCTRCA), D/FW Minority Supplier Development Council (MSDC), or Women's Business Council – Southwest (WBC).

- E. "Effective Date" is defined as the date as of which both the County and Company have executed this Agreement.
- F. "Eligible Property" is defined as Real Property Improvements and Personal Property Improvements made for expansion of the facility, constructed, renovated, delivered to, installed or placed on the Premises through June 30, 2021, as further described in the Application for Tax Abatement attached hereto as **Exhibit "C"**.
- G. "Job" is defined as a permanent, full-time employment position with COMPANY at or based out of the Premises that results in employment of at least forty-hours per week per position. Part-time positions shall not be included in this definition.
- H. "Personal Property Improvements" are defined as tangible personal property (except inventory or supplies) delivered to, installed or located on the Premises.
- I. "Premises" are defined as the real property (land and improvements) as described in **Exhibit "A"** which existed on January 1, 2019 within City of Fort Worth Reinvestment Zone No. 98, that are owned and/or operated by COMPANY.
- J. "Real Property Improvements" are defined as improvements to the Premises, and shall include structures or fixtures erected or affixed to the Premises.
- K. "Supply and Service Expenditures" are defined as those local discretionary expenditures made by COMPANY directly for the operation and maintenance of Premises and any improvements thereon, excluding utility service costs.
- L. "Tarrant County Companies" are defined as any corporation, partnership, limited liability company or sole proprietorship maintaining an addressed office location within Tarrant County from which such entity conducts all or a substantial part of its business operations within Tarrant County.
- M. "Zone" as used herein is defined as the real property located in City of Fort Worth Reinvestment Zone No. 98 and described by City of Fort Worth Ordinance No. 23575-02-2019, substantially in the form included within **Exhibit "A"**.

II. **General Provisions**

- A. The Premises are not in an improvement project financed by tax increment bonds.
- B. Neither the Premises nor any of the Improvements covered by this Agreement are owned or leased by any member of the Commissioners Court, or any member of the governing body of any taxing units joining in or adopting this Agreement.

III. **Improvement Conditions and Requirements**

- A. COMPANY shall improve the Premises by completing the Eligible Real and Personal Property Improvements in accordance with this Agreement.

- B. COMPANY shall provide for the completion of the Eligible Real Property Improvements no later than June 30, 2021, having a minimum Construction Cost upon completion of not less than Twenty-Two Million Dollars (\$22,000,000).
- C. COMPANY shall provide for the installation or location of the Eligible Personal Property Improvements no later than June 30, 2021, having a minimum initial cost of not less than Seven Million Dollars (\$7,000,000).
- D. COMPANY shall expend or cause to be expended at least fifteen percent (15%) of all Construction Costs of Eligible Real Property Improvements with DBE Companies.
- E. COMPANY shall expend or cause to be expended at least twenty-five percent (25%) of all Construction Costs of Eligible Real Property Improvements with Tarrant County companies.
- F. COMPANY shall expend or cause to be expended at least twenty-five percent (25%) in annual Supply and Service Expenditures with Tarrant County Companies.
- G. COMPANY shall expend or cause to be expended at least fifteen percent (15%) in annual Supply and Service Expenditures with DBE companies.
- H. COMPANY will maintain employment of eight hundred fifty-five (855) Jobs at or based out of the Premises throughout the term of this Agreement. Not later than December 31, 2024, COMPANY will add one hundred seventy-nine (179) net new Jobs at or based out of the Premises, for a total of no less than one thousand thirty-four (1,034) Jobs. Not later than December 31, 2026, COMPANY will have added two hundred eighty-three (283) net new Jobs at or based out of the Premises and will have total employment of one thousand one hundred thirty-eight (1,138) Jobs at or based out of the Premises.
- I. COMPANY shall operate and maintain on the Premises the Eligible Property as an office/warehouse facility for the duration of this Agreement.
- J. All proposed Eligible Property shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations of the City of Fort Worth and/or Tarrant County.
- K. The Premises and all Improvements must conform to all applicable state and federal laws and regulations to air pollution and air quality.

IV.

Abatement Allowed

- A. As set forth in this section, tax abatement allowed herein shall be for Tarrant County ad valorem real property and personal property taxes, relative to Added Market Value of the Eligible Property located on the Premises, subject to the following terms and conditions. Tarrant County Hospital District ad valorem taxes are not subject to the provisions of this Agreement.
- B. If the Improvement Conditions and Requirements set forth in Section III herein are met, COUNTY agrees to exempt from taxation up to fifty percent (50%) of the Added Market Value of the Eligible Property in accordance with the various requirements

established by terms of this Agreement and to be calculated as set forth below. COUNTY will submit the percentage Abatement COMPANY qualifies for in each given year to the Tarrant Appraisal District, and will assist COMPANY if needed with other reports and filings that may be required of COMPANY. The abatement period (the "Term") shall be seven (7) consecutive years, beginning January 1st of the second full calendar year following the completion of the Eligible Property through December 31st of the ninth full calendar year following the completion of the Eligible Property (For example, if the Eligible Property is completed in April of 2021, the abatement period shall be from January 1, 2023 through December 31, 2029).

1. Base Abatement - If COMPANY (i.) improves the Premises and adds the required Eligible Property to the Premises as set forth in Section III A., B., and C., (ii.) maintains and adds employment as set forth in Section III. H., (iii.) employs Tarrant County residents for a minimum twenty-five percent (25%) of all Jobs, (iv.) makes expenditures for Construction Costs and annual Supply and Service Expenditures as set forth in Section III. D., E., F. and G., then COUNTY shall exempt from taxation forty percent (40%) of the Added Market Value of the Eligible Property.

Dollars spent with DBE Companies may also count as dollars spent with Tarrant County Companies, and vice versa, for the purposes of this Section if the DBE Company is also a Tarrant County Company as defined herein.

Failure to meet the minimum cost requirements set forth in Section III. B. and C. is a condition of Default and shall result in the termination of this Agreement in accordance with Section VII. Failure to meet the requirements for Jobs, Tarrant County resident employment, and use of DBE and Tarrant County Companies for Construction and Supply and Service Expenditures, as set forth in Section III, shall be cause for a reduction in the percentage abatement for any year in which the requirements are not met, as set forth in Section IV.B.2.

2. Reduction to Abatement

- a. Employment and Spending Deficiencies

In any year that employment and spending levels do not meet the minimum requirements set forth in Section IV.B.1., the COUNTY shall reduce the Base Abatement percentage for that year as set forth below. Each reduction is separate and individual and may be cumulative in any year.

- i. If the actual number of Jobs falls below the minimum Jobs requirements set forth in Section III.H., the Base Abatement percentage will be reduced by one percent (1%) for each four (4) Job deficiency, for that year.
- ii. If less than twenty-five percent (25%) of all Jobs are filled by Tarrant County residents, COMPANY will receive a ten percent (10%) reduction from the Base Abatement for that year.
- iii. If spending with DBE Companies is less than fifteen percent (15%) of total Construction Costs, as set forth in Section III.D., COMPANY will

receive a reduction of one percent (1%) from the Base Abatement for each one percent (1%) spending deficiency, up to a maximum reduction of five percent (5%), for the life of the abatement.

- iv. If spending with Tarrant County Companies is less than twenty-five percent (25%) of total Construction Costs, as set forth in Section III.E. COMPANY will receive a reduction of one percent (1%) from the Base Abatement for each one percent (1%) spending deficiency, up to a maximum reduction of five percent (5%), for the life of the abatement.
- v. If spending with Tarrant County or DBE Companies for annual Supply and Services Expenditures is less than the minimum requirements set forth in Section III. F. and G., COMPANY will receive a one percent (1%) reduction in the Base Abatement percentage for each one percent (1%) deficiency from the minimum requirement, up to a maximum reduction of five percent (5%), for that year.

3. Additional Percentage Abatement

In any year that COMPANY is eligible to receive all or a portion of the Base Abatement under Sections IV.B.1. and 2., COMPANY may receive up to an additional ten percent (10%) ad valorem tax abatement in any year (or for each year of the Abatement Term, as specified below) that COMPANY meets one or more of the additional performance requirements as set forth below.

- a. For total Jobs above (i.) one thousand thirty-four (1,034) following the commencement of the Abatement Term through December 31, 2025, or (ii.) one thousand one hundred thirty-eight (1,138) beginning calendar year 2026 through the completion of the Abatement Term, COMPANY will receive an additional one percent (1%) abatement for each two (2) Jobs added, up to a maximum of ten percent (10%) additional abatement for that year.
- b. For employment of Tarrant County residents for more than sixty-five percent (65%) of all Jobs, COMPANY will receive an additional three percent (3%) abatement for that year.
- c. For spending with DBE Companies for thirty percent (30%) or greater of the total Construction Costs of the Eligible Real Property Improvements, COMPANY will receive an additional three percent (3%) abatement for each year of the Abatement Term.
- d. For spending with Tarrant County Companies for forty percent (40%) or greater of the total Construction Costs of the Eligible Real Property Improvements, COMPANY will receive an additional three percent (3%) abatement for each year of the Abatement Term.

V.
Reports, Audits and Inspections

- A. Annual Certification and Reports - Pursuant to state law, COMPANY shall certify annually to taxing units that COMPANY is in compliance with the terms of the tax abatement agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the agreement, as follows:
1. Certification - COMPANY shall complete and certify a Tax Abatement Evaluation Report to be provided by COUNTY for each year of the tax abatement agreement (substantially in the form attached hereto as **Exhibit "E"**), to be due annually not later than April 30. This certification shall include information supporting job creation and retention requirements, reports on Eligible Property values, costs, and spending on construction and supply and services, a narrative description of the project's progress, and other submittals required by the tax abatement agreement.
 2. Eligible Property Reports - At a minimum, COMPANY shall make available upon request the following information annually on all Eligible Property for which COMPANY will seek tax abatement:
 - a. Property description;
 - b. Asset number/description;
 - c. Payment date for property located on Premises; and
 - d. Cost.
 3. Eligible Property Reports for Projects in Progress - COMPANY shall provide County, upon reasonable request, information on projects in progress for which fixed asset numbers have not been assigned. The report shall provide information in sufficient detail to identify the Eligible Property to be installed on the Premises. At a minimum, this information shall include:
 - a. Description of materials, machinery and equipment;
 - b. An overview of Vendors and invoice amount; and
 - c. Payment date for property to be located on Premises.
 4. Reports on Equipment Replaced or Removed - Additionally, COMPANY agrees to provide COUNTY, upon reasonable request, information on Eligible Property for which COMPANY has received tax abatement and which has been replaced or removed from the Premises. At a minimum, this information shall include:
 - a. Property description;
 - b. Asset number/description; and
 - c. Approximate date of disposal.
 5. Report Upon Project Completion - Within one-hundred eighty (180) days of completion of the Eligible Property, COMPANY shall provide COUNTY with a final Eligible Property Report that shall describe all Eligible Property for which the Company is granted tax abatement. The report may contemplate a reconciliation of the general ledger to the personal property rendition to satisfy

this requirement. If COMPANY has not provided such report within one-hundred eighty (180) days of completion of the Eligible Property, COUNTY shall notify COMPANY in writing and provide COMPANY with an additional thirty (30) days to provide such report.

6. Additional Reports - Additionally, throughout the term of this agreement, COMPANY shall furnish COUNTY any additional records and information reasonably requested to support the reports required by this agreement.
- B. Right to Audit Books and Records - COUNTY shall have the right to audit the books and records related to the Eligible Property and supporting the Eligible Property reports. COUNTY shall notify COMPANY in advance in writing of their intent to audit in order to allow COMPANY adequate time to make such books and records available. COUNTY shall not make any copies of books and records and shall not remove any books or records from the Premises.
- C. Inspection - At all times throughout the term of this Agreement, COUNTY and the Tarrant Appraisal District (TAD) shall have reasonable access to the Premises for the purpose of inspecting the Premises to ensure that the Eligible Property is constructed, installed, maintained and operated in accordance with the terms of this Agreement. All inspections shall be conducted in a manner as to not unreasonably interfere with the installation of the Eligible Property or the operation of the Premises. The inspections shall be conducted within a reasonable time period after notice by COUNTY or TAD to COMPANY, provided, however, that all inspections shall be made with one (1) or more representative(s) of COMPANY present and in accordance with the safety standards of COMPANY.
- D. Failure to Submit Reports or Grant Abatement - COMPANY is solely responsible for completion, filing or submittal of any documentation or report required as a condition necessary for COMPANY to receive Abatement pursuant to this Agreement by Tarrant Appraisal District or any other governmental agency or entity with legal authority to effectuate an Abatement hereunder, and will have no recourse against COUNTY if COMPANY fails to receive an Abatement as a result of COMPANY's failure to file, submit, or complete such documentation. If COUNTY fails to file, submit, or complete documentation or reports necessary for COMPANY to receive Abatement pursuant to this Agreement in any given year during the Term, and if the COMPANY was entitled to receive some percentage Abatement pursuant to the Agreement for that year and no Event of Default exists due to failure of COMPANY to comply with this Agreement, the TERM of this Agreement and the Abatement Term shall be automatically extended on a year-to-year basis (the "Extension Term") until COMPANY receives and the COUNTY provides the abatement due COMPANY provided by this Agreement, to the extent allowed by law. In this event, the aggregate value of any future abatement or abatements that COMPANY may be granted during the Extension Term may not exceed the aggregate value of the abatement that COMPANY did not receive but otherwise would have received if COUNTY had granted, effectuated, or filed, submitted or completed the necessary documentation or reports.

VI.
Use of Premises

The Premises at all times shall be used in a manner that is consistent with the City of Fort Worth zoning ordinances and consistent with the general purpose of encouraging development within the Zone. Both parties acknowledge that the use of the Premises for an office/warehouse facility is in accordance with this Agreement is consistent with such purposes.

VII.
Breach and Recapture

- A. **Breach** - A breach of this Agreement may result in termination or modification of this Agreement and recapture by COUNTY of taxes which otherwise would have been paid since the execution of this Agreement to COUNTY without the benefit of the Abatement, as set forth in Sections VII.B. and VII.C. Penalty and interest on recaptured taxes will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas, and such taxes shall become due sixty (60) days following notice of breach and after the expiration of any cure period as provided in Section VII.B. The following conditions shall constitute a breach of this Agreement:
1. COMPANY terminates the use of the Premises as an office/warehouse facility and related activities at any time during the term of the Agreement; or
 2. COMPANY fails to meet the Abatement Conditions and Requirements as specified in Section III, A., B., C., or I., herein; or
 3. COMPANY allows its ad valorem taxes on any property located within Tarrant County owed to COUNTY to become delinquent.
- B. **Notice of Breach** - In the event that COUNTY makes a reasonable determination that COMPANY has breached this Agreement, then COUNTY shall give COMPANY written notice of such default. COMPANY has sixty (60) days following receipt of said written notice to reasonably cure such breach, or this Agreement may be terminated by COUNTY, and recapture of abated taxes may occur. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail to COMPANY at its address provided in Section IX of this Agreement. It shall be the duty of COUNTY to determine whether to require recapture and payment of abated taxes and to demand payment of such.
- C. **Recapture** - Should COMPANY commit a breach of this Agreement according to items A.1, 2, or 3 of this Section VII, and COMPANY does not cure as provided in VII.B. above during the cure period, COUNTY may terminate this Agreement and recapture taxes abated for all years during which the breach is committed.
- D. **Tax Lien Not Impaired** - It is expressly agreed and acknowledged between the parties to this Agreement that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the property established by Section 32.01 of the Tax Code of the State of Texas. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the property, including any taxes abated and subject to recapture under this Agreement. Any such lien may be fully enforced pursuant to the provisions

of the Code. For purposes of this Subsection, "property" refers to the Premises and Eligible Property described herein.

VIII.

Assignment and Effect of Sale or Lease of Property

COMPANY may assign this Agreement and all or any portion of the benefits provided hereunder to an Affiliate, without the consent of COUNTY, provided that COMPANY provides COUNTY with written notice of such assignment, which notice shall include (a) the name and full contact information for the Affiliate, and (b) written agreement from an Affiliate assuming all terms and conditions of COMPANY under this Agreement. For purposes of this Agreement, an "Affiliate" means all entities, incorporated or otherwise, under direct or indirect common control with COMPANY, controlled by COMPANY, or controlling COMPANY. For purposes of this definition, "control" means fifty percent (50%) or more ownership determined by either value or vote. Except as provided herein, the abatement granted by this Agreement shall not be otherwise assignable to any new owner or new lessee of all or a portion of the Premises or Eligible Property unless such assignment is approved in writing by the COUNTY.

IX.

Notice

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail postage prepaid or by hand delivery:

COMPANY: Ben E Keith Company
Attn: Legal Department
601 E. 7th Street
Fort Worth, TX 76102

COUNTY: Tarrant County
County Administrator's Office
100 E. Weatherford
Fort Worth, Texas 76196

X.

Commissioners Court Authorization

This Agreement was authorized by resolution of the Commissioners Court authorizing the County Judge or his designee to execute this Tax Abatement Agreement on behalf of the COUNTY.

XI.

Severability

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, 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, sentence, phrase or word.

XII.
Estoppel Certificate

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of COMPANY, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the abatement in effect and such other matters reasonably requested by the party(ies) to receive the certificates.

XIII.
Company's Standing

COMPANY, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions or City Council actions authorizing same, and COMPANY shall be entitled to intervene in said litigation.

XIV.
Applicable Law

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State's District Court of Tarrant County, Texas. This Agreement is performable in Tarrant County, Texas.

XV.
Indemnification

It is understood and agreed between the parties that the COMPANY, in performing its obligations hereunder, is acting independently, and COUNTY assumes no responsibility or liability to third parties in connection therewith, and COMPANY agrees to indemnify and hold harmless COUNTY from any such responsibility or liability. It is further understood and agreed among the parties that COUNTY, in performing its obligations hereunder, is acting independently, and the COMPANY assumes no responsibility or liability to third parties in connection therewith, and COUNTY agrees to the extent allowed by law to indemnify and hold harmless COMPANY from any such responsibility or liability.

XVI.
Force Majeure

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the requirements of this Agreement is delayed by reason of war, Act of God, fire or other casualty of a similar nature.

XVII.
Knowing Employment of Undocumented Workers

COMPANY acknowledges that the COUNTY is required to comply with Chapter 2264 of the Texas Government Code, enacted by House Bill 1196 (80th Texas Legislature), which relates to restrictions on the use of certain public subsidies. COMPANY hereby certifies that COMPANY, and any branches, divisions, or departments of COMPANY, does not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code. In the event that COMPANY, or any branch, division, or department of COMPANY, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens), subject to any appellate rights that may lawfully be available to and exercised by COMPANY, COMPANY shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the COUNTY, the aggregate amount of the value of the abatement received by COMPANY hereunder, if any, plus Simple Interest at a rate of four percent (4%) per annum. COMPANY shall not be considered in violation of this section for any actions of a subsidiary, Affiliate, franchisee of COMPANY or a person or entity with whom COMPANY contracts.

XVIII.
No Other Agreement

This Agreement embodies all of the agreements of the parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified or supplemented only by an instrument or instruments in writing executed by the parties.

XIX.
Recordation of Agreement

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Tarrant County, Texas.

XX.
Signatories

This Agreement is effective and binding on those parties that have duly signed below.

XXI.
Headings

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXII.
Successors and Assigns

The parties to this Agreement each bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.

XXIII.
Termination

This Agreement shall terminate, in accordance with the terms of this Agreement, unless extended by written agreement of the parties or a written instrument signed by all parties evidencing a delay by force majeure; provided however, that the period of abatement may not extend beyond ten (10) years.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the last date written below.

BEN E. KEITH COMPANY

By: _____

Name: Mike Sweet

Title: President

Date: _____

TARRANT COUNTY, TEXAS


By: 
B. Glen Whitley, County Judge

Date: June 11, 2019

ATTEST:


Deputy County Clerk

APPROVED AS TO FORM*:


Asst. Criminal District Attorney

June 11, 2019

**By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.*

THE STATE OF TEXAS §

Ben E. Keith Company

COUNTY OF TARRANT §

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Mike Sweet**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **Ben E. Keith Company**, and as the **President** thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2019.

Notary Public in and for
The State of Texas

My Commission Expires

Notary's Printed Name

THE STATE OF TEXAS §

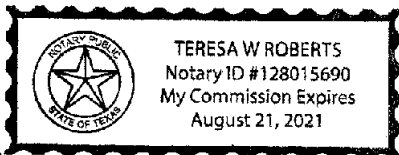
Tarrant County, Texas

COUNTY OF TARRANT §

Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **B. GLEN WHITLEY**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of **TARRANT COUNTY, TEXAS**, as the **County Judge** thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 11th day of June, 2019.



Teresa W. Roberts

Notary Public in and for
The State of Texas

August 21, 2021
My Commission Expires

Teresa W. Roberts
Notary's Printed Name

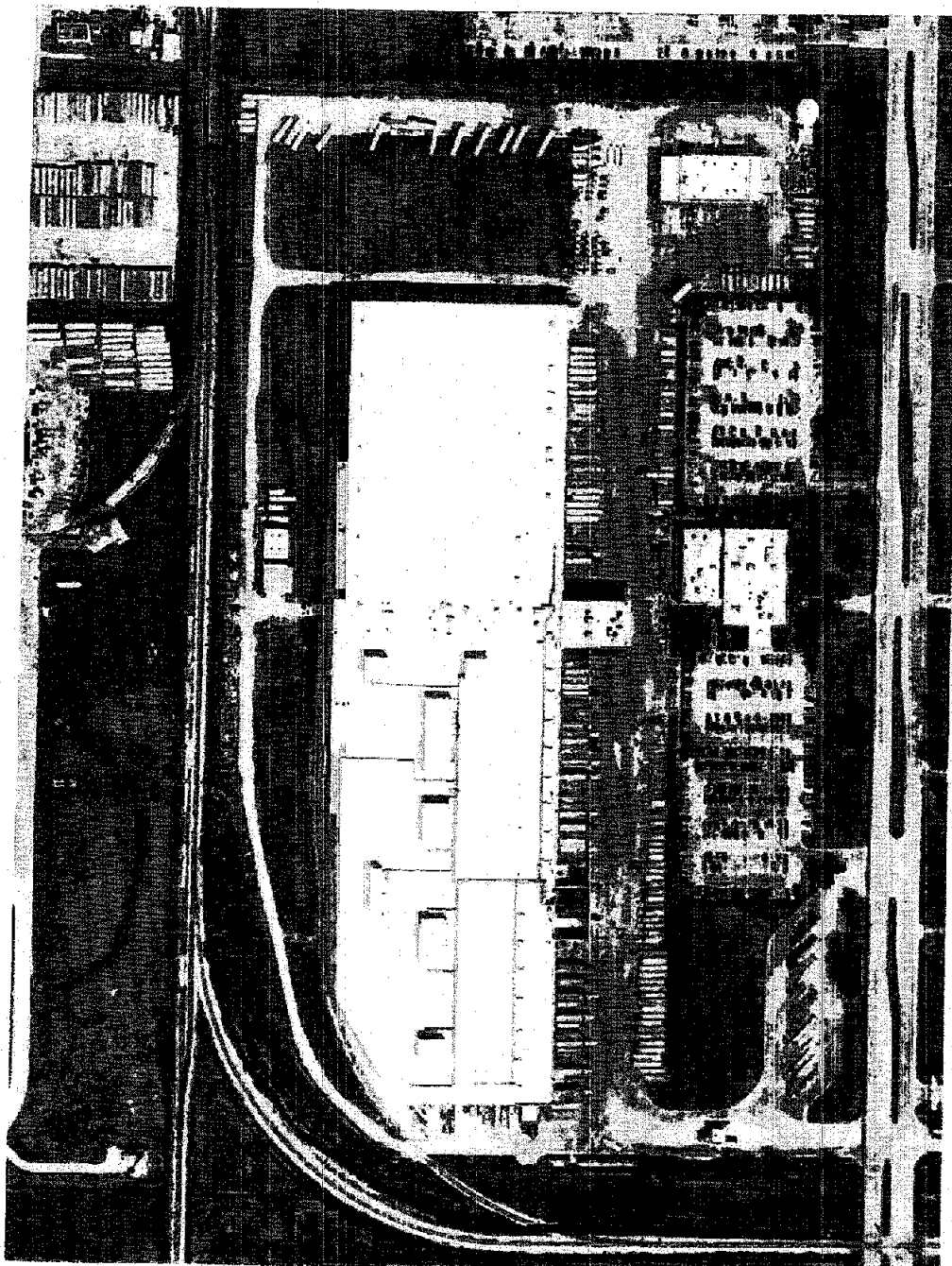
EXHIBIT "A"

**DESCRIPTION OF PREMISES AND
REINVESTMENT ZONE NO. 98**

EXHIBIT "A"
LEGAL DESCRIPTION

Being all of Lot 4, Block 4 of the Cater Industrial Park, an addition to the City of Fort Worth, Tarrant County, Texas according to the plat recorded in Document No. D199122589, Deed Records, Tarrant County, Texas

Map generally outlining boundary of the Land, currently designated as Tarrant Appraisal District Account No. 07345925:



ORDINANCE NO. _____

AN ORDINANCE DESIGNATING A CERTAIN AREA IN THE CITY OF FORT WORTH AS "TAX ABATEMENT REINVESTMENT ZONE NUMBER NINETY-EIGHT, CITY OF FORT WORTH, TEXAS"; PROVIDING THE EFFECTIVE AND EXPIRATION DATES FOR THE ZONE AND A MECHANISM FOR RENEWAL OF THE ZONE; AND CONTAINING OTHER MATTERS RELATED TO THE ZONE.

WHEREAS, pursuant to the City Council's adoption on January 29, 2019 of Resolution No. 5040-01-2019 (the "**Tax Abatement Policy**"), the City of Fort Worth, Texas (the "**City**") has elected to be eligible to participate in tax abatement and has established guidelines and criteria governing tax abatement agreements entered into between the City and various third parties, as authorized by and in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the "**Code**"); and

WHEREAS, the City Council desires to promote the development of the area in the City more specifically described in Exhibit "A" of this Ordinance (the "**Zone**") through the creation of a reinvestment zone for purposes of granting a business expansion tax abatement, as authorized by and in accordance with Chapter 312 of the Code; and

WHEREAS, Ben E. Keith Company or an affiliated entity ("**Company**") wishes to expend or cause to be expended at least \$22.0 million in real property improvements for the expansion of facilities and operations located on property to be located in the Zone, (collectively, the "**Improvements**"); and

WHEREAS, Company has applied for real and business personal property tax abatements from the City in return for the installation of the Improvements in the Zone and

compliance with certain other employment and spending commitments that will foster economic development in the Zone and the City in general; and

WHEREAS, on February 12, 2019 the City Council held a public hearing regarding the creation of the Zone, received information concerning the Improvements proposed for the Zone and afforded a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zone (“**Public Hearing**”), as required by Section 312.201(d) of the Code; and

WHEREAS, notice of the Public Hearing was published in a newspaper of general circulation in the City on February 3, 2019, which satisfies the requirement of Section 312.201(d)(1) of the Code that publication of the notice occur not later than the seventh day before the date of the public hearing; and

WHEREAS, in accordance with Sections 312.201(d)(2) and (e), of the Code notice of the Public Hearing was delivered in writing not later than the seventh day before the date of the public hearing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed Zone;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF FORT WORTH, TEXAS:**

Section 1.

FINDINGS.

That after reviewing all information before it regarding the establishment of the Zone and after conducting the Public Hearing and affording a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zone, the City Council hereby makes the following findings of fact:

- 1.1. The statements and facts set forth in the recitals of this Ordinance are true and correct. Therefore, the City has met the notice and procedural requirements established by the Code for creation of a reinvestment zone under Chapter 312 of the Code.
- 1.2. The Improvements proposed for the Zone, as more specifically outlined in the Public Hearing, are feasible and practical and, once completed will benefit the land included in the Zone as well as the City for a period of five (5) years, with an option to extend for not more than an additional five (5), but not to exceed ten (10) years, which is the statutory maximum term of any tax abatement agreement entered into under the Chapter 312 of the Code.
- 1.3. As a result of designation as a reinvestment zone, the area within the Zone is reasonably likely to contribute to the expansion of primary employment and to attract major investment in the Zone that will be a benefit to property in the Zone and will contribute to the economic development of the City.

Section 2.

DESIGNATION OF ZONE.

That the City Council hereby designates the Zone described in the boundary description attached hereto as Exhibit "A" and made a part of this Ordinance for all purposes as a reinvestment zone for purposes of granting business expansion tax abatement, as authorized by and in accordance with Chapter 312 of the Code. This Zone shall be known as "Tax Abatement Reinvestment Zone Number Ninety-Eight, City of Fort Worth, Texas." This project is eligible for commercial/industrial tax abatement pursuant as a Target Industry (Manufacturing), as defined in and in accordance with Section 4 of the Tax Abatement Policy.

Section 3.

TERM OF ZONE.

That the Zone shall take effect upon the effective date of this Ordinance and expire five (5) years thereafter. The Zone may be renewed by the City Council for one or more subsequent terms not to exceed five years.

Section 4.

SEVERABILITY.

That if any portion, section or part of a section of this Ordinance is subsequently declared invalid, inoperative or void for any reason by a court of competent jurisdiction, the remaining portions, sections or parts of sections of this Ordinance shall be and remain in full force and effect and shall not in any way be impaired or affected by such decision, opinion or judgment.

Section 5.

IMMEDIATE EFFECT.

That this Ordinance shall take effect upon its adoption.

ADOPTED AND EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____

Peter Vaky
Deputy City Attorney

M&C: _____

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

Being a tract of land situated in the John D. Hudson Survey, Abstract No. 741 and the William Hudson Survey, Abstract No. 738 in the City of Fort Worth, Tarrant County, Texas and being a portion of Block 4, Carter Industrial Park, per plat as recorded in Volume 388-31, Page 52 of the Deed Records of Tarrant County, Texas and being a portion of the third tract as deeded to Carter Foundation Production Company (aka Mereken Land & Production Company) per documents recorded in Volume 3587, Page 319 and Volume 3595, Page 24 of said Deed Records of Tarrant County, Texas, said tract being more particularly described by metes and bounds as follows: BEGINNING at a found ~ inch iron rod on the West R.O.W. line of Will Rogers Boulevard (a 110 foot wide R.O.W. per said plat) being or intended to be the Southeast comer of a tract deeded to Ivy Corporation per document recorded in Volume 7665, Page 584 of said Deed Records, from said found ~ inch iron rod a found 5/8 inch capped iron rod (Carter & Burgess) being or intended to be the Northeast comer of said Ivy tract bears North 00 degrees 15 minutes 30 seconds West, a distance of 592.93 feet; THENCE South 00 degrees 15 minutes 30 seconds East (Reference Bearing), along said West R. O. W. line of Will Rogers Boulevard, a distance of 2022.52 feet to a set 5/8 inch capped iron rod (BHB INC) being the Northeast corner of a tract deeded to Missouri Pacific Railroad Company per document recorded in Volume 9941, Page 1080 of said Deed Records, from said set 5/8 inch capped iron rod (BHB INC) a found 5/8 inch capped iron road (Carter & Burgess) bears South 00 degrees 15 minutes 30 seconds Bast. a distance of 50.00 feet of which is being or intended to be the Northeast comer of a tract deeded to Mereken Land & Production Company per document recorded in Volume 12575, Page 2311 of said Deed Records; THENCE South 89 degrees 45 minutes 00 seconds West, leaving said West R.O.W. line of Will

Rogers Boulevard and along the North line of said Missouri Pacific Railroad Company tract, a distance of 624.22 feet to a set 5/8 inch capped iron rod (BHB INC), said set 5/8 inch capped iron rod (BHB INC) also being the beginning of a curve to the right whose chord bears North 48 degrees 04 minutes 00 seconds West, a distance of 736.90 feet and having a radius of 548.69 feet; THENCE Northwesterly, along said curve to the right along the Northerly line of said Missouri Pacific Railroad Company tract, through a central angle of 84 degrees 22 minutes 01 seconds, an arc length of 807.94 feet to a set S/8 inch capped iron rod (BHB INC) for the end of said curve; THENCE North 05 degrees 52 minutes 59 seconds West, along the Easterly line of said Missouri Pacific Railroad Company tract, a distance of 249.38 feet to a set 5/8 inch capped iron rod (BHB INC) on the West line of said Block 4; THENCE North 00 degrees 09 minutes 30 seconds West, along said West line of Block 4, a distance of 1279.51 feet to a found 5/8 inch iron rod being or intended to be the Southwest corner of a tract deeded to Miller Brewing Company per document recorded in Volume 6822, Page 1602 of said Deed Record~; THENCE North 89 degrees 45 minutes 00 seconds Bast, along the South line of said Miller Brewing Company tract, passing a found ~ inch iron rod at 428.70 feet and continuing along the South line of said Ivy tract for a total distance of 1192.40 feet to the POINT OF BEGINNING and containing 2,336,380 square feet or 53.64 Gross acres of land of which 90,846 square feet or 2.09 acres lies within a drainage area located along the southerly portion of said described tract between the 30 foot building setback line and the top of bank as located in the field in the month of May, 1997 and the area of the Chevron Pipeline Company Right of Way Easement lying Easterly of a 30 foot building setback line being 8,573 square feet or 0.20 acre, leaving a net area of 2,236,961 square feet or 51.35 acres of land, more or less.

EXHIBIT "B"

CITY OF FORT WORTH TAX ABATEMENT AGREEMENT

STATE OF TEXAS §

COUNTY OF TARRANT §

TAX ABATEMENT AGREEMENT

This **TAX ABATEMENT AGREEMENT** ("**Agreement**") is entered into by and between the **CITY OF FORT WORTH, TEXAS** (the "**City**"), a home rule municipality organized under the laws of the State of Texas, and **BEN E. KEITH COMPANY**, a Texas corporation ("**Company**").

RECITALS

A. On January 29, 2019, the City Council adopted Resolution No. 5040-01-2019, stating that the City elects to be eligible to participate in tax abatement and setting forth guidelines and criteria governing tax abatement agreements entered into between the City and various parties, entitled "General Tax Abatement Policy" (the "**Policy**"), which is incorporated herein by reference and hereby made a part of this Agreement for all purposes.

B. The Policy contains appropriate guidelines and criteria governing tax abatement agreements to be entered into by the City as contemplated by Chapter 312 of the Texas Tax Code, as amended (the "**Code**").

C. On February 12, 2019 the City Council adopted Ordinance No. 23575-02-2019 (the "**Ordinance**") establishing Tax Abatement Reinvestment Zone No. 98, City of Fort Worth, Texas (the "**Zone**").

D. Company owns approximately 51.35 acres of real property at 7650 Will Rogers Boulevard in Carter Industrial Park in the City, which real property is located within the Zone and is more specifically described in Exhibit "A" (the "**Land**"), attached hereto and hereby made a part of this Agreement for all purposes. Contingent upon receipt of the tax abatement herein, Company intends to expand its business operations on the Land by expanding its office and warehouse facility by approximately 185,000 square feet (more specifically defined herein as the "Required Improvements"), as more specifically set forth in this Agreement.

E. On August 30, 2018 Company submitted an application for tax abatement (the "**Application**") to the City concerning Company's plans for development of the Land, including construction of the Required Improvements, which Application is attached hereto as Exhibit "B" and hereby made a part of this Agreement for all purposes.

F. The contemplated use of the Land and the terms of this Agreement are consistent with encouraging development of the Zone and generating economic development and increased employment opportunities in the City, in accordance with the purposes for creation of the Zone, and are in compliance with the Policy, the Ordinance and other applicable laws, ordinances, rules and regulations.

G. Company provides food and beverage distributing services and has had a leading corporate presence in the City since 1906. Under this Agreement, Company is committing to expend at least \$22 million in Construction Costs for the Required Improvements. Company is also committing to maintain a minimum of 855 Full-time Jobs by the end of the First Operating Year, increasing to a total of 1,034 Full-time Jobs by the end of 2023, and further increasing to a total of 1,138 Full-time Jobs by the end of 2025, with average annual Salaries of at least \$73,000.00. Therefore, the provisions of this Agreement, as well as the proposed use of the Land and nature of the proposed Required Improvements, as defined herein, satisfy the eligibility criteria for commercial/industrial tax abatement pursuant to Section 5 of the Policy (Existing Business Expansion Projects).

H. Written notice that the City intends to enter into this Agreement, along with a copy of this Agreement, has been furnished in the manner prescribed by the Code to the presiding officers of the governing bodies of each of the taxing units that have jurisdiction over the Land.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. INCORPORATION OF RECITALS.

The City Council has found, and the City and Company hereby agree, that the recitals set forth above are true and correct and form the basis upon which the parties have entered into this Agreement.

2. DEFINITIONS.

In addition to terms defined in the body of this Agreement, the following terms shall have the definitions ascribed to them as follows:

Abatement means (i) the abatement of a percentage (not to exceed fifty percent (50%) in any year of the Abatement Term) of the City's incremental ad valorem real property taxes on the Land and any improvements located on the Land, based on the increase in values of the Land and all improvements located on the Land from the 2019 tax

year (which is the year in which the parties entered into this Agreement), and (ii) the abatement of a percentage (not to exceed fifty percent (50%) in any year of the Abatement Term) of the City's incremental ad valorem taxes on New Taxable Tangible Personal Property, all calculated in accordance with this Agreement.

Abatement Term means the term of seven (7) consecutive calendar years, commencing on January 1 of the Second Operating Year, in which Company will receive the Abatement in accordance with this Agreement.

Affiliate means all entities, incorporated or otherwise, under common control with, controlled by or controlling Company. For purposes of this definition, "control" means fifty percent (50%) or more of the ownership determined by either value or vote.

Annual Salary Commitment has the meaning ascribed to it in Section 4.4.4.

Application has the meaning ascribed to it in Recital E.

Central City means that area in the corporate limits of the City within Loop 820 (i) consisting of all Community Development Block Grant ("CDBG") eligible census block groups; (ii) all state-designated enterprise zones; and (iii) all census block groups that are contiguous by seventy-five percent (75%) or more of their perimeter to CDBG-eligible block groups or enterprise zones, as well as any CDBG-eligible block in the corporate limits of the City outside Loop 820, as more specifically depicted in the map of **Exhibit "C"**, attached hereto and hereby made a part of this Agreement for all purposes. The Company's Central City resident employee headcount can be verified by using the following website:

<https://mapit.fortworthtexas.gov/Html5Viewer/?viewer=economicdevelopment>.

Central City Employment Commitment has the meaning ascribed to it in Section 4.4.3.

Central City Employment Percentage has the meaning ascribed to it in Section 6.6.

Central City Resident means an individual whose primary residence is at a location within the Central City.

Certificate of Completion has the meaning ascribed to it in Section 5.

Certified M/WBE Company means a minority or woman-owned business that (i) has received certification as either a minority business enterprise (MBE), a woman business enterprise (WBE), or a disadvantaged business enterprise (DBE) by the North Central Texas Regional Certification Agency (NCTRCA), D/FW Minority Supplier Development Council (MSDC), or Women's Business Council - Southwest (WBC), and that has a principal office located within Tarrant, Dallas, Denton, Johnson, Parker, or Wise Counties, Texas. For purposes of this definition, a "principal office" means an office facility that is

fully operational and has sufficient equipment, supplies, and personnel to provide the product or service of the business in question to clients in the City without significant reliance on the resources of another entity or affiliate or of an auxiliary facility of the business which is located outside of Tarrant, Dallas, Denton, Johnson, Parker, and Wise Counties, Texas.

Code has the meaning ascribed to it in Recital B.

Completion Date means the date as of which all occupiable space within the Required Improvements have received a temporary or permanent certificate of occupancy.

Completion Deadline means June 30, 2021.

Compliance Auditing Term means the term of seven (7) consecutive years, commencing on January 1 of the First Operating Year, in which the City will verify and audit Company's compliance with the various commitments set forth in Section 4 that form the basis for calculation of the amount of each annual Abatement percentage hereunder.

Construction Costs means Hard Construction Costs, plus the following costs expended by Company either directly or through its general contractor, for the Required Improvements: engineering fees, architectural and design fees; permit fees; and costs of third party consultants, including attorneys and environmental consultants. Construction Costs specifically excludes any real property acquisition costs.

Director means the director of the City's Economic Development Department.

Effective Date has the meaning ascribed to it in Section 3.

Event of Default means a breach of this Agreement by a party, either by act or omission, as more specifically set forth in Section 7 of this Agreement.

Fifth Operating Year means the fifth full calendar year following the year in which the Completion Date occurred.

First Operating Year means the first full calendar year following the year in which the Completion Date occurred.

Fort Worth Company means business that a principal office located within the corporate limits of the City of Fort Worth. For purposes of this definition, a "principal office" means an office facility that is fully operational and has sufficient equipment, supplies, and personnel to provide the product or service of the business in question to clients in the City without significant reliance on the resources of another entity or affiliate or of an auxiliary facility of the business which is located outside of the corporate limits of the City of Fort Worth.

Fort Worth Construction Spending Commitment has the meaning ascribed to in Section 4.2.

6.2. **Fort Worth Construction Percentage** has the meaning ascribed to it in Section

4.4.2. **Fort Worth Employment Commitment** has the meaning ascribed to it in Section

6.5. **Fort Worth Employment Percentage** has the meaning ascribed to it in Section

Fort Worth Resident means an individual whose principal place of residence is at a location within the corporate limits of the City of Fort Worth.

Fourth Operating Year means the fourth full calendar year following the year in which the Completion Date occurred.

Full-time Job means a job provided to and filled by one (1) individual by Company or an Affiliate working on, or considered to be based out of, the Land for at least forty (40) hours per week.

Hard Construction Costs means actual site development and construction costs, including, but not limited to, directly-related contractor fees and costs of supplies, labor, and materials, regardless of whether Company pays directly or through its general contractor.

Land has the meaning ascribed to it in Recital D.

Legal Requirements means federal, state and local laws, ordinances, rules and regulations, including, but not limited to, all provisions of the City's charter and ordinances, as amended.

M/WBE Construction Spending Commitment has the meaning ascribed to it in Section 4.3.

M/WBE Construction Percentage has the meaning ascribed to it in Section 6.3.

New Taxable Tangible Personal Property means any personal property other than inventory or supplies that (i) is subject to ad valorem taxation by the City; (ii) is located on the Land; (iii) is owned or leased by Company and used by Company for the business purposes outlined in this Agreement; and (iv) was not previously owned by Company, on the City's ad valorem property tax roll, and located in the City prior to the Effective Date of this Agreement.

Ordinance has the meaning ascribed to it in Recital C.

4.4.1. Overall Employment Commitment has the meaning ascribed to it in Section

Overall Employment Percentage has the meaning ascribed to it in Section 6.4.

Policy has the meaning ascribed to it in Recital A.

Real Property Improvement Commitment has the meaning ascribed to it in Section 4.1.

6.1 Real Property Improvement Percentage has the meaning ascribed to it in Section

Records has the meaning ascribed to it in Section 4.8.

Required Improvements means an expanded office and warehouse facility constructed on the Land consisting of at least 185,000 square feet, as verified in the Certificate of Completion issued by the Director in accordance with Section 5 of this Agreement.

Salary means the cash payment or remuneration made to a person holding a Full-time Job, including paid time off, commissions, withholding taxes and non-discretionary bonuses. A Salary does not include any benefits, such as health insurance or retirement contributions, reimbursements for employee expenses, or any discretionary bonuses.

Second Operating Year means the second full calendar year following the year in which the Completion Date occurred.

Supply and Service Expenditures means those local discretionary expenditures made by Company directly for the operation and maintenance of the Land and any improvements thereon, excluding amounts paid for electric, natural gas, water, and any other utilities (but not excluding fuel or gas purchased, stored on the Land, and used for vehicles/transportation; or cable, internet or television services).

Supply and Service Spending Commitment has the meaning ascribed to it in Section 4.5.

Supply and Service Percentage has the meaning ascribed to it in Section 6.7.

Term has the meaning ascribed to it in Section 3.

Third Operating Year means the third full calendar year following the year in which the Completion Date occurred.

Zone has the meaning ascribed to it in Recital C.

Exhibit E

THIS DOCUMENT HAS AN UNSECURED BACKGROUND AND SHOULD BE STORED IN A SECURE LOCATION. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY MANNER WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE ISSUING AGENCY.

L&B Property Tax LLC

PO Box 2250
Universal City, TX 78148
512-665-6885

Broadway Bank
1177 N.E. Loop 410
San Antonio, TX 78209

88-2193
1140220

1176

DATE 1/4/2019

Reference:

PAY Tarrant County Tax Assessor-Collector

\$ **3,332,320.17

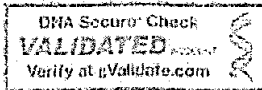
THREE-MILLION THREE-HUNDRED-THIRTY-TWO-THOUSAND THREE-HUNDRED-TWENTY AND 17/100 DOLLARS

Void after 90 days

TO THE
ORDER
OF

Tarrant County Tax Assessor-Collector

Tarrant County Tax Office
P.O. Box 961018
Fort Worth, TX 76161-0018



Memo Ben E Keith Tax Payments - 12Tax Bills

L&B Property Tax LLC		1176
Tarrant County Tax Assessor-Collector	1/4/2019	
1-Property Tax	0.	
1-Property Tax		
1-Property Tax		
1-Property Tax	00007345925	596,587.47
1-Property Tax		
1-Property Tax	00011010495	1,851,669.19
1-Property Tax		
1-Property Tax		
1-Property Tax	201	
1-Property Tax		
1-Property Tax		

Ben E. Keith (BEK)- Ben E Keith Tax Payments - 12Tax Bills

L&B Property Tax LLC		1176
Tarrant County Tax Assessor-Collector	1/4/2019	
1-Property Tax		
1-Property Tax		
1-Property Tax		
1-Property Tax	00007345925	596,587.47
1-Property Tax		
1-Property Tax	00011010495	1,851,669.19
1-Property Tax		
1-Property Tax		
1-Property Tax	2P	
1-Property Tax		
1-Property Tax		

Ben E. Keith (BEK)- Ben E Keith Tax Payments - 12Tax Bills

CO # 130368



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER

PAGE 1 OF

96

DATE:

06/11/2019

SUBJECT: APPROVAL OF A TAX ABATEMENT AGREEMENT WITH BEN E. KEITH
COMPANY, FORT WORTH

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court approve the Resolution and Tax Abatement Agreement providing for Tarrant County participation with the City of Fort Worth in the abatement of ad valorem taxes on the eligible real and personal property improvements made by Ben E. Keith Company for expansion of its office and warehouse facilities at 7600 and 7650 Will Rogers Blvd., Fort Worth, for a period of seven (7) years at a maximum abatement percentage of fifty percent (50%) as set forth in the Agreement, and authorize the County Judge, or his designee, to execute the Agreement.

BACKGROUND:

Established in 1906 and headquartered in Fort Worth, Ben E. Keith Company is a distributor of food and beverage products and one of the largest privately held companies in the DFW area. The Ben E. Keith food division distributes over 20,000 various food products to independent and chain restaurants, hotels, institutional facilities, clubs, and other on-site food preparation business across Texas, Louisiana, and Oklahoma. Ben E. Keith is looking to expand its Fort Worth Food Service operations, adding approximately 185,000 square feet to its existing DFW regional headquarters facility off Will Rogers Blvd. in south Fort Worth. The company plans to invest at least \$29 million in total construction costs and new machinery and equipment by June 30, 2021.

Ben E. Keith Foods currently employs 855 full-time employees at this location, and the expansion is expected to add a minimum of 283 new full-time jobs over five years after completion, with an average salary for administrative and sales positions of \$126,200.00 annually, and an average annual salary of \$71,900.00 for transportation and warehouse positions. Healthcare and other employee benefits are provided at a reasonable cost to full-time time employees, and the company and its employees support many local community organizations and programs.

The City of Fort Worth has approved a seven (7) year tax abatement providing up to fifty percent (50%) abatement of real and personal property taxes.

SUBMITTED BY:	Administrator's Office	PREPARED BY:	Lisa McMillan
		APPROVED BY:	



COMMISSIONERS COURT COMMUNICATION

REFERENCE NUMBER: _____

DATE: _____

06/11/2019

PAGE 2 OF _____

96

The attached County Tax Abatement Agreement provides for County participation in tax abatement at a maximum of fifty percent (50%) of new real and personal property value for a period of seven (7) years, beginning with a base abatement of forty percent (40%) and providing up to ten percent (10%) additional abatement for employment and performance-based criteria.

To receive a base forty percent (40%) abatement, Ben E. Keith Company will be required to expend a minimum \$22 million in real property improvement costs, add a minimum of \$7 million in new taxable business personal property to the site, meet specific levels of spending with Tarrant County and DBE contractors/companies, retain existing employment of 855 full-time jobs, add 179 full-time positions by the end of 2024, and have added a total of 283 new positions by the end of 2026. Tax abatement will apply only to that portion of value added over and above the current 2019 real property value of the facility on the Tarrant County tax rolls. Up to an additional ten percent (10%) abatement can be incrementally earned for added full-time employment to the site above the minimum required jobs, and for added community commitments in terms of Tarrant County resident employment and additional spending with DBE and Tarrant County companies for construction costs. The total cumulative percentage of ad valorem tax abatement that may be received in any one year is capped at fifty percent (50%).

FISCAL IMPACT:

Total new real and personal property value added from this development is estimated at over \$29 million (\$22 million for real property and \$7 million for business personal property). Based on current tax rates, should Ben E. Keith earn the maximum tax abatement of fifty percent (50%) for all seven (7) years, the project could receive a total seven-year tax abatement of approximately \$238,000.00 from the County. The actual amount of taxes abated will be dependent on the appraised value of the improvements as determined by the Tarrant Appraisal District and the percentage abatement earned each year. Hospital District taxes will not be abated.

Over that same period, the County will receive tax revenues from the unabated portion of the new improvements, as well as the current base value of the land and existing facility. New tax revenues solely from the unabated portion of new improvements are expected to be approximately \$34,000.00 annually. The Hospital District could add approximately \$65,000.00 per year in new tax revenues from the expansion project.

THE STATE OF TEXAS §

Tax Abatement Agreement

COUNTY OF TARRANT §

THIS Agreement is executed by and between **BEN E. KEITH COMPANY** a Texas corporation, acting by and through its authorized officer (hereafter referred to as "**COMPANY**"), and **TARRANT COUNTY, TEXAS**, acting by and through its County Judge or his designee, (hereafter referred to as "**COUNTY**").

WITNESSETH:

WHEREAS, the Tarrant County Commissioners Court has resolved that the COUNTY may elect to participate in tax abatement; and

WHEREAS, the Commissioners Court has adopted a Policy Statement for Tax Abatement, herein contained as **Exhibit "D"**, which constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the COUNTY; and

WHEREAS, the Premises (as hereafter defined) is, and the Eligible Property (as hereafter defined) will be, located in Reinvestment Zone No. 98 in the City of Fort Worth, Texas, established by Ordinance No. 23575-02-2019 (the "Ordinance") adopted on February 12, 2019, and further described in **Exhibit "A"**, being a commercial reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended (the "Zone"); and

WHEREAS, the City Council of the City of Fort Worth has approved and authorized the execution and delivery of a Tax Abatement Agreement as to the Eligible Property thereon, attached hereto as **Exhibit "B"**; and

WHEREAS, COMPANY submitted an application for tax abatement to the County concerning the contemplated Improvements to the Premises (the "Application for Tax Abatement"), attached hereto and incorporated herein as **Exhibit "C"**; and

WHEREAS, COMPANY is the owner of real property located within the Zone, more specifically described in **Exhibit "A"**, on which it plans to construct and install certain improvements in order to expand operations at its existing office and warehouse facility by approximately 185,000 square feet; and

WHEREAS, the Commissioners Court finds that the contemplated use of the Premises, the Eligible Property and the terms of this Agreement are consistent with encouraging development within the Zone;

NOW THEREFORE, the COUNTY and COMPANY, for and in consideration of the mutual premises and promises contained herein, do hereby agree, covenant and contract as set forth below:

I.
Definitions

- A. "Added Market Value" is defined as the market value of Eligible Property on the Premises above the Base Year Value.
- B. "Base Year Value" is defined as the tax year 2019 taxable value of real and personal property located on the Premises in City of Fort Worth Reinvestment Zone No. 98 on January 1, 2019, as finally determined by the Tarrant Appraisal District.
- C. "Construction Costs" are defined as site development and building costs, including, without limitation, actual site preparation and development and construction costs, signage costs, contractor fees, the costs of labor, supplies and materials, materials testing, engineering fees, architectural fees and other design, consulting, construction management and professional costs, and contractor, development and permitting fees expended directly in connection with the construction of the Real Property Improvements and landscape improvements.
- D. "DBE Companies" are defined as companies who are a Disadvantage Business Enterprise (DBE), and the term "DBE" shall mean:
- i. a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially or economically disadvantaged because of their identification as members of certain groups that have been subject to racial or ethnic prejudice or cultural bias without regard to their qualities as individuals or capabilities as a business, and whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. "DBE" includes the State of Texas definition of historically underutilized businesses (HUBs) as defined in Section 2161.001 of the Texas Government Code, and as it may be updated.
 - ii. a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described in D.i. above.
 - iii. a partnership that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by D.i. above, and in which minority or women partners have proportionate interest in the control, operation, and management of the partnership affairs.
 - iv. a limited liability company that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the company is owned by one or more persons described by D.i. above; or
 - v. a minority or woman-owned business that (i) has received certification as either a minority business enterprise (MBE), a woman business enterprise (WBE), or a disadvantaged business enterprise (DBE) by the North Central Texas Regional Certification Agency (NCTRCA), D/FW Minority Supplier Development Council (MSDC), or Women's Business Council – Southwest (WBC).

- E. "Effective Date" is defined as the date as of which both the County and Company have executed this Agreement.
- F. "Eligible Property" is defined as Real Property Improvements and Personal Property Improvements made for expansion of the facility, constructed, renovated, delivered to, installed or placed on the Premises through June 30, 2021, as further described in the Application for Tax Abatement attached hereto as **Exhibit "C"**.
- G. "Job" is defined as a permanent, full-time employment position with COMPANY at or based out of the Premises that results in employment of at least forty-hours per week per position. Part-time positions shall not be included in this definition.
- H. "Personal Property Improvements" are defined as tangible personal property (except inventory or supplies) delivered to, installed or located on the Premises.
- I. "Premises" are defined as the real property (land and improvements) as described in **Exhibit "A"** which existed on January 1, 2019 within City of Fort Worth Reinvestment Zone No. 98, that are owned and/or operated by COMPANY.
- J. "Real Property Improvements" are defined as improvements to the Premises, and shall include structures or fixtures erected or affixed to the Premises.
- K. "Supply and Service Expenditures" are defined as those local discretionary expenditures made by COMPANY directly for the operation and maintenance of Premises and any improvements thereon, excluding utility service costs.
- L. "Tarrant County Companies" are defined as any corporation, partnership, limited liability company or sole proprietorship maintaining an addressed office location within Tarrant County from which such entity conducts all or a substantial part of its business operations within Tarrant County.
- M. "Zone" as used herein is defined as the real property located in City of Fort Worth Reinvestment Zone No. 98 and described by City of Fort Worth Ordinance No. 23575-02-2019, substantially in the form included within **Exhibit "A"**.

II. General Provisions

- A. The Premises are not in an improvement project financed by tax increment bonds.
- B. Neither the Premises nor any of the Improvements covered by this Agreement are owned or leased by any member of the Commissioners Court, or any member of the governing body of any taxing units joining in or adopting this Agreement.

III. Improvement Conditions and Requirements

- A. COMPANY shall improve the Premises by completing the Eligible Real and Personal Property Improvements in accordance with this Agreement.

- B. COMPANY shall provide for the completion of the Eligible Real Property Improvements no later than June 30, 2021, having a minimum Construction Cost upon completion of not less than Twenty-Two Million Dollars (\$22,000,000).
- C. COMPANY shall provide for the installation or location of the Eligible Personal Property Improvements no later than June 30, 2021, having a minimum initial cost of not less than Seven Million Dollars (\$7,000,000).
- D. COMPANY shall expend or cause to be expended at least fifteen percent (15%) of all Construction Costs of Eligible Real Property Improvements with DBE Companies.
- E. COMPANY shall expend or cause to be expended at least twenty-five percent (25%) of all Construction Costs of Eligible Real Property Improvements with Tarrant County companies.
- F. COMPANY shall expend or cause to be expended at least twenty-five percent (25%) in annual Supply and Service Expenditures with Tarrant County Companies.
- G. COMPANY shall expend or cause to be expended at least fifteen percent (15%) in annual Supply and Service Expenditures with DBE companies.
- H. COMPANY will maintain employment of eight hundred fifty-five (855) Jobs at or based out of the Premises throughout the term of this Agreement. Not later than December 31, 2024, COMPANY will add one hundred seventy-nine (179) net new Jobs at or based out of the Premises, for a total of no less than one thousand thirty-four (1,034) Jobs. Not later than December 31, 2026, COMPANY will have added two hundred eighty-three (283) net new Jobs at or based out of the Premises and will have total employment of one thousand one hundred thirty-eight (1,138) Jobs at or based out of the Premises.
- I. COMPANY shall operate and maintain on the Premises the Eligible Property as an office/warehouse facility for the duration of this Agreement.
- J. All proposed Eligible Property shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations of the City of Fort Worth and/or Tarrant County.
- K. The Premises and all Improvements must conform to all applicable state and federal laws and regulations to air pollution and air quality.

IV.
Abatement Allowed

- A. As set forth in this section, tax abatement allowed herein shall be for Tarrant County ad valorem real property and personal property taxes, relative to Added Market Value of the Eligible Property located on the Premises, subject to the following terms and conditions. Tarrant County Hospital District ad valorem taxes are not subject to the provisions of this Agreement.
- B. If the Improvement Conditions and Requirements set forth in Section III herein are met, COUNTY agrees to exempt from taxation up to fifty percent (50%) of the Added Market Value of the Eligible Property in accordance with the various requirements

established by terms of this Agreement and to be calculated as set forth below. COUNTY will submit the percentage Abatement COMPANY qualifies for in each given year to the Tarrant Appraisal District, and will assist COMPANY if needed with other reports and filings that may be required of COMPANY. The abatement period (the "Term") shall be seven (7) consecutive years, beginning January 1st of the second full calendar year following the completion of the Eligible Property through December 31st of the ninth full calendar year following the completion of the Eligible Property (For example, if the Eligible Property is completed in April of 2021, the abatement period shall be from January 1, 2023 through December 31, 2029).

1. Base Abatement - If COMPANY (i.) improves the Premises and adds the required Eligible Property to the Premises as set forth in Section III A., B., and C., (ii.) maintains and adds employment as set forth in Section III. H., (iii.) employs Tarrant County residents for a minimum twenty-five percent (25%) of all Jobs, (iv.) makes expenditures for Construction Costs and annual Supply and Service Expenditures as set forth in Section III. D., E., F. and G., then COUNTY shall exempt from taxation forty percent (40%) of the Added Market Value of the Eligible Property.

Dollars spent with DBE Companies may also count as dollars spent with Tarrant County Companies, and vice versa, for the purposes of this Section if the DBE Company is also a Tarrant County Company as defined herein.

Failure to meet the minimum cost requirements set forth in Section III. B. and C. is a condition of Default and shall result in the termination of this Agreement in accordance with Section VII. Failure to meet the requirements for Jobs, Tarrant County resident employment, and use of DBE and Tarrant County Companies for Construction and Supply and Service Expenditures, as set forth in Section III, shall be cause for a reduction in the percentage abatement for any year in which the requirements are not met, as set forth in Section IV.B.2.

2. Reduction to Abatement

- a. Employment and Spending Deficiencies

In any year that employment and spending levels do not meet the minimum requirements set forth in Section IV.B.1., the COUNTY shall reduce the Base Abatement percentage for that year as set forth below. Each reduction is separate and individual and may be cumulative in any year.

- i. If the actual number of Jobs falls below the minimum Jobs requirements set forth in Section III.H., the Base Abatement percentage will be reduced by one percent (1%) for each four (4) Job deficiency, for that year.
- ii. If less than twenty-five percent (25%) of all Jobs are filled by Tarrant County residents, COMPANY will receive a ten percent (10%) reduction from the Base Abatement for that year.
- iii. If spending with DBE Companies is less than fifteen percent (15%) of total Construction Costs, as set forth in Section III.D., COMPANY will

receive a reduction of one percent (1%) from the Base Abatement for each one percent (1%) spending deficiency, up to a maximum reduction of five percent (5%), for the life of the abatement.

- iv. If spending with Tarrant County Companies is less than twenty-five percent (25%) of total Construction Costs, as set forth in Section III.E. COMPANY will receive a reduction of one percent (1%) from the Base Abatement for each one percent (1%) spending deficiency, up to a maximum reduction of five percent (5%), for the life of the abatement.
- v. If spending with Tarrant County or DBE Companies for annual Supply and Services Expenditures is less than the minimum requirements set forth in Section III. F. and G., COMPANY will receive a one percent (1%) reduction in the Base Abatement percentage for each one percent (1%) deficiency from the minimum requirement, up to a maximum reduction of five percent (5%), for that year.

3. Additional Percentage Abatement

In any year that COMPANY is eligible to receive all or a portion of the Base Abatement under Sections IV.B.1. and 2., COMPANY may receive up to an additional ten percent (10%) ad valorem tax abatement in any year (or for each year of the Abatement Term, as specified below) that COMPANY meets one or more of the additional performance requirements as set forth below.

- a. For total Jobs above (i.) one thousand thirty-four (1,034) following the commencement of the Abatement Term through December 31, 2025, or (ii.) one thousand one hundred thirty-eight (1,138) beginning calendar year 2026 through the completion of the Abatement Term, COMPANY will receive an additional one percent (1%) abatement for each two (2) Jobs added, up to a maximum of ten percent (10%) additional abatement for that year.
- b. For employment of Tarrant County residents for more than sixty-five percent (65%) of all Jobs, COMPANY will receive an additional three percent (3%) abatement for that year.
- c. For spending with DBE Companies for thirty percent (30%) or greater of the total Construction Costs of the Eligible Real Property Improvements, COMPANY will receive an additional three percent (3%) abatement for each year of the Abatement Term.
- d. For spending with Tarrant County Companies for forty percent (40%) or greater of the total Construction Costs of the Eligible Real Property Improvements, COMPANY will receive an additional three percent (3%) abatement for each year of the Abatement Term.

V.
Reports, Audits and Inspections

- A. **Annual Certification and Reports** - Pursuant to state law, COMPANY shall certify annually to taxing units that COMPANY is in compliance with the terms of the tax abatement agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the agreement, as follows:
1. **Certification** - COMPANY shall complete and certify a Tax Abatement Evaluation Report to be provided by COUNTY for each year of the tax abatement agreement (substantially in the form attached hereto as **Exhibit "E"**), to be due annually not later than April 30. This certification shall include information supporting job creation and retention requirements, reports on Eligible Property values, costs, and spending on construction and supply and services, a narrative description of the project's progress, and other submittals required by the tax abatement agreement.
 2. **Eligible Property Reports** - At a minimum, COMPANY shall make available upon request the following information annually on all Eligible Property for which COMPANY will seek tax abatement:
 - a. Property description;
 - b. Asset number/description;
 - c. Payment date for property located on Premises; and
 - d. Cost.
 3. **Eligible Property Reports for Projects in Progress** - COMPANY shall provide County, upon reasonable request, information on projects in progress for which fixed asset numbers have not been assigned. The report shall provide information in sufficient detail to identify the Eligible Property to be installed on the Premises. At a minimum, this information shall include:
 - a. Description of materials, machinery and equipment;
 - b. An overview of Vendors and invoice amount; and
 - c. Payment date for property to be located on Premises.
 4. **Reports on Equipment Replaced or Removed** - Additionally, COMPANY agrees to provide COUNTY, upon reasonable request, information on Eligible Property for which COMPANY has received tax abatement and which has been replaced or removed from the Premises. At a minimum, this information shall include:
 - a. Property description;
 - b. Asset number/description; and
 - c. Approximate date of disposal.
 5. **Report Upon Project Completion** - Within one-hundred eighty (180) days of completion of the Eligible Property, COMPANY shall provide COUNTY with a final Eligible Property Report that shall describe all Eligible Property for which the Company is granted tax abatement. The report may contemplate a reconciliation of the general ledger to the personal property rendition to satisfy

this requirement. If COMPANY has not provided such report within one-hundred eighty (180) days of completion of the Eligible Property, COUNTY shall notify COMPANY in writing and provide COMPANY with an additional thirty (30) days to provide such report.

6. Additional Reports - Additionally, throughout the term of this agreement, COMPANY shall furnish COUNTY any additional records and information reasonably requested to support the reports required by this agreement.
- B. Right to Audit Books and Records - COUNTY shall have the right to audit the books and records related to the Eligible Property and supporting the Eligible Property reports. COUNTY shall notify COMPANY in advance in writing of their intent to audit in order to allow COMPANY adequate time to make such books and records available. COUNTY shall not make any copies of books and records and shall not remove any books or records from the Premises.
- C. Inspection - At all times throughout the term of this Agreement, COUNTY and the Tarrant Appraisal District (TAD) shall have reasonable access to the Premises for the purpose of inspecting the Premises to ensure that the Eligible Property is constructed, installed, maintained and operated in accordance with the terms of this Agreement. All inspections shall be conducted in a manner as to not unreasonably interfere with the installation of the Eligible Property or the operation of the Premises. The inspections shall be conducted within a reasonable time period after notice by COUNTY or TAD to COMPANY, provided, however, that all inspections shall be made with one (1) or more representative(s) of COMPANY present and in accordance with the safety standards of COMPANY.
- D. Failure to Submit Reports or Grant Abatement - COMPANY is solely responsible for completion, filing or submittal of any documentation or report required as a condition necessary for COMPANY to receive Abatement pursuant to this Agreement by Tarrant Appraisal District or any other governmental agency or entity with legal authority to effectuate an Abatement hereunder, and will have no recourse against COUNTY if COMPANY fails to receive an Abatement as a result of COMPANY's failure to file, submit, or complete such documentation. If COUNTY fails to file, submit, or complete documentation or reports necessary for COMPANY to receive Abatement pursuant to this Agreement in any given year during the Term, and if the COMPANY was entitled to receive some percentage Abatement pursuant to the Agreement for that year and no Event of Default exists due to failure of COMPANY to comply with this Agreement, the TERM of this Agreement and the Abatement Term shall be automatically extended on a year-to-year basis (the "Extension Term") until COMPANY receives and the COUNTY provides the abatement due COMPANY provided by this Agreement, to the extent allowed by law. In this event, the aggregate value of any future abatement or abatements that COMPANY may be granted during the Extension Term may not exceed the aggregate value of the abatement that COMPANY did not receive but otherwise would have received if COUNTY had granted, effectuated, or filed, submitted or completed the necessary documentation or reports.

VI.
Use of Premises

The Premises at all times shall be used in a manner that is consistent with the City of Fort Worth zoning ordinances and consistent with the general purpose of encouraging development within the Zone. Both parties acknowledge that the use of the Premises for an office/warehouse facility is in accordance with this Agreement is consistent with such purposes.

VII.
Breach and Recapture

- A. **Breach** - A breach of this Agreement may result in termination or modification of this Agreement and recapture by COUNTY of taxes which otherwise would have been paid since the execution of this Agreement to COUNTY without the benefit of the Abatement, as set forth in Sections VII.B. and VII.C. Penalty and interest on recaptured taxes will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas, and such taxes shall become due sixty (60) days following notice of breach and after the expiration of any cure period as provided in Section VII.B. The following conditions shall constitute a breach of this Agreement:
1. COMPANY terminates the use of the Premises as an office/warehouse facility and related activities at any time during the term of the Agreement; or
 2. COMPANY fails to meet the Abatement Conditions and Requirements as specified in Section III, A., B., C., or I., herein; or
 3. COMPANY allows its ad valorem taxes on any property located within Tarrant County owed to COUNTY to become delinquent.
- B. **Notice of Breach** - In the event that COUNTY makes a reasonable determination that COMPANY has breached this Agreement, then COUNTY shall give COMPANY written notice of such default. COMPANY has sixty (60) days following receipt of said written notice to reasonably cure such breach, or this Agreement may be terminated by COUNTY, and recapture of abated taxes may occur. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail to COMPANY at its address provided in Section IX of this Agreement. It shall be the duty of COUNTY to determine whether to require recapture and payment of abated taxes and to demand payment of such.
- C. **Recapture** - Should COMPANY commit a breach of this Agreement according to items A.1, 2, or 3 of this Section VII, and COMPANY does not cure as provided in VII.B. above during the cure period, COUNTY may terminate this Agreement and recapture taxes abated for all years during which the breach is committed.
- D. **Tax Lien Not Impaired** - It is expressly agreed and acknowledged between the parties to this Agreement that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the property established by Section 32.01 of the Tax Code of the State of Texas. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the property, including any taxes abated and subject to recapture under this Agreement. Any such lien may be fully enforced pursuant to the provisions

of the Code. For purposes of this Subsection, "property" refers to the Premises and Eligible Property described herein.

VIII.

Assignment and Effect of Sale or Lease of Property

COMPANY may assign this Agreement and all or any portion of the benefits provided hereunder to an Affiliate, without the consent of COUNTY, provided that COMPANY provides COUNTY with written notice of such assignment, which notice shall include (a) the name and full contact information for the Affiliate, and (b) written agreement from an Affiliate assuming all terms and conditions of COMPANY under this Agreement. For purposes of this Agreement, an "Affiliate" means all entities, incorporated or otherwise, under direct or indirect common control with COMPANY, controlled by COMPANY, or controlling COMPANY. For purposes of this definition, "control" means fifty percent (50%) or more ownership determined by either value or vote. Except as provided herein, the abatement granted by this Agreement shall not be otherwise assignable to any new owner or new lessee of all or a portion of the Premises or Eligible Property unless such assignment is approved in writing by the COUNTY.

IX.

Notice

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail postage prepaid or by hand delivery:

COMPANY: Ben E Keith Company
Attn: Legal Department
601 E. 7th Street
Fort Worth, TX 76102

COUNTY: Tarrant County
County Administrator's Office
100 E. Weatherford
Fort Worth, Texas 76196

X.

Commissioners Court Authorization

This Agreement was authorized by resolution of the Commissioners Court authorizing the County Judge or his designee to execute this Tax Abatement Agreement on behalf of the COUNTY.

XI.

Severability

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, 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, sentence, phrase or word.

XII.
Estoppel Certificate

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of COMPANY, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the abatement in effect and such other matters reasonably requested by the party(ies) to receive the certificates.

XIII.
Company's Standing

COMPANY, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions or City Council actions authorizing same, and COMPANY shall be entitled to intervene in said litigation.

XIV.
Applicable Law

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State's District Court of Tarrant County, Texas. This Agreement is performable in Tarrant County, Texas.

XV.
Indemnification

It is understood and agreed between the parties that the COMPANY, in performing its obligations hereunder, is acting independently, and COUNTY assumes no responsibility or liability to third parties in connection therewith, and COMPANY agrees to indemnify and hold harmless COUNTY from any such responsibility or liability. It is further understood and agreed among the parties that COUNTY, in performing its obligations hereunder, is acting independently, and the COMPANY assumes no responsibility or liability to third parties in connection therewith, and COUNTY agrees to the extent allowed by law to indemnify and hold harmless COMPANY from any such responsibility or liability.

XVI.
Force Majeure

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the requirements of this Agreement is delayed by reason of war, Act of God, fire or other casualty of a similar nature.

XVII.
Knowing Employment of Undocumented Workers

COMPANY acknowledges that the COUNTY is required to comply with Chapter 2264 of the Texas Government Code, enacted by House Bill 1196 (80th Texas Legislature), which relates to restrictions on the use of certain public subsidies. COMPANY hereby certifies that COMPANY, and any branches, divisions, or departments of COMPANY, does not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code. In the event that COMPANY, or any branch, division, or department of COMPANY, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens), subject to any appellate rights that may lawfully be available to and exercised by COMPANY, COMPANY shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the COUNTY, the aggregate amount of the value of the abatement received by COMPANY hereunder, if any, plus Simple Interest at a rate of four percent (4%) per annum. COMPANY shall not be considered in violation of this section for any actions of a subsidiary, Affiliate, franchisee of COMPANY or a person or entity with whom COMPANY contracts.

XVIII.
No Other Agreement

This Agreement embodies all of the agreements of the parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified or supplemented only by an instrument or instruments in writing executed by the parties.

XIX.
Recordation of Agreement

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Tarrant County, Texas.

XX.
Signatories

This Agreement is effective and binding on those parties that have duly signed below.

XXI.
Headings

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXII.
Successors and Assigns

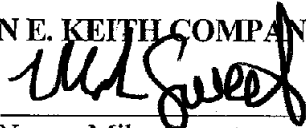
The parties to this Agreement each bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.

XXIII.
Termination

This Agreement shall terminate, in accordance with the terms of this Agreement, unless extended by written agreement of the parties or a written instrument signed by all parties evidencing a delay by force majeure; provided however, that the period of abatement may not extend beyond ten (10) years.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the last date written below.

BEN E. KEITH COMPANY

By: 

Name: Mike Sweet

Title: President

Date: 10-25-19


TARRANT COUNTY, TEXAS

By: 

B. Glen Whitley, County Judge

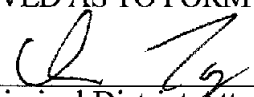
Date: June 11, 2019

ATTEST:



Deputy County Clerk

APPROVED AS TO FORM*:



Asst. Criminal District Attorney

**By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.*

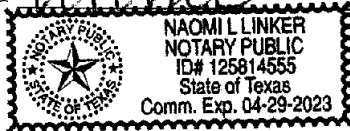
THE STATE OF TEXAS §

Ben E. Keith Company
Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Mike Sweet**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **Ben E. Keith Company**, and as the **President** thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 25 day of October, 2019.



Naomi Linker
Notary Public in and for
The State of Texas

4.29.23
My Commission Expires

Naomi Linker
Notary's Printed Name

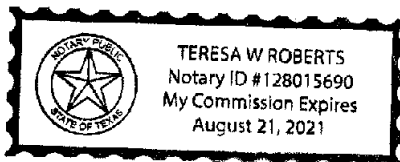
THE STATE OF TEXAS §

Tarrant County, Texas
Acknowledgment

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **B. GLEN WHITLEY**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of **TARRANT COUNTY, TEXAS**, as the **County Judge** thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 15th day of October, 2019.



Teresa W Roberts
Notary Public in and for
The State of Texas

August 21, 2021
My Commission Expires

Teresa W Roberts
Notary's Printed Name

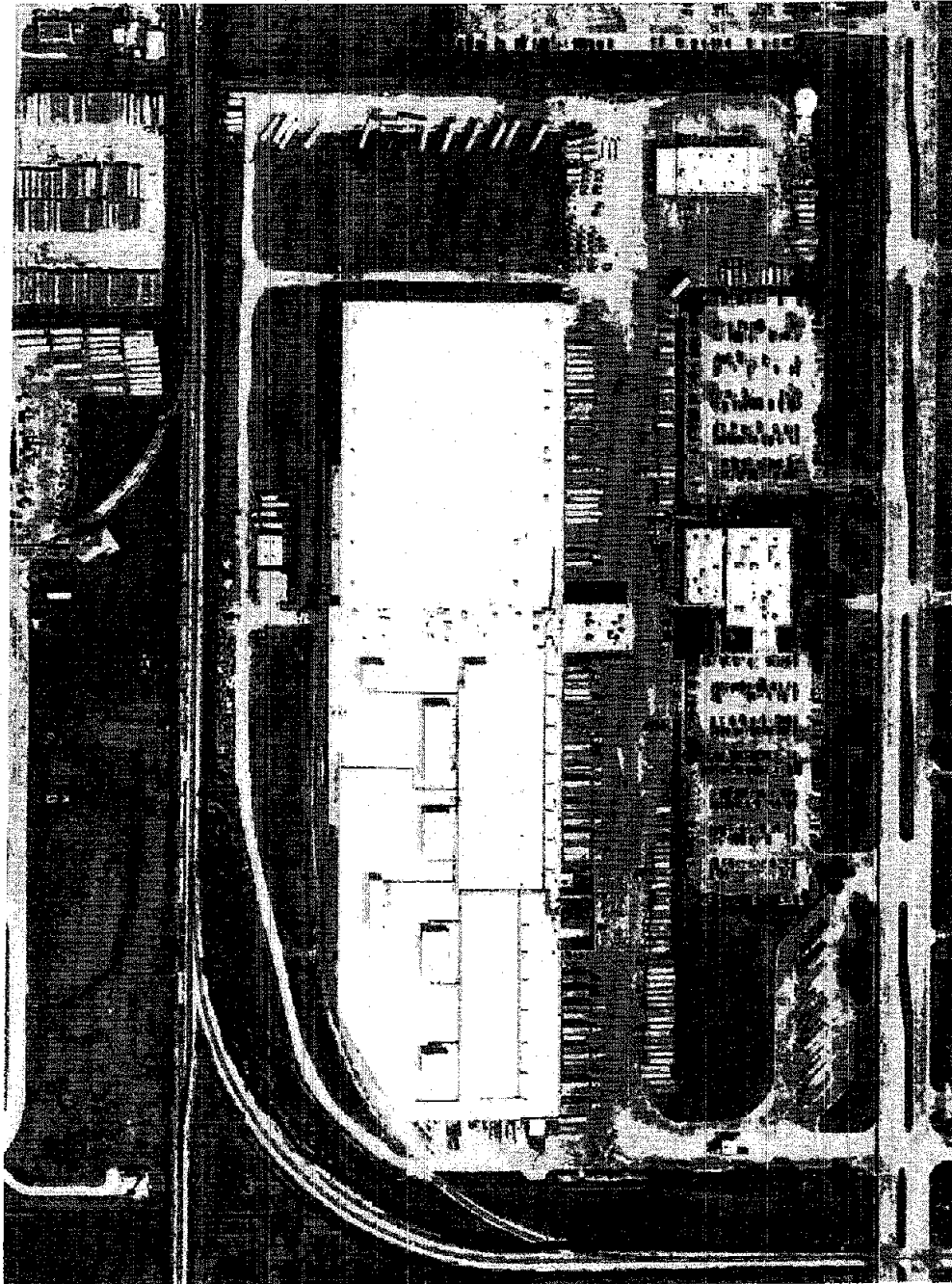
EXHIBIT "A"

**DESCRIPTION OF PREMISES AND
REINVESTMENT ZONE NO. 98**

EXHIBIT "A"
LEGAL DESCRIPTION

Being all of Lot 4, Block 4 of the Cater Industrial Park, an addition to the City of Fort Worth, Tarrant County, Texas according to the plat recorded in Document No. D199122589, Deed Records, Tarrant County, Texas

Map generally outlining boundary of the Land, currently designated as Tarrant Appraisal District Account No. 07345925:



ORDINANCE NO. _____

AN ORDINANCE DESIGNATING A CERTAIN AREA IN THE CITY OF FORT WORTH AS “TAX ABATEMENT REINVESTMENT ZONE NUMBER NINETY-EIGHT, CITY OF FORT WORTH, TEXAS”; PROVIDING THE EFFECTIVE AND EXPIRATION DATES FOR THE ZONE AND A MECHANISM FOR RENEWAL OF THE ZONE; AND CONTAINING OTHER MATTERS RELATED TO THE ZONE.

WHEREAS, pursuant to the City Council’s adoption on January 29, 2019 of Resolution No. 5040-01-2019 (the “**Tax Abatement Policy**”), the City of Fort Worth, Texas (the “**City**”) has elected to be eligible to participate in tax abatement and has established guidelines and criteria governing tax abatement agreements entered into between the City and various third parties, as authorized by and in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the “**Code**”); and

WHEREAS, the City Council desires to promote the development of the area in the City more specifically described in Exhibit “A” of this Ordinance (the “**Zone**”) through the creation of a reinvestment zone for purposes of granting a business expansion tax abatement, as authorized by and in accordance with Chapter 312 of the Code; and

WHEREAS, Ben E. Keith Company or an affiliated entity (“**Company**”) wishes to expend or cause to be expended at least \$22.0 million in real property improvements for the expansion of facilities and operations located on property to be located in the Zone, (collectively, the “**Improvements**”); and

WHEREAS, Company has applied for real and business personal property tax abatements from the City in return for the installation of the Improvements in the Zone and

compliance with certain other employment and spending commitments that will foster economic development in the Zone and the City in general; and

WHEREAS, on February 12, 2019 the City Council held a public hearing regarding the creation of the Zone, received information concerning the Improvements proposed for the Zone and afforded a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zone ("**Public Hearing**"), as required by Section 312.201(d) of the Code; and

WHEREAS, notice of the Public Hearing was published in a newspaper of general circulation in the City on February 3, 2019, which satisfies the requirement of Section 312.201(d)(1) of the Code that publication of the notice occur not later than the seventh day before the date of the public hearing; and

WHEREAS, in accordance with Sections 312.201(d)(2) and (e), of the Code notice of the Public Hearing was delivered in writing not later than the seventh day before the date of the public hearing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed Zone;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF FORT WORTH, TEXAS:**

Section 1.

FINDINGS.

That after reviewing all information before it regarding the establishment of the Zone and after conducting the Public Hearing and affording a reasonable opportunity for all interested persons to speak and present evidence for or against the creation of the Zone, the City Council hereby makes the following findings of fact:

- 1.1. The statements and facts set forth in the recitals of this Ordinance are true and correct. Therefore, the City has met the notice and procedural requirements established by the Code for creation of a reinvestment zone under Chapter 312 of the Code.
- 1.2. The Improvements proposed for the Zone, as more specifically outlined in the Public Hearing, are feasible and practical and, once completed will benefit the land included in the Zone as well as the City for a period of five (5) years, with an option to extend for not more than an additional five (5), but not to exceed ten (10) years, which is the statutory maximum term of any tax abatement agreement entered into under the Chapter 312 of the Code.
- 1.3. As a result of designation as a reinvestment zone, the area within the Zone is reasonably likely to contribute to the expansion of primary employment and to attract major investment in the Zone that will be a benefit to property in the Zone and will contribute to the economic development of the City.

Section 2.

DESIGNATION OF ZONE.

That the City Council hereby designates the Zone described in the boundary description attached hereto as **Exhibit "A"** and made a part of this Ordinance for all purposes as a reinvestment zone for purposes of granting business expansion tax abatement, as authorized by and in accordance with Chapter 312 of the Code. This Zone shall be known as "Tax Abatement Reinvestment Zone Number Ninety-Eight, City of Fort Worth, Texas." This project is eligible for commercial/industrial tax abatement pursuant as a Target Industry (Manufacturing), as defined in and in accordance with Section 4 of the Tax Abatement Policy.

Section 3.

TERM OF ZONE.

That the Zone shall take effect upon the effective date of this Ordinance and expire five (5) years thereafter. The Zone may be renewed by the City Council for one or more subsequent terms not to exceed five years.

Section 4.

SEVERABILITY.

That if any portion, section or part of a section of this Ordinance is subsequently declared invalid, inoperative or void for any reason by a court of competent jurisdiction, the remaining portions, sections or parts of sections of this Ordinance shall be and remain in full force and effect and shall not in any way be impaired or affected by such decision, opinion or judgment.

Section 5.

IMMEDIATE EFFECT.

That this Ordinance shall take effect upon its adoption.

ADOPTED AND EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

By: _____
Peter Vaky
Deputy City Attorney

M&C: _____

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

Being a tract of land situated in the John D. Hudson Survey, Abstract No. 741 and the William Hudson Survey, Abstract No. 738 in the City of Fort Worth, Tarrant County, Texas and being a portion of Block 4, Carter Industrial Park, per plat as recorded in Volume 388-31, Page 52 of the Deed Records of Tarrant County, Texas and being a portion of the third tract as deeded to Carter Foundation Production Company (aka Mereken Land & Production Company) per documents recorded in Volume 3587, Page 319 and Volume 3595, Page 24 of said Deed Records of Tarrant County, Texas, said tract being more particularly described by metes and bounds as follows: BEGINNING at a found ~ inch iron rod on the West R.O.W. line of Will Rogers Boulevard (a 110 foot wide R.O.W. per said plat) being or intended to be the Southeast comer of a tract deeded to Ivy Corporation per document recorded in Volume 7665, Page 584 of said Deed Records, from said found ~ inch iron rod a found 5/8 inch capped iron rod (Carter & Burgess) being or intended to be the Northeast comer of said Ivy tract bears North 00 degrees 15 minutes 30 seconds West, a distance of 592.93 feet; THENCE South 00 degrees 15 minutes 30 seconds East (Reference Bearing), along said West R. O. W. line of Will Rogers Boulevard, a distance of 2022.52 feet to a set 5/8 inch capped iron rod (BHB INC) being the Northeast corner of a tract deeded to Missouri Pacific Railroad Company per document recorded in Volume 9941, Page 1080 of said Deed Records, from said set 5/8 inch capped iron rod (BHB INC) a found 5/8 inch capped iron road (Carter & Burgess) bears South 00 degrees 15 minutes 30 seconds Bast. a distance of 50.00 feet of which is being or intended to be the Northeast comer of a tract deeded to Mereken Land & Production Company per document recorded in Volume 12575, Page 2311 of said Deed Records; THENCE South 89 degrees 45 minutes 00 seconds West, leaving said West R.O.W. line of Will

Rogers Boulevard and along the North line of said Missouri Pacific Railroad Company tract, a distance of 624.22 feet to a set 5/8 inch capped iron rod (BHB INC), said set 5/8 inch capped iron rod (BHB INC) also being the beginning of a curve to the right whose chord bears North 48 degrees 04 minutes 00 seconds West, a distance of 736.90 feet and having a radius of 548.69 feet; THENCE Northwesterly, along said curve to the right along the Northerly line of said Missouri Pacific Railroad Company tract, through a central angle of 84 degrees 22 minutes 01 seconds, an arc length of 807.94 feet to a set S/8 inch capped iron rod (BHB INC) for the end of said curve; THENCE North 05 degrees 52 minutes 59 seconds West, along the Easterly line of said Missouri Pacific Railroad Company tract, a distance of 249.38 feet to a set 5/8 inch capped iron rod (BHB INC) on the West line of said Block 4; THENCE North 00 degrees 09 minutes 30 seconds West, along said West line of Block 4, a distance of 1279.51 feet to a found 5/8 inch iron rod being or intended to be the Southwest comer of a tract deeded to Miller Brewing Company per document recorded in Volume 6822, Page 1602 of said Deed Record~; THENCE North 89 degrees 45 minutes 00 seconds Bast, along the South line of said Miller Brewing Company tract, passing a found ~ inch iron rod at 428.70 feet and continuing along the South line of said Ivy tract for a total distance of 1192.40 feet to the POINT OF BEGINNING and containing 2,336,380 square feet or 53.64 Gross acres of land of which 90,846 square feet or 2.09 acres lies within a drainage area located along the southerly portion of said described tract between the 30 foot building setback line and the top of bank as located in the field in the month of May, 1997 and the area of the Chevron Pipeline Company Right of Way Easement lying Easterly of a 30 foot building setback line being 8,573 square feet or 0.20 acre, leaving a net area of 2,236,961 square feet or 51.35 acres of land, more or less.

EXHIBIT "B"

CITY OF FORT WORTH TAX ABATEMENT AGREEMENT

STATE OF TEXAS §

COUNTY OF TARRANT §

TAX ABATEMENT AGREEMENT

This **TAX ABATEMENT AGREEMENT** ("**Agreement**") is entered into by and between the **CITY OF FORT WORTH, TEXAS** (the "**City**"), a home rule municipality organized under the laws of the State of Texas, and **BEN E. KEITH COMPANY**, a Texas corporation ("**Company**").

RECITALS

A. On January 29, 2019, the City Council adopted Resolution No. 5040-01-2019, stating that the City elects to be eligible to participate in tax abatement and setting forth guidelines and criteria governing tax abatement agreements entered into between the City and various parties, entitled "General Tax Abatement Policy" (the "**Policy**"), which is incorporated herein by reference and hereby made a part of this Agreement for all purposes.

B. The Policy contains appropriate guidelines and criteria governing tax abatement agreements to be entered into by the City as contemplated by Chapter 312 of the Texas Tax Code, as amended (the "**Code**").

C. On February 12, 2019 the City Council adopted Ordinance No. 23575-02-2019 (the "**Ordinance**") establishing Tax Abatement Reinvestment Zone No. 98, City of Fort Worth, Texas (the "**Zone**").

D. Company owns approximately 51.35 acres of real property at 7650 Will Rogers Boulevard in Carter Industrial Park in the City, which real property is located within the Zone and is more specifically described in Exhibit "A" (the "**Land**"), attached hereto and hereby made a part of this Agreement for all purposes. Contingent upon receipt of the tax abatement herein, Company intends to expand its business operations on the Land by expanding its office and warehouse facility by approximately 185,000 square feet (more specifically defined herein as the "Required Improvements"), as more specifically set forth in this Agreement.

E. On August 30, 2018 Company submitted an application for tax abatement (the "**Application**") to the City concerning Company's plans for development of the Land, including construction of the Required Improvements, which Application is attached hereto as Exhibit "B" and hereby made a part of this Agreement for all purposes.

RECEIVED
APR 23 2019
CITY OF FORT WORTH
CITY SECRETARY

F. The contemplated use of the Land and the terms of this Agreement are consistent with encouraging development of the Zone and generating economic development and increased employment opportunities in the City, in accordance with the purposes for creation of the Zone, and are in compliance with the Policy, the Ordinance and other applicable laws, ordinances, rules and regulations.

G. Company provides food and beverage distributing services and has had a leading corporate presence in the City since 1906. Under this Agreement, Company is committing to expend at least \$22 million in Construction Costs for the Required Improvements. Company is also committing to maintain a minimum of 855 Full-time Jobs by the end of the First Operating Year, increasing to a total of 1,034 Full-time Jobs by the end of 2023, and further increasing to a total of 1,138 Full-time Jobs by the end of 2025, with average annual Salaries of at least \$73,000.00. Therefore, the provisions of this Agreement, as well as the proposed use of the Land and nature of the proposed Required Improvements, as defined herein, satisfy the eligibility criteria for commercial/industrial tax abatement pursuant to Section 5 of the Policy (Existing Business Expansion Projects).

H. Written notice that the City intends to enter into this Agreement, along with a copy of this Agreement, has been furnished in the manner prescribed by the Code to the presiding officers of the governing bodies of each of the taxing units that have jurisdiction over the Land.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. INCORPORATION OF RECITALS.

The City Council has found, and the City and Company hereby agree, that the recitals set forth above are true and correct and form the basis upon which the parties have entered into this Agreement.

2. DEFINITIONS.

In addition to terms defined in the body of this Agreement, the following terms shall have the definitions ascribed to them as follows:

Abatement means (i) the abatement of a percentage (not to exceed fifty percent (50%) in any year of the Abatement Term) of the City's incremental ad valorem real property taxes on the Land and any improvements located on the Land, based on the increase in values of the Land and all improvements located on the Land from the 2019 tax

year (which is the year in which the parties entered into this Agreement), and (ii) the abatement of a percentage (not to exceed fifty percent (50%) in any year of the Abatement Term) of the City's incremental ad valorem taxes on New Taxable Tangible Personal Property, all calculated in accordance with this Agreement.

Abatement Term means the term of seven (7) consecutive calendar years, commencing on January 1 of the Second Operating Year, in which Company will receive the Abatement in accordance with this Agreement.

Affiliate means all entities, incorporated or otherwise, under common control with, controlled by or controlling Company. For purposes of this definition, "control" means fifty percent (50%) or more of the ownership determined by either value or vote.

Annual Salary Commitment has the meaning ascribed to it in Section 4.4.4.

Application has the meaning ascribed to it in Recital E.

Central City means that area in the corporate limits of the City within Loop 820 (i) consisting of all Community Development Block Grant ("CDBG") eligible census block groups; (ii) all state-designated enterprise zones; and (iii) all census block groups that are contiguous by seventy-five percent (75%) or more of their perimeter to CDBG-eligible block groups or enterprise zones, as well as any CDBG-eligible block in the corporate limits of the City outside Loop 820, as more specifically depicted in the map of **Exhibit "C"**, attached hereto and hereby made a part of this Agreement for all purposes. The Company's Central City resident employee headcount can be verified by using the following website:
<https://mapit.fortworthtexas.gov/Html5Viewer/?viewer=economicdevelopment>.

Central City Employment Commitment has the meaning ascribed to it in Section 4.4.3.

Central City Employment Percentage has the meaning ascribed to it in Section 6.6.

Central City Resident means an individual whose primary residence is at a location within the Central City.

Certificate of Completion has the meaning ascribed to it in Section 5.

Certified M/WBE Company means a minority or woman-owned business that (i) has received certification as either a minority business enterprise (MBE), a woman business enterprise (WBE), or a disadvantaged business enterprise (DBE) by the North Central Texas Regional Certification Agency (NCTRCA), D/FW Minority Supplier Development Council (MSDC), or Women's Business Council - Southwest (WBC), and that has a principal office located within Tarrant, Dallas, Denton, Johnson, Parker, or Wise Counties, Texas. For purposes of this definition, a "principal office" means an office facility that is

fully operational and has sufficient equipment, supplies, and personnel to provide the product or service of the business in question to clients in the City without significant reliance on the resources of another entity or affiliate or of an auxiliary facility of the business which is located outside of Tarrant, Dallas, Denton, Johnson, Parker, and Wise Counties, Texas.

Code has the meaning ascribed to it in Recital B.

Completion Date means the date as of which all occupiable space within the Required Improvements have received a temporary or permanent certificate of occupancy.

Completion Deadline means June 30, 2021.

Compliance Auditing Term means the term of seven (7) consecutive years, commencing on January 1 of the First Operating Year, in which the City will verify and audit Company's compliance with the various commitments set forth in Section 4 that form the basis for calculation of the amount of each annual Abatement percentage hereunder.

Construction Costs means Hard Construction Costs, plus the following costs expended by Company either directly or through its general contractor, for the Required Improvements: engineering fees, architectural and design fees; permit fees; and costs of third party consultants, including attorneys and environmental consultants. Construction Costs specifically excludes any real property acquisition costs.

Director means the director of the City's Economic Development Department.

Effective Date has the meaning ascribed to it in Section 3.

Event of Default means a breach of this Agreement by a party, either by act or omission, as more specifically set forth in Section 7 of this Agreement.

Fifth Operating Year means the fifth full calendar year following the year in which the Completion Date occurred.

First Operating Year means the first full calendar year following the year in which the Completion Date occurred.

Fort Worth Company means business that a principal office located within the corporate limits of the City of Fort Worth. For purposes of this definition, a "principal office" means an office facility that is fully operational and has sufficient equipment, supplies, and personnel to provide the product or service of the business in question to clients in the City without significant reliance on the resources of another entity or affiliate or of an auxiliary facility of the business which is located outside of the corporate limits of the City of Fort Worth.

Fort Worth Construction Spending Commitment has the meaning ascribed to in Section 4.2.

Fort Worth Construction Percentage has the meaning ascribed to it in Section 6.2.

Fort Worth Employment Commitment has the meaning ascribed to it in Section 4.4.2.

Fort Worth Employment Percentage has the meaning ascribed to it in Section 6.5.

Fort Worth Resident means an individual whose principal place of residence is at a location within the corporate limits of the City of Fort Worth.

Fourth Operating Year means the fourth full calendar year following the year in which the Completion Date occurred.

Full-time Job means a job provided to and filled by one (1) individual by Company or an Affiliate working on, or considered to be based out of, the Land for at least forty (40) hours per week.

Hard Construction Costs means actual site development and construction costs, including, but not limited to, directly-related contractor fees and costs of supplies, labor, and materials, regardless of whether Company pays directly or through its general contractor.

Land has the meaning ascribed to it in Recital D.

Legal Requirements means federal, state and local laws, ordinances, rules and regulations, including, but not limited to, all provisions of the City's charter and ordinances, as amended.

M/WBE Construction Spending Commitment has the meaning ascribed to it in Section 4.3.

M/WBE Construction Percentage has the meaning ascribed to it in Section 6.3.

New Taxable Tangible Personal Property means any personal property other than inventory or supplies that (i) is subject to ad valorem taxation by the City; (ii) is located on the Land; (iii) is owned or leased by Company and used by Company for the business purposes outlined in this Agreement; and (iv) was not previously owned by Company, on the City's ad valorem property tax roll, and located in the City prior to the Effective Date of this Agreement.

Ordinance has the meaning ascribed to it in Recital C.

Overall Employment Commitment has the meaning ascribed to it in Section 4.4.1.

Overall Employment Percentage has the meaning ascribed to it in Section 6.4.

Policy has the meaning ascribed to it in Recital A.

Real Property Improvement Commitment has the meaning ascribed to it in Section 4.1.

Real Property Improvement Percentage has the meaning ascribed to it in Section 6.1

Records has the meaning ascribed to it in Section 4.8.

Required Improvements means an expanded office and warehouse facility constructed on the Land consisting of at least 185,000 square feet, as verified in the Certificate of Completion issued by the Director in accordance with Section 5 of this Agreement.

Salary means the cash payment or remuneration made to a person holding a Full-time Job, including paid time off, commissions, withholding taxes and non-discretionary bonuses. A Salary does not include any benefits, such as health insurance or retirement contributions, reimbursements for employee expenses, or any discretionary bonuses.

Second Operating Year means the second full calendar year following the year in which the Completion Date occurred.

Supply and Service Expenditures means those local discretionary expenditures made by Company directly for the operation and maintenance of the Land and any improvements thereon, excluding amounts paid for electric, natural gas, water, and any other utilities (but not excluding fuel or gas purchased, stored on the Land, and used for vehicles/transportation; or cable, internet or television services).

Supply and Service Spending Commitment has the meaning ascribed to it in Section 4.5.

Supply and Service Percentage has the meaning ascribed to it in Section 6.7.

Term has the meaning ascribed to it in Section 3.

Third Operating Year means the third full calendar year following the year in which the Completion Date occurred.

Zone has the meaning ascribed to it in Recital C.

3. **TERM.**

This Agreement shall take effect on the date as of which both the City and Company have executed this Agreement (the "Effective Date") and, unless terminated earlier in accordance with its terms and conditions, shall expire upon expiration of the Abatement Term (the "Term").

4. **COMPANY'S OBLIGATIONS AND COMMITMENTS.**

4.1. **Real Property Improvements.**

Company must expend or cause to be expended at least Twenty-two Million Dollars (\$22,000,000.00) in Construction Costs for the Required Improvements by the Completion Date, of which at least Twenty Million Dollars (\$20,000,000) must be Hard Construction Costs, and the Completion Date for the Required Improvements must occur on or before the Completion Deadline (collectively, the "Real Property Improvement Commitment"). Notwithstanding anything to the contrary herein, if the Real Property Improvement Commitment is not met, an Event of Default will occur, as set forth in Section 7.1 of this Agreement.

4.2. **Construction Spending Commitment for Fort Worth Companies.**

By the Completion Date, Company must have expended or caused to be expended at least Three Million Dollars (\$3,000,000.00) in Hard Construction Costs with Fort Worth Companies (the "Fort Worth Construction Spending Commitment").

4.3. **Construction Spending Commitment for Certified M/WBE Companies.**

By the Completion Date, Company must have expended or caused to be expended at least fifteen percent (15%) of all Construction Costs for the Required Improvements, regardless of the total amount of such Construction Costs, with Certified M/WBE Companies (the "M/WBE Construction Spending Commitment"). Expenditures made with any Certified M/WBE Company that also qualifies as a Fort Worth Company under this Agreement will additionally be counted as expenditures made with a Fort Worth Company for purposes of measuring the Fort Worth Construction Spending Commitment.

4.4. Employment Commitments.

Determination each year of compliance with the following employment commitments will be based on the employment data provided to the City pursuant to Section 4.6.2 for the year under evaluation.

4.4.1. Overall Employment.

Company must meet or exceed the following levels of overall employment for the calendar years specified below (for each year below, the "Overall Employment Commitment").

4.4.1.1. First and Second Operating Years.

In the First Operating Year and Second Operating Year, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 855 Full-time Jobs. Notwithstanding anything to the contrary herein, because the Overall Employment Commitment for the First Operating Year and the Second Operating Year is 855 Full-time Jobs, if the Overall Employment Commitment is not met in either of these years, an Event of Default will occur, as set forth in Section 7.2 of this Agreement.

4.4.1.2. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 1,034 Full-time Jobs.

4.4.1.3. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Overall Employment Commitment if in the year under evaluation Company provided at least 1,138 Full-time Jobs.

4.4.2. Employment of Fort Worth Residents.

Company must meet or exceed the following levels of employment of Fort Worth Residents for the calendar years specified below (for each year below, the "Fort Worth Employment Commitment"). Full-time Jobs held by Fort Worth Residents will also be counted as Full-time Jobs for purposes of measuring the Overall Employment Commitment outlined

in Section 4.4.1. A Fort Worth Employment Commitment will not apply in either the First Operating Year or Second Operating Year.

4.4.2.1. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Fort Worth Employment Commitment if in the year under evaluation Company provided at least 338 Full-time Jobs to Fort Worth Residents.

4.4.2.2. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Fort Worth Employment Commitment if in the year under evaluation Company provided at least 377 Full-time Jobs to Fort Worth Residents.

4.4.3. Employment of Central City Residents.

Company must meet or exceed the following levels of employment of Central City Residents for the calendar years specified below (for each year below, the "Central City Employment Commitment"). Full-time Jobs held by Central City Residents will also be counted as Full-time Jobs for purposes of measuring the Fort Worth Employment Commitment outlined in Section 4.4.2 as well as for the Overall Employment Commitment outlined in Section 4.4.1. A Central City Employment Commitment will not apply in either the First Operating Year or Second Operating Year.

4.4.3.1. Third and Fourth Operating Years.

In the Third Operating Year and Fourth Operating Year, Company will meet the Central City Employment Commitment if in the year under evaluation Company provided at least 94 Full-time Jobs to Central City Residents.

4.4.3.2. Fifth Operating Year and Thereafter.

In the Fifth Operating Year and in each year thereafter for the remainder of the Compliance Auditing Term, Company will meet the Central City Employment Commitment if in the year under evaluation Company provided at least 103 Full-time Jobs to Central City Residents.

4.4.4. Average Annual Salary.

Throughout the Third Operating Year and in each year of the Compliance Auditing Term thereafter, the average annual Salary, measured on a calendar year basis, for all Full-time Jobs, regardless of the total number of such Full-time Jobs, must equal at least Seventy-three Thousand Dollars (\$73,000.00) (the "Annual Salary Commitment").

4.5. Annual Supply and Service Spending Commitment.

In the First Operating Year and in each year thereafter during the Compliance Auditing Term, Company annually must expend at least Nine Hundred Thousand Dollars (\$900,000.00) in Supply and Service Expenditures with Fort Worth Companies (the "Supply and Service Spending Commitment").

4.6. Reports and Filings.

4.6.1. Construction Reports.

4.6.1.1. M/WBE Plan.

Within sixty (60) calendar days following the Effective Date of this Agreement, Company must provide the Director with a report that outlines Company's plan to utilize Certified M/WBE Companies for construction of the Required Improvements. Company agrees to meet with the Director and other City staff members to discuss such plan and to consider in good faith any recommendations by the City to increase utilization of Certified M/WBE Companies for construction of the Required Improvements.

4.6.1.2. Semi-Annual Progress.

By June 30 and December 31 of each year prior to the Completion Date, Company must provide the Director with a report in a form reasonably acceptable to the City that specifically outlines the then-aggregate Construction Costs expended for the Required Improvements; the then-aggregate Hard Construction Costs expended with Fort Worth Companies for the Required Improvements; and the then-aggregate Construction Costs expended with Certified M/WBE Companies for the Required Improvements. Company agrees to meet with the Director and other City staff members to discuss any concerns by the City with respect to Company's progress in utilizing Fort Worth Companies and Certified M/WBE Companies for construction of the Required Improvements as of the date of any such report.

4.6.1.3. Final Construction Report.

Within sixty (60) calendar days following the Completion Date, in order for the City to assess whether the Real Property Improvement Commitment was met, as outlined in Section 4.1, and the extent to which the Fort Worth Construction Spending Commitment and the M/WBE Construction Spending Commitment were met, Company must provide the Director with a report in a form reasonably acceptable to the City that specifically outlines the total Construction Costs expended for the Required Improvements; the total Hard Construction Costs expended with Fort Worth Companies for the Required Improvements; and the total Construction Costs expended with Certified M/WBE Companies for the Required Improvements, together with supporting invoices and other documents necessary to demonstrate that such amounts were actually paid by Company, including, without limitation, final lien waivers signed by Company's general contractor.

4.6.2. Annual Employment Report.

On or before February 1 of the Second Operating Year and of each year thereafter for the remainder of the Compliance Auditing Term, in order for the City to assess the extent to which Company met the Overall Employment Commitment and the Annual Salary Commitment in the previous year, Company must provide the Director with a report in a form reasonably acceptable to the City, that sets forth the total number of individuals who held Full-time Jobs, as well as the Salary of each, all as of December 31 (or such other date requested by Company and reasonably acceptable to the City) of the previous calendar year, together with reasonable supporting documentation. Beginning with the report due by February 1 of the Fourth Operating Year, in order for the City to assess the extent to which Company met the Fort Worth Employment Commitment and the Central City Employment Commitment in the previous year, the report must also set forth, in a form reasonably acceptable to the City, the total number of Fort Worth Residents and Central City Residents who held Full-time Jobs in the previous year, together with reasonable supporting documentation. Failure of Company to submit the report pursuant to this Section by February 1 of the Second Operating Year and each year thereafter shall be an Event of Default pursuant to Section 7.7 requiring notice by the City of such delinquency.

4.6.3. Annual Supply and Service Spending Report.

On or before February 1 of the Second Operating Year of each year thereafter for the remainder of the Compliance Auditing Term, in order for

the City to assess the extent to which Company met the Supply and Service Spending Commitment in the previous calendar year, Company must provide the City with a report in a form reasonably acceptable to the City, that sets forth the aggregate Supply and Service Expenditures made during such year with Fort Worth Companies, together with reasonable supporting documentation. Failure of Company to submit the report pursuant to this Section by February 1 of the Second Operating Year and each year thereafter shall be an Event of Default pursuant to Section 7.7 requiring notice by the City of such delinquency.

4.6.4. General.

Company will supply any additional information reasonably requested by the City that is pertinent to the City's evaluation of compliance with each of the terms and conditions of this Agreement, provided that such information is available to Company as part of its or an Affiliate's Records, as that term is defined in Section 4.8.

4.7. Inspections.

At any time during Company's normal business hours throughout the Term and following reasonable notice to Company which shall be no less than twenty-four hour advance notice, the City will have the right to inspect and evaluate the Land, and any improvements thereon, and Company will provide or cause to be provided full access to the same to the extent that no safety hazards are present and not more than a 24 hour delay in construction might reasonably occur as a direct result of such inspection, in order for the City to monitor compliance with the terms and conditions of this Agreement. Company will cooperate fully with the City during any such inspection and evaluation. Notwithstanding the foregoing, Company shall have the right to require that any representative of the City be escorted by a Company representative or security personnel during any such inspection and evaluation.

4.8. Audits.

The City will have the right throughout the Term to audit the financial and business records of Company or an Affiliate that relate directly to the Required Improvements and the Land and any other documents necessary to evaluate Company's compliance with this Agreement and with the commitments set forth in this Agreement, including, but not limited to construction documents and invoices (collectively "Records"). Company shall make all Records available to the City on the Land or at another location in the City acceptable to both parties following reasonable advance notice by the City and shall otherwise cooperate fully with the City during any audit.

4.9. Use of Land.

The Land and any improvements thereon, including, but not limited to, the Required Improvements, must be used at all times during the Term of this Agreement for Company's lawful business operations, as set forth in this Agreement, and otherwise in a manner that is consistent with the general purposes of encouraging development or redevelopment of the Zone.

4.10. Abatement Application Fee.

The City acknowledges receipt from Company of the required Application fee of Five Thousand Dollars (\$5,000.00). Of such amount, Two Thousand Dollars (\$2,000.00) is strictly nonrefundable and shall be used by the City for the purposes set forth in the Policy. If construction work on the Required Improvements begins within one (1) year from the date of the Application, the remaining Three Thousand Dollars (\$3,000.00) of such fee shall be credited to Company's benefit against any permit, impact, inspection or other lawful fee required by the City in connection with the Required Improvements. If construction work for the Required Improvements does not begin within one (1) year from the date of the Application, Company will not receive a credit or refund of any portion of the fee. If there is a balance of any of the remaining Application Fee funds after the date on which the Director issues a Certificate of Completion in accordance with Section 5, Company will be entitled to a refund of such remaining Application Fee funds, but only if Company submits a letter to the Director requesting such refund within ninety (90) calendar days following the date of issuance of the Certificate of Completion.

5. CERTIFICATE OF COMPLETION.

Within ninety (90) calendar days following receipt by the City of the final construction spending report for the Required Improvements submitted in accordance with Section 4.6.1.3, and assessment by the City of the information contained therein pursuant to Sections 4.7 and 4.8, if the City is able to verify that the Real Property Improvement Commitment was met, as outlined in Section 4.1, the Director will issue Company a certificate stating the amount of Construction Costs expended for the Required Improvements; the amount of Hard Construction Costs expended for the Required Improvements specifically with Fort Worth Companies; and the amount of Construction Costs expended for the Required Improvements specifically with Certified M/WBE Companies (the "Certificate of Completion"). The Certificate of Completion will serve as the basis for determining the extent to which the Fort Worth Construction Spending Commitment and the M/WBE Construction Spending Commitment was met.

6. TAX ABATEMENT.

Subject to the terms and conditions of this Agreement, provided that the Real Property Improvement Commitment was met, as outlined in Section 4.1 and as confirmed in the Certificate of Completion issued by the Director in accordance with Section 5, Company will be entitled to receive and the City agrees to provide Company an Abatement in each year of the Abatement Term. City agrees to take any required steps to effectuate the Abatement in each year of the Abatement Term, including, but not limited to, providing any necessary notices to the Tarrant Appraisal District. The City and Company agree to work together in an expeditious manner to effectuate the Abatement in each year of the Abatement Term and reasonably cooperate to submit the necessary documentation to any third parties to effectuate the Abatement. The amount of each Abatement that Company is entitled to receive and which the City will provide during such years will be a percentage of the City's incremental ad valorem taxes on the Land and any improvements located thereon, and on New Taxable Tangible Personal Property attributable to increases in the value of such Land, improvements, and New Taxable Tangible Personal Property over their taxable values for the 2019 tax year, which percentage will equal the sum of the Real Property Improvement Percentage; the Fort Worth Construction Percentage; the M/WBE Construction Percentage; the Overall Employment Percentage; the Fort Worth Employment Percentage (to the extent applicable); the Central City Employment Percentage (to the extent applicable); and the Supply and Service Percentage, as defined in Sections 6.1 through 6.7 (not to exceed fifty percent (50%)), as follows:

6.1. Completion of Required Improvements (20% in Years 1 and 2 of the Abatement Term; 5% Thereafter).

Company will be entitled to receive a percentage of the Abatement on account of Company's having met the Real Property Improvement Commitment in accordance with Section 4.1 (the "Real Property Improvement Percentage"), as follows:

6.1.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, the Real Property Improvement Percentage will equal twenty percent (20%).

6.1.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Real Property Improvement Percentage will equal five percent (5%).

6.2. Fort Worth Hard Construction Cost Spending (Up to 5% in Years 1 and 2 of the Abatement Term; Up to 2.5% Thereafter).

A percentage of the Abatement will be based on the extent to which the Fort Worth Construction Spending Commitment, as outlined in Section 4.2, was met (the "Fort Worth Construction Percentage"), as follows:

6.2.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, the Fort Worth Construction Percentage will equal the product of five percent (5%) multiplied by the percentage by which the Fort Worth Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended for the Required Improvements by the Completion Date with Fort Worth Companies by \$3,000,000.00, which is the number of dollars comprising the Fort Worth Construction Commitment, as set forth in Section 4.2. For example, if Company only expended \$2,550,000.00 in Hard Construction Costs with Fort Worth Companies by the Completion Date, the Fort Worth Construction Percentage would be 4.25% instead of 5% (or $.05 \times [\$2.55 \text{ million}/\$3 \text{ million}]$, or $.05 \times .85$, or $.0425$). If the Fort Worth Construction Commitment was met or exceeded, the Fort Worth Construction Percentage will be five percent (5%).

6.2.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Fort Worth Construction Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the Fort Worth Construction Commitment was met, which will be calculated by dividing the actual Hard Construction Costs expended for the Required Improvements by the Completion Date with Fort Worth Companies by \$3,000,000.00, which is the number of dollars comprising the Fort Worth Construction Commitment, as set forth in Section 4.2. For example, if Company only expended \$2,550,000.00 in Hard Construction Costs with Fort Worth Companies by the Completion Date, the Fort Worth Construction Percentage would be 2.125% instead of 2.5% (or $.05 \times [\$2.55 \text{ million}/\$3 \text{ million}]$, or $.025 \times .85$, or $.02125$). If the Fort Worth Construction Commitment was met or exceeded, the Fort Worth Construction Percentage will be two and one-half percent (2.5%).

6.3. M/WBE Construction Spending (10%).

A percentage of the Abatement granted in each year of the Abatement Term will be based on the whether the M/WBE Construction Spending Commitment, as outlined in Section 4.3, was met (the "M/WBE Construction Percentage"). If

Company met or exceeded the M/WBE Construction Spending Commitment, the M/WBE Construction Percentage for each Abatement hereunder will be ten percent (10%). If Company failed to meet the M/WBE Construction Spending Commitment, the M/WBE Construction Percentage for each Abatement hereunder will be zero percent (0%).

6.4. Overall Employment (10% in Years 1 and 2 of the Abatement Term; Up to 25% Thereafter).

A percentage of the Abatement will be based on the extent to which the applicable Overall Employment Commitment, as outlined in Section 4.4.1, was met (the "Overall Employment Percentage"), as follows:

6.4.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, if Company met the Overall Employment Commitment in the previous year, the Overall Employment Percentage will equal ten percent (10%). Notwithstanding anything to the contrary herein, because the Overall Employment Commitment applicable for the Abatement granted in these two years is 855 Full-time Jobs, if the Overall Employment Commitment was not met in the previous year in either case, an Event of Default will occur, as set forth in Section 7.2 of this Agreement.

6.4.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and in each subsequent year of the Abatement Term, subject to Section 7.2 of this Agreement, the Overall Employment Percentage will equal the product of twenty-five percent (25%) multiplied by the percentage by which the applicable Overall Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided in the previous year by the number of Full-time Jobs constituting the Overall Employment Commitment for that year. For example, in accordance with Section 4.4.1.2, the Overall Employment Commitment for the Fourth Operating Year is 1,034 Full-time Jobs. If, instead, only 931 Full-time Jobs were provided in Fourth Operating Year, the Overall Employment Percentage for the Abatement granted in the following year would be 22.5% instead of 25% (or $.25 \times [931/1,034]$), or $.25 \times .90$, or $.225$. If the applicable Overall Employment Commitment is met or exceeded in a given year, the Overall Employment Percentage for the Abatement granted in the following year will be twenty-five percent (25%).

6.5. Fort Worth Employment (Up to 2.5% in Year 3 and All Subsequent Years of the Abatement Term).

A Fort Worth Employment Commitment does not apply for the Abatements granted in the first two years of the Abatement Term. For the Abatement granted in the third and in each subsequent year of the Abatement Term, a percentage of the Abatement will be based on the extent to which the applicable Fort Worth Employment Commitment, as outlined in Section 4.4.2, was met (the "Fort Worth Employment Percentage"). The Fort Worth Employment Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the applicable Fort Worth Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided to Fort Worth Residents in the previous year by the number of Full-time Jobs constituting the Fort Worth Employment Commitment for that year. For example, the Fort Worth Employment Commitment for the Fifth Operating Year is, in accordance with Section 4.4.2.2, 377 Full-time Jobs. If in that year only 300 Full-time Jobs were provided to Fort Worth Residents, the Fort Worth Employment Percentage for the Abatement granted in following year would be 1.99% instead of 2.5% (or $.025 \times [300/377]$), or $.025 \times .796$, or $.0199$. If the applicable Fort Worth Employment Commitment is met or exceeded in a given year, the Fort Worth Employment Percentage for the Abatement granted in the following year will be two and one-half percent (2.5%).

6.6. Central City Employment (Up to 2.5% in Year 3 and All Subsequent Years of the Abatement Term).

A Central City Employment Commitment does not apply for the Abatements granted in the first two years of the Abatement Term. For the Abatement granted in the third and in each subsequent year of the Abatement Term, a percentage of the Abatement will be based on the extent to which the applicable Central City Employment Commitment, as outlined in Section 4.4.3, was met (the "Central City Employment Percentage"). The Central City Employment Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the applicable Central City Employment Commitment was met in the previous calendar year, which will be calculated by dividing the actual number of Full-time Jobs provided to Central City Residents in the previous year by the number of Full-time Jobs constituting the Central City Employment Commitment for that year. For example, the Central City Employment Commitment for the Third Operating Year is, in accordance with Section 4.4.3.1, 94 Full-time Jobs. If in that year only 80 Full-time Jobs were provided to Central City Residents, the Central City Employment Percentage for the Abatement granted in following year would be 2.12% instead of 2.5% (or $.025 \times [80/94]$), or $.025 \times .851$, or $.0212$. If the applicable Central City Employment Commitment is met or exceeded in a given year, the Central City Employment Percentage for the Abatement granted in the following year will be two and one-half percent (2.5%).

6.7. Supply and Service Spending (Up to 5% in Years 1 and 2 of the Abatement Term; Up to 2.5% Thereafter).

A percentage of the Abatement will be based on the extent to which the Supply and Service Spending Commitment, as outlined in Section 4.5, was met (the "Supply and Service Percentage"), as follows:

6.7.1. Years 1 and 2 of the Abatement Term.

For the Abatement granted in the first and second years of the Abatement Term, the Supply and Service Percentage will equal the product of five percent (5%) multiplied by the percentage by which the Supply and Service Spending Commitment was met in the previous calendar year, which will be calculated by dividing the actual Supply and Service Expenditures made in the previous calendar year with Fort Worth Companies by \$900,000.00, which is the Supply and Service Spending Commitment established under Section 4.5. For example, if in a given year Company only expended \$675,000.00 in Supply and Service Expenditures with Fort Worth Companies, the Supply and Service Percentage for the following year would be 3.75% instead of 5% (or $.05 \times [\$675,000/\$900,000]$, or $.05 \times .75$, or $.0375$). If the Supply and Spending Commitment is met or exceeded in a given year, the Supply and Service Percentage for the following year will be five percent (5%).

6.7.2. All Subsequent Years of the Abatement Term.

For the Abatement granted in the third and each subsequent year of the Abatement Term, the Supply and Service Percentage will equal the product of two and one-half percent (2.5%) multiplied by the percentage by which the Supply and Service Spending Commitment was met in the previous calendar year, which will be calculated by dividing the actual Supply and Service Expenditures made in the previous calendar year with Fort Worth Companies by \$900,000.00, which is the Supply and Service Spending Commitment established under Section 4.5. For example, if in a given year Company only expended \$675,000.00 in Supply and Service Expenditures with Fort Worth Companies, the Supply and Service Percentage for the following year would be 1.875% instead of 2.5% (or $.025 \times [\$675,000/\$900,000]$, or $.025 \times .75$, or $.01875$). If the Supply and Spending Commitment is met or exceeded in a given year, the Supply and Service Percentage for the following year will be two and one-half percent (2.5%).

6.8. Abatement Limitations.

In accordance with Section 15.5 of the Policy and notwithstanding anything to the contrary herein, Company's Abatement on the Land and any

improvements thereon in any given year of the Abatement Term will be based on the increase in the real property value of the Land and all improvements thereon over their value as of January 1, 2019, up to a maximum increase of Thirty-three Million Dollars (\$33,000,000.00). In other words, with regard to the real property tax Abatement, in any year in which the taxable value of the Land and all improvements thereon exceeds (i) the value of the Land and all improvements thereon as of January 1, 2019, plus (ii) \$33,000,000.00, Company's real property tax Abatement for that tax year will be capped and calculated as if the increase on the Land and all improvements thereon since January 1, 2019 had only been \$33,000,000.00. For example, and as an example only, if in a given year of the Abatement Term the value of the Land and all improvements on the Land is \$45,000,000.00 over their value as of January 1, 2019, Company would receive a maximum real property tax Abatement of fifty percent (50%) of \$33,000,000.00 in valuation for that year and would pay full taxes on the \$12,000,000.00 difference over the cap. The cap outlined in Section 15.5 of the Policy applies only to the Abatement on real property, and does not apply to the Abatement on the incremental value of New Taxable Tangible Personal Property.

7. **DEFAULT, TERMINATION AND FAILURE BY COMPANY TO MEET VARIOUS DEADLINES AND COMMITMENTS.**

7.1. **Failure to Meet Real Property Improvement Commitment.**

Notwithstanding anything to the contrary herein, if the Real Property Improvement Commitment, as outlined in Section 4.1, is not met, an Event of Default will occur and the City will have the right to terminate this Agreement, effective immediately, by providing written notice to Company without further obligation to Company hereunder.

7.2. **Failure to Maintain a Minimum of 855 Full-time Jobs.**

If Company and its Affiliates fail to maintain at least 855 Full-time Jobs in any year of the Compliance Auditing Term, as determined by the City on the basis of Company's employment report for such year submitted in accordance with Section 4.6.2 and the City's rights under Sections 4.7 and 4.8 of this Agreement, then notwithstanding anything to the contrary herein, an Event of Default will occur, and the City will have the right to terminate this Agreement, effective immediately, by providing written notice to Company without further obligation to Company hereunder.

7.3. Forfeiture for Failure to Meet Annual Salary Commitment.

Notwithstanding anything to the contrary herein, if the Annual Salary Commitment in the Third Operating Year or any subsequent year during the Compliance Auditing Term is not met, as determined by the City on the basis of Company's employment report submitted in accordance with Section 4.6.2 for such year and the City's rights under Sections 4.7 and 4.8 of this Agreement, an Event of Default will not occur, but Company will forfeit the entirety of the Abatement that would otherwise have been granted in the following year. In this event, Company will nevertheless have been deemed to have received an Abatement in that year for purposes of calculating the remaining number of years in the Abatement Term and the number of future Abatements that Company will be entitled to receive.

7.4. Foreclosure on Land or Required Improvements.

Subject to Section 11, the City will have the right to terminate this Agreement immediately upon provision of written notice to Company of any of the following events: (i) the conveyance of the Land or the Required Improvements to a non-Affiliate pursuant to an action to foreclose or otherwise enforce a lien, mortgage or deed of trust on the Land or the Required Improvements; (ii) the involuntary conveyance to a third party of the Land or the Required Improvements; (iii) execution of any assignment of the Land or Required Improvements to a non-Affiliate or deed in lieu of foreclosure to the Land or Required Improvements to a non-Affiliate; or (iv) appointment of a trustee or receiver for the Land or Required Improvements and such appointment is not terminated within one hundred twenty (120) calendar days after the appointment occurs.

7.5. Failure to Pay Taxes or Non-Compliance with Other Legal Requirements.

An Event of Default will occur if any ad valorem taxes owed to the City by Company become delinquent and Company does not timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes, or Company is in violation of any material Legal Requirement due to any act or omission connected with Company's operations on the Land; provided, however, that an Event of Default shall not exist under this sentence if Company cures the applicable failure or violation within thirty (30) calendar days (or such additional time as may be reasonably required) after City provides written notice of such failure or violation.

7.6. Knowing Employment of Undocumented Workers.

Company acknowledges that effective September 1, 2007, the City is required to comply with Chapter 2264 of the Texas Government Code, enacted by House Bill 1196 (80th Texas Legislature), which relates to restrictions on the use of certain public subsidies. *Company hereby certifies that Company, and any*

branches, divisions, or departments of Company, does not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code. In the event that Company, or any branch, division, or department of Company, is convicted of a violation under 8 U.S.C. Section 1324a(f) (relating to federal criminal penalties and injunctions for a pattern or practice of employing unauthorized aliens) and such violation occurs during the Term of this Agreement:

- if such conviction occurs during the Term of this Agreement, this Agreement shall terminate contemporaneously upon such conviction (subject to any appellate rights that may lawfully be available to and exercised by Company) and Company shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the City, the aggregate amount of Abatement received by Company hereunder, if any, plus Simple Interest at a rate of two percent (2%) per annum based on the amount of Abatement received in each previous year as of December 31 of the tax year for which the Abatement was received; or*
- if such conviction occurs after expiration or termination of this Agreement, subject to any appellate rights that may lawfully be available to and exercised by Company, Company shall repay, within one hundred twenty (120) calendar days following receipt of written demand from the City, the aggregate amount of Abatement received by Company hereunder, if any, plus Simple Interest at a rate of two percent (2%) per annum based on the amount of Abatement received in each previous year as of December 31 of the tax year for which the Abatement was received.*

For the purposes of this Section 7.6, "Simple Interest" is defined as a rate of interest applied only to an original value, in this case the aggregate amount of Abatement. This rate of interest can be applied each year, but will only apply to the aggregate amount of Abatement and is not applied to interest calculated. For example, if the aggregate amount of Abatement is \$10,000 and it is required to be paid back with two percent (2%) interest five years later, the total amount would be $\$10,000 + [5 \times (\$10,000 \times 0.02)]$, which is \$11,000. This Section 7.6 does not apply to convictions of any subsidiary or affiliate entity of Company, by any franchisees of Company, or by a person or entity with whom Company contracts. Notwithstanding anything to the contrary herein, this Section 7.6 shall survive the expiration or termination of this Agreement.

7.7. General Breach.

In addition to Sections 7.1, 7.2, 7.4, and 7.6, and subject to Sections 7.3 and 7.8, an Event of Default under this Agreement will occur if either party materially breaches any term or condition of this Agreement, in which case the non-defaulting party must provide the defaulting party with written notice specifying the nature of the Default. Subject to Sections 7.1, 7.2, and 7.4, in the event that any Event of

Default hereunder remains uncured after thirty (30) calendar days following receipt of such written notice (or, if the defaulting party has diligently and continuously attempted to cure following receipt of such written notice but reasonably requires more than thirty (30) calendar days to cure, then such additional amount of time as is reasonably necessary to effect cure, as determined by both parties mutually and in good faith), the non-defaulting party will have the right to terminate this Agreement, effective immediately, by providing written notice to the defaulting party.

7.8. Failure to Meet Other Commitments.

A failure to meet the Fort Worth Construction Commitment, the M/WBE Construction Spending Commitment, the Overall Employment Commitment (but subject to Section 7.2), the Fort Worth Employment Commitment, the Central City Employment Commitment, or the Supply and Service Spending Commitment will not constitute an Event of Default hereunder or provide the City with the right to terminate this Agreement, but, rather, shall only cause the percentage or amount of Abatement available to Company pursuant to this Agreement to be reduced in accordance with this Agreement.

7.9. Statutory Damages.

Company acknowledges and agrees that termination of this Agreement due to an Event of Default by Company will (i) harm the City's economic development and redevelopment efforts on the Land and in the vicinity of the Land; (ii) require unplanned and expensive additional administrative oversight and involvement by the City; and (iii) be detrimental to the City's general economic development programs, both in the eyes of the general public and by other business entities and corporate relocation professionals, and Company agrees that the exact amounts of actual damages sustained by the City therefrom will be difficult or impossible to ascertain. Therefore, upon termination of this Agreement for any Event of Default, and as authorized by Section 312.205(b)(6) of the Code, Company must pay the City, as damages authorized by the Code, an amount equal to all taxes that were abated in accordance with this Agreement for each year in which an Event of Default existed and which otherwise would have been paid to the City in the absence of this Agreement. The City and Company agree that this amount is a reasonable approximation of actual damages that the City will incur as a result of an uncured Event of Default and that this Section 7.9 is intended to provide the City with compensation for actual damages, as authorized by the Code, and is not a penalty. This amount may be recovered by the City through adjustments made to Company's ad valorem property tax appraisal by the appraisal district that has jurisdiction over the Land and over any taxable tangible personal property located thereon. Otherwise, this amount will be due, owing and paid to the City within one hundred twenty (120) days following the effective date of termination of this Agreement. In the event that all or any portion of this amount is not paid to the City within one hundred twenty (120) days following the effective date of

termination of this Agreement, Company shall also be liable for all penalties and interest on any outstanding amount at the statutory rate for delinquent taxes, as determined by the Code at the time of the payment of such penalties and interest (currently, Section 33.01 of the Code).

7.10 Failure to Submit Reports or Grant Abatement.

7.10.1. By Company.

If Company is required by Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder to file, submit, or complete any kind of documentation or report as a condition necessary for Company to receive any Abatement pursuant to this Agreement, Company shall solely be responsible for fulfilling that obligation and shall have no recourse against the City if Company fails to receive any Abatement as a result of Company's failure to file, submit, or complete such documentation.

7.10.2. By the City.

If City is required by Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder to file, submit, or complete any documentation or report necessary for Company to receive any Abatement pursuant to this Agreement, or if City fails to grant and/or effectuate an Abatement due to Company pursuant to this Agreement in any given year during the Term, and if no Event of Default exists due to Company's failure to comply with this Agreement, the Term of this Agreement and the Abatement Term shall be automatically extended on a year-to-year basis (the "Extension Term") until the Company receives and the City provides the Abatement provided by this Agreement. In this event, the aggregate value of any future Abatement or Abatements that Company may be granted during the Extension Term may not exceed the aggregate value of the Abatement or Abatements that Company did not receive but otherwise would have received if the City had granted, effectuated, or filed, submitted, and completed the necessary documentation or reports.

7.10.3. Dispute Resolution.

If Company fails to receive any Abatement on account of a failure of documentation to be filed, submitted, or completed to Tarrant Appraisal District or any other appraisal district, governmental agency or entity with legal authority to effectuate an Abatement hereunder, and there is a reasonably-based dispute between the City and Company as to whether the City or Company was responsible for such failure, then the City and Company agree to meet promptly and in good faith attempt to negotiate a

mutually-acceptable and equitable remedy, with the understanding that this Section 7.10 does not guarantee that the City and Company will be able to agree on any particular remedy.

8. INDEPENDENT CONTRACTOR.

It is expressly understood and agreed that Company shall operate as an independent contractor in each and every respect hereunder and not as an agent, representative or employee of the City. Company shall have the exclusive right to control all details and day-to-day operations relative to the Land and any improvements thereon and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees and invitees. Company acknowledges that the doctrine of *respondeat superior* will not apply as between the City and Company, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. Company further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the City and Company.

9. INDEMNIFICATION.

COMPANY, AT NO COST TO THE CITY, AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS SERVANTS AND EMPLOYEES (COLLECTIVELY, THE "INDEMNIFIED PARTIES"), HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO COMPANY'S BUSINESS AND ANY RESULTING LOST PROFITS) AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY (i) COMPANY'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (ii) ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF COMPANY, ITS OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, CONTRACTORS (OTHER THAN THE CITY) OR SUBCONTRACTORS, RELATED TO THE REQUIRED IMPROVEMENTS, THE LAND AND ANY OPERATIONS AND ACTIVITIES THEREON, OR THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS AGREEMENT SHALL OBLIGATE OR REQUIRE COMPANY TO DEFEND, INDEMNIFY, AND HOLD THE INDEMNIFIED PARTIES HARMLESS FOR ANY CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF ANY OR ALL OF THE INDEMNIFIED PARTIES. THIS SECTION SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

10. **NOTICES.**

All written notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail, postage prepaid, or by hand delivery:

City:

City of Fort Worth
Attn: City Manager
200 Texas Street
Fort Worth, TX 76102

Company:

Ben E. Keith Company
Attn: Legal Dept.
601 E. 7th Street
Ft. Worth, TX 76102

with copies to:

the City Attorney at the same address and
to the Director at:

City of Fort Worth
Attn: Director
Economic Development Department
1150 South Freeway
Fort Worth, TX 76104

11. **EFFECT OF SALE OF LAND AND/OR REQUIRED IMPROVEMENTS;
ASSIGNMENT AND SUCCESSORS.**

Company may assign this Agreement and all or any of the benefits provided hereunder to (a) an Affiliate that owns or takes title to the Land and any improvements thereon or any New Taxable Tangible Personal Property or (b) a successor to Company by merger or consolidation only if (i) prior to or contemporaneously with the effectiveness of such assignment, Company provides the City with written notice of such assignment, which notice must include the name of the Affiliate or successor by merger or consolidation and a contact name, address and telephone number for the Affiliate or successor, and (ii) the Affiliate or successor by merger or consolidation agrees in writing to assume all terms and conditions of Company under this Agreement. Otherwise, Company may not assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any other person or entity without the prior consent of the City Council, which consent will not be unreasonably withheld, conditioned on (i) the proposed assignee or successor agrees to take title to the Land and all improvements thereon and any New Taxable Tangible Personal Property; (ii) the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement; and (iii) prior execution by the proposed assignee or successor of a written agreement with the City under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of Company under this Agreement. Any attempted assignment without the City Council's prior consent shall

constitute an Event of Default under this Agreement. Any lawful assignee or successor in interest of Company of all rights under this Agreement shall be deemed "Company" for all purposes under this Agreement.

12. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

This Agreement is subject to all applicable Legal Requirements.

13. GOVERNMENTAL POWERS.

It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

14. SEVERABILITY.

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. NO WAIVER.

The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

16. VENUE AND JURISDICTION.

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas – Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

17. NO THIRD PARTY RIGHTS.

The provisions and conditions of this Agreement are solely for the benefit of the City and Company, and any lawful assign or successor of Company, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

18. INTERPRETATION.

In the event of any dispute over the meaning or application of any provision of this Agreement, this Agreement shall be interpreted fairly and reasonably, and neither more strongly for or against any party, regardless of the actual drafter of this Agreement. In the event of any conflict between the body of this Agreement and the Application, the body of this Agreement shall control.

19. CAPTIONS.

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

20. ENTIRETY OF AGREEMENT.

This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Company, and any lawful assign and successor of Company, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement. Notwithstanding anything to the contrary herein, this Agreement shall not be amended unless executed in writing by both parties and approved by the City Council of the City in an open meeting held in accordance with Chapter 551 of the Texas Government Code.

21. COUNTERPARTS.

This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

22. BONDHOLDER RIGHTS.

The Required Improvements will not be financed by tax increment bonds. This Agreement is subject to the rights of holders of outstanding bonds of the City.

23. CONFLICTS OF INTEREST.

Neither the Land nor any improvements thereon are owned or leased by any member of the City Council, any member of the City Plan or Zoning Commission or any member of the governing body of any taxing unit with jurisdiction in the Zone.

EXECUTED as of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT THREE (3) PAGES]

CITY OF FORT WORTH:

By: *Kevin Gunn*
Susan Alanis *Kevin Gunn*
Acting Assistant City Manager

Date: 4/18/2019

APPROVED AS TO FORM AND LEGALITY:

By: *Peter Vaky*
Peter Vaky
Deputy City Attorney

Attested by: *Mary J. Kayser*
Mary J. Kayser, City Secretary



M&C: C-29042 02-12-2019

Form 1295: 2019-444916

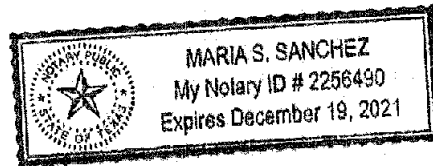
STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared ^{*Kevin*} ~~Susan~~ ^{*Gunn*} ~~Alanis~~, Assistant City Manager of the **CITY OF FORT WORTH**, a municipal corporation organized under the laws of the State of Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the **CITY OF FORT WORTH**, that he was duly authorized to perform the same by appropriate resolution of the City Council of the City of Fort Worth and that he executed the same as the act of the **CITY OF FORT WORTH** for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 18th day of April, 2019.

Maria S. Sanchez
Notary Public in and for
the State of Texas
MARIA S. SANCHEZ
Notary's Printed Name



BEN E. KEITH COMPANY,
a Texas corporation:

By: MSF
Name: Mike Sweet
Title: President, Ben E. Keith Foods

Date: 4-15-19

STATE OF TEXAS §

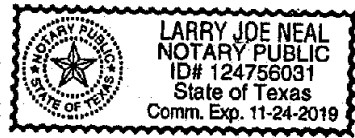
COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared Mike Sweet, President of BEN E. KEITH COMPANY, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of BEN E. KEITH COMPANY.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 15th day of April, 2019.

Larry Joe Neal
Notary Public in and for
the State of Texas

Larry Joe Neal
Notary's Printed Name



CONTRACT COMPLIANCE MANAGER:

By signing below, I hereby acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements:

By: _____

Name of City Employee:

Title: Business Development Coordinator

EXHIBITS

“A” – Description and Map Depicting the Land

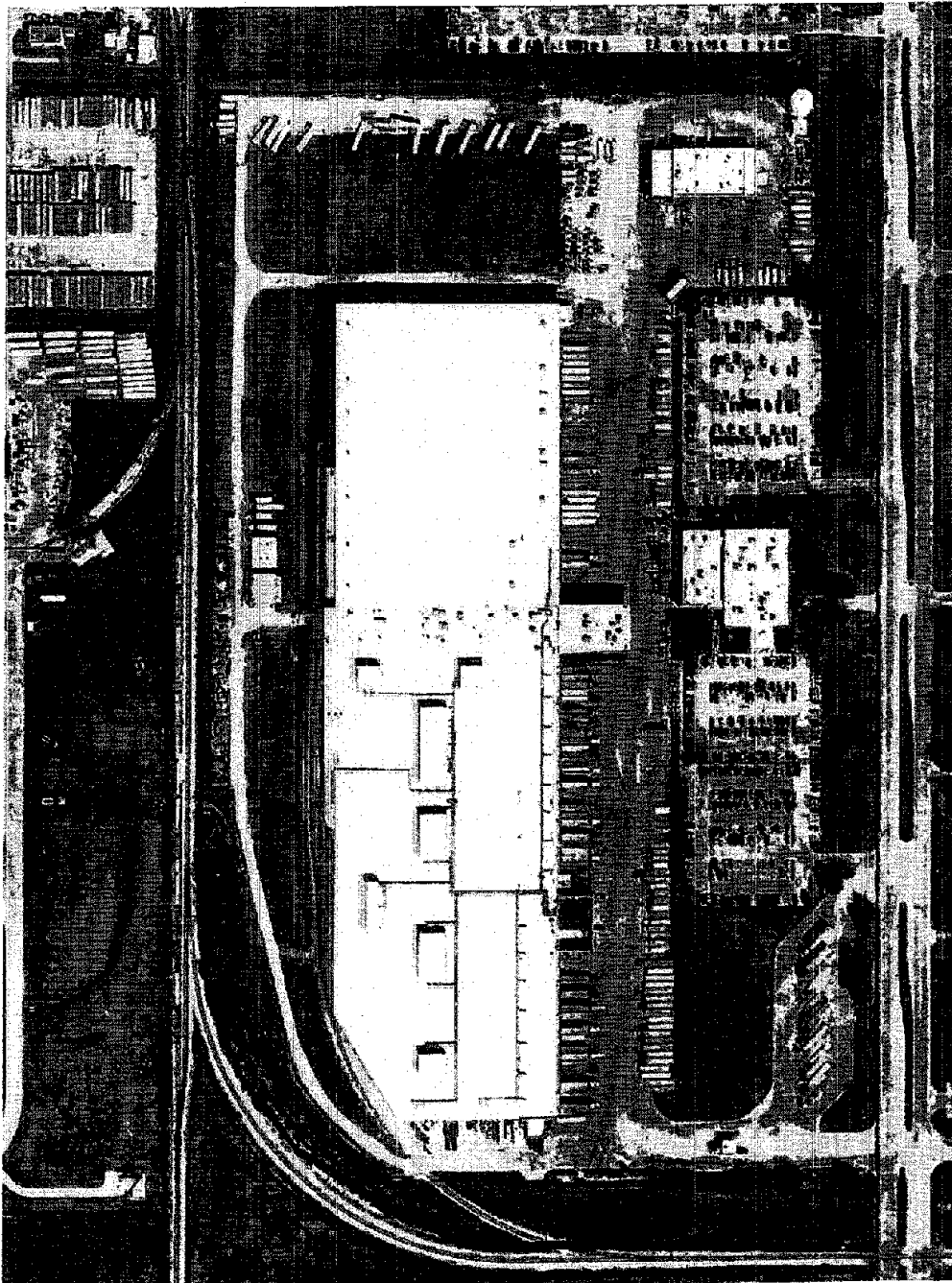
“B” – Company’s Tax Abatement Application

“C” – Map of Central City

EXHIBIT "A"
LEGAL DESCRIPTION

Being all of Lot 4, Block 4 of the Cater Industrial Park, an addition to the City of Fort Worth, Tarrant County, Texas according to the plat recorded in Document No. D199122589, Deed Records, Tarrant County, Texas

Map generally outlining boundary of the Land, currently designated as Tarrant Appraisal District Account No. 07345925:





Economic Development Incentive Application

Economic Development Department
1150 South Freeway
Fort Worth, Texas 76104
(817) 871-6021

Incentive Application

APPLICANT INFORMATION

Date: August 30, 2018

Company Name: Ben E. Keith Company

Company Address: 601 E. 7th Street

City: Fort Worth

State: TX

Zip: 76102

Contact Person: Eric Alexander

Title/Position: Associate General Counsel

Telephone Number: 817-759-6107

Mobile Telephone Number: _____

Fax Number: _____

E-Mail Address: ebalexander@benekeith.com

1. If the applicant represents a Company: (If a Developer and not a Company, proceed to #2.)

A. Company Ownership (check one): Publicly Traded Stock Privately Held

B. Form of Business (choose one): Corporation

C. How long has the company been in operation (Years)? 112

D. Company Industry: Broadline foodservice distribution

E. Describe the Company's principal business:

See attached "Project Description"

F. Describe the Company's international presence, if any:

BEK's DFW regional HQ has no international presence. BEK's San Antonio Division does a small amount of business in Mexico.

G. Describe the Company's corporate citizenship practices:

See attached "Corporate Citizenship Practices"

2. If the applicant represents a Developer:

A. Describe the Developer's experience and background. Please include similar projects that you have constructed including the project type and location (attach additional sheets as necessary):

B. Development Partners (Architect, Engineering Team, Interior Design, General Contract, etc.)

II PROJECT INFORMATION

Please include below the project description, project benefits and how the project positively impacts the community. Any incentives given by the City should be considered only "gap" financing and should not be considered a substitute for debt and equity. However, the City is under no obligation to provide gap financing just because a gap exists. In order for a Company or Developer to be eligible to receive incentives for a project, the Company/Developer:

- A. Must complete and submit this application and the application fee to the City;
- B. Company/Developer or Company/Developer's principals must not be delinquent in paying property taxes for any property owned in Fort Worth;
- C. Company/Developer or Company/Developer's principals must not have ever been subject to the City of Fort Worth's Building Standards Commission's Review;
- D. Company/Developer or Company/Developer's principals must not have any City of Fort Worth liens filed against any other property owned by the applicant property owner/developer. "Liens" includes, but is not limited to, weed liens, demolition liens, board-up/open structure liens and paving liens.

1. Project Description (attach additional sheets as necessary):

See attached "Project Description"

2. In what way will the project benefit the surrounding area or serve as a catalyst for additional development and/or business opportunities for the local economy (i.e. attract suppliers or customers)?

See attached "Project Description"

3. Describe how the project positively impacts the community.

See attached "Project Description"

III PROJECT DETAILS

1. Proposed Project Site Address: 7650 Will Rogers Blvd., Fort Worth, TX 76140

2. Proposed Project Site Land Size (Acres): 51+ acres

3. Will environmental remediation be required? No

4. Is this an existing facility or will a new facility be constructed? New Existing

A. If new, what is the construction: Anticipated Start Date: 11/2018 Anticipated Completion Date: 06/2020

B. If existing, is this an adaptive reuse? It is an expansion to the existing facility so it is not an adaptive reuse

5. Type of Project (choose one): Commercial/Industrial

6. Building Area (Square Feet) Requirements:

(a) Office _____

(b) Manufacturing _____

(c) Warehouse 183,000

(d) Showroom/Retail _____

(e) Other _____

Total Area (a+b+c+d+e): 183,000 SF

7. Will this facility be LEED certified, and if so, at what level? No

8. Public open space included within the proposed project site: None SF/Acres

III PROJECT DETAILS (Continued)

9. If the applicant represents a Company: (If a Developer and not a Company, proceed to #10.)

A. Is the Company expanding its existing local operations or relocating its operations from somewhere else to our area?

Expansion Relocation

B. If a relocation, where is the company currently located? N/A

C. Does the company plan to lease or own the facility in Fort Worth? Lease Own

D. If the company is planning to lease space in Fort Worth, what is the lease term? N/A Years

E. Describe the specific operations and services to be provided or products to be manufactured at the proposed Fort Worth facility (attach additional sheets as necessary):

BEK is primarily a distribution company, and no products will be manufactured at this site. BEK will continue its existing operation as a broadline foodservice distribution company, and will be receiving products from suppliers and shipping products to its customers from this facility. This facility will retain its sales and administrative offices as well, as it operates as the DFW regional HQ.

10. Development requests that will be sought for the project (select all that apply):

Replat

Rezoning Current Zoning: _____ Requested Zoning: _____

Variances If yes, please describe: _____

Downtown Design Review Board

Landmark Commission

Public Infrastructure Assistance

11. Real Estate Investment

A. Current Assessed Valuation of: Land \$ 3,504,570 Improvements \$ 17,095,430

B. Total Construction Costs: \$ 27,000,000 [estimated]

C. Hard Construction Costs: \$ 25,000,000 [estimated]

12. Business Personal Property and Inventory

A. Business Personal Property

Total investment on equipment, machinery, furnishing, etc.: \$ 11,000,000.00 Lease Purchase

*Estimated taxable value of equipment, machinery, furnishing, etc.: \$ See "BPP Explanation"

*This is the value that will be on the tax rolls which includes all tangible property.

B. Inventory and Supplies

Value of Inventory: \$ See email explanation Value of Supplies: \$ See email explanation

Percent of inventory eligible for Freeport Exemption (inventory, exported from Texas within 175 days) 0 %

13. Total Capital Investment (Real Estate and Business Personal Property): \$ 36,000,000.00

IV EMPLOYMENT AND JOB CREATION

On the Project Site

1. How many persons are currently employed? 855

2. What percent of current employees above are Fort Worth residents? 34.15 %

3. What percent of current employees above are Central City residents? 9.59 %

IV. EMPLOYMENT AND JOB CREATION (Continued)

4. Please complete the following table for new jobs to be created from direct hire by applicant.

	Currently	At Completion	Estimated By Fifth Year	Estimated By Tenth Year
Retained Jobs	855	952	1235	1235
New Jobs to be Created	-	97	283	283
Total Jobs at Project Site	855	952	1235	1235
% of Net Jobs to be filled by Fort Worth Residents	34.15%	not available	not available	not available
% of Net Jobs to be filled by Central City residents	9.59%	not available	not available	not available

5. Please attach a description of the jobs to be created, tasks to be performed for each and wage rate for each classification.

6. Does the applicant provide the following benefits: Retirement Health Dental Domestic Partner

7. Average wage paid to employees to be located at the project site: \$ 73,000.00 (2018 average)

8. Describe the Company's talent recruitment efforts:

BEK works with many organizations to recruit employees. In 2018 alone, BEK already participated in 17 recruiting & outreach events, with more to come. Some of the organizations include Fort Worth Housing Authority, Texas Work Force, Tarrant County College, Fort Worth ISD, Tarrant County Housing, Young Adult Job Fair, and Resource Connection. BEK also utilizes job posting websites such as indeed.com and LinkedIn.

V. INCENTIVES REQUEST

Incentive(s) Requested: Tax Abatement Chapter 380 Economic Development Program Grant

Do you intend to pursue abatement of County taxes? Yes No

If requesting a Tax Abatement, please refer to the Tax Abatement Policy for a comprehensive explanation of eligibility requirements.

VI. LOCAL COMMITMENTS

During Construction

1. What percent of the total construction costs described in Section III, Question 11 will be committed to:

A. Fort Worth businesses? _____ %

B. Fort Worth Certified Minority and Women Business Enterprises? _____ %

For Annual Supply and Service Needs

Regarding discretionary supply and service expenses (i.e landscaping, office or manufacturing supplies, janitorial services, etc., excluding utilities):

2. What is the annual amount of discretionary supply and service expenses? \$ 6,021,000 in FY 2018

3. What percentage will be committed to Fort Worth businesses? _____

4. What percentage will be committed to Fort Worth Certified Minority and Women Business Enterprises? _____

VII. DISCLOSURES

Is any person or firm receiving any form of compensation, commission or other monetary benefit based on the level of incentive obtained by the applicant from the City of Fort Worth? If yes, please explain and/or attach details.

No

VIII. ADDITIONAL INFORMATION (TO BE ATTACHED)

These documents must be submitted with the application, otherwise the application will be deemed incomplete and will not be reviewed:

- a.) Attach a site plan of the project.
- b.) Explain why incentives are necessary for the success of this project. Include a business pro-forma or other documentation to substantiate your request.
- c.) Describe any environmental impacts associated with this project.
- d.) Describe the infrastructure improvements (water, sewer, streets, etc.) that will be constructed as part of this project.
- e.) Attach a talent recruitment plan, if applicable.
- f.) Attach a legal description or surveyor's certified metes and bounds description.
- g.) Attach a copy of the most recent property tax statement from the appropriate appraisal district for all parcels involved in the project.
- h.) Attach a brief description of the employee benefit package(s) offered (i.e. health insurance, retirement, public transportation assistance, day care provisions, etc.) including portion paid by employee and employer respectively.
- i.) Attach a plan for the utilization of Fort Worth Certified M/WBE companies.
- j.) Attach a listing of the applicant's Board of Director's, if applicable.
- k.) Attach a copy of Incorporation Papers noting all principals, partners, and agents and all Fort Worth properties owned by each.
- l.) Attach the purchasing representative's company contact information if known.

The company is responsible for paying \$5,000 as an application fee. If the application is withdrawn before the project is presented to City Council in Executive Session, the fee is refunded. Upon presentation to City Council in Open Session, \$2,000 is non-refundable and is applied to offset costs incurred by the Economic Development Department. Upon approval by City Council, the balance of \$3,000 can be credited towards required building permits, inspections fees, replatting fees, and other costs of doing business with the City related to the development. Any unused credit balance upon completion of the project will be refunded upon request from the company.

IX. CERTIFICATION

On behalf of the applicant, I certify the information contained in this application, including all attachments to be true and correct. I further certify that, on behalf of the applicant, I have read the current Incentive Policy and all other pertinent City of Fort Worth policies and I agree with the guidelines and criteria state therein.

Printed Name: Eric Alexander

Title: Associate General Counsel

Date: 08/30/2018

Signature: 

Project Description

Ben E. Keith Company d/b/a Ben E. Keith Foods ("BEK") is a broadline foodservice distribution company which offers more than 20,000 products to its customers. BEK's customer base includes independent restaurants, chain restaurants, hospitals, hotels, schools, country clubs, bars, and other businesses preparing/serving food on-site.

BEK is considering adding approximately 183,000 square feet to its existing Dallas-Fort Worth Division regional headquarters facility located at 7650 Will Rogers Blvd., Fort Worth, Texas. The expansion would not require a replat or zoning changes. BEK anticipates the total hard cost of construction to be approximately \$25 million, and the total investment in business personal property to be approximately \$11 million.

The expansion is projected to create approximately 283 new full-time jobs (administrative, sales, transportation, warehouse) five years following the expansion completion. The DFW Division's gross payroll for fiscal year 2018 was \$62.6 million, which is expected to increase to \$111.1 million five years following the expansion completion. In BEK's fiscal year 2018, the average sales and administrative employee at the DFW Division was paid \$101,651 and the average transportation and warehouse employee was paid \$58,581 (vs. Tarrant County per capita income of \$48,050 and median household income of \$61,553, per the 2016 US Census). After the first year following the expansion completion, the average annual wage for sales and administrative employees at the DFW Division is projected to be \$111,700 while the average annual wage for transportation and warehouse employees is projected to be \$63,900. After five years following completion, the average projections increase to \$126,200 for sales and administrative employees and \$71,900 for transportation and warehouse employees.

Aside from the increase in full-time jobs and taxable property, BEK's expansion will benefit the surrounding area due to BEK's continued philanthropical commitments to local organizations, its focus on serving independent businesses, and its local purchasing commitments. BEK is a longtime Fort Worth company and its continued presence will positively impact the community by providing both its existing employees and new employees hired as a result of this expansion with above average compensation and very competitive retirement and insurance benefits. BEK's compensation and benefits structure makes it less likely that its employees will require governmental assistance.

Corporate Citizenship Practices

BEK's DFW Division partners with many local organizations in pursuit of maintaining its reputation as an exemplary corporate citizen. BEK strongly believes in giving back to the community and has partnered with organizations such as Folds of Honor (a non-profit organization that provides educational scholarships to spouses and children of fallen or disabled military service members) as well as the American Heart Association, American Cancer Association, March of Dimes, Habitat for Humanity, and local food banks, shelters, and schools.

BEK believes being an exemplary corporate citizen also means employing environmental-friendly measures in its day-to-day operations. Some examples of green initiatives undertaken by the BEK DFW Division are:

- BEK trucks are equipped with next generation engines to produce less carbon emissions. Excessive idle on the trucks is monitored, which will automatically shut off if left idling.
- 3rd party audits on refrigeration systems, lighting and all energy usage. Conference calls are routinely held to monitor such usage.

- All lighting is LED. The warehouse has motion-sensing LED lighting, which will automatically shut off after a certain period of time when no movement has been detected.
- Recycling program that includes shrink wrap and cardboard.
- White reflective roof to reduce energy usage.
- BEK uses Roadnet route optimization software to reduce miles traveled and fuel used for deliveries.
- Several paperless technologies employed, such as electronic driver logs, online ordering platform for customers, and ACH payments.

Response to Section IV.5

The jobs to be created are generally broken down into 2 categories: (i) administrative and sales positions and (ii) transportation and warehouse positions.

Administrative and Sales Positions

Description: Five years following the expansion completion, BEK projects 95 additional administrative and sales positions to have been created with the average projected annual wage for an administrative or sales employee being \$126,200.

Administrative employees generally work in an office setting and perform various tasks depending on the department they are assigned to, such as compliance, credit, human resources, information services, logistics, marketing, purchasing, safety, etc. The specific duties of each position vary depending on which department an employee is assigned.

Sales employees generally are tasked with servicing existing customers and obtaining new customers. Sales representatives, sales managers, and business development specialists all use their product knowledge to help customers make the right purchases for their businesses.

Transportation and Warehouse Positions

Description: Five years following the expansion completion, BEK projects 188 additional transportation and warehouse positions to have been created with the average projected wage for a transportation and warehouse employee being \$71,900.

Transportation employees are involved in ensuring products are delivered to customers in a safe and timely manner from the warehouse. Drivers sometimes have helpers who accompany drivers on routes to assist with deliveries.

Warehouse employees are involved in receiving inbound product, ensuring all product is properly and safely stored in the warehouse, and preparing product to be shipped to customers. There are several categories of warehouse positions and several layers of management within the warehouse employee group.

BPP Explanation

At this moment, BEK cannot currently provide the "estimated taxable value of equipment, machinery, furnishing, etc." as requested in Section III, Question 12.A. Instead, BEK offers the following explanation, but could possibly supplement the application at a later date with an estimated value once the breakdown of BPP investment is more defined:

“The equipment is depreciated by the appraisal district based upon its original cost installed, and year of acquisition. The appraisal districts and assessors use their depreciation schedules to depreciate the original cost of the equipment. Each year the original cost of the equipment accumulates more depreciation as it ages, until it reaches a “floor value”.

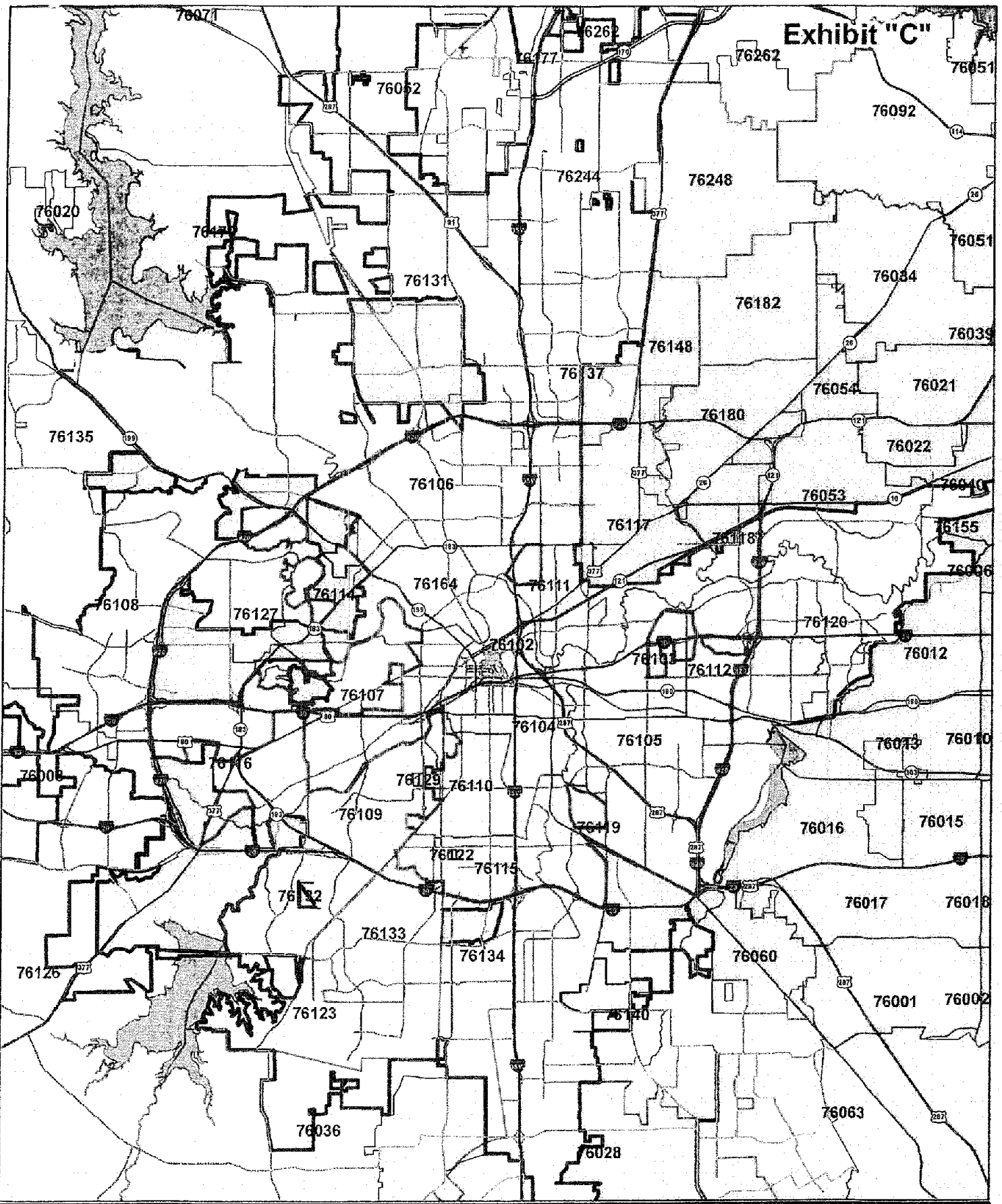
There are different categories of equipment with varying degrees of depreciation, depending upon the asset category, i.e., computers, machinery, furniture, vehicles, etc.

The standard for valuation in Texas is the fair market value of the equipment. At times, there are additional factors that may increase depreciation in order to arrive at fair market value.”

Section VIII – Additional Information

- a. See attached “Ex. A - Fort Worth Site Plan”
- b. Economic incentives make the project feasible for BEK and help the project advance as planned. If incentives are not obtained, BEK may consider other options for expansion, whether at another facility or a new location. The foodservice distribution industry is a low-margin business and economic incentives are very helpful in allowing BEK to expand its operations.
- c. The expansion will produce no known or anticipated environmental impacts.
- d. The expansion will require no known or anticipated infrastructure improvements aside from extending the existing utilities to the expansion area as needed.
- e. See Section IV.8 of the Application.
- f. See attached “Ex. F - Fort Worth metes & bounds description”
- g. See attached “Ex. G1 - Real Property Statement 2017” and “Ex. G2 - Personal Property Statement 2017”
- h. BEK offers health, dental, and vision insurance. In addition, BEK offers a 401(k) plan with a 4% match (the plan also includes company-funded profit sharing benefits), educational assistance, life insurance, and long-term and short-term disability programs. Please see the attached “Ex. H - BEK Insurance Benefits” for further information.
- i. BEK conducts business with several historically underutilized business (HUB) certified vendors. BEK and the City of Fort Worth will work together to identify which HUBs are currently “Fort Worth Certified M/WBE” companies, in addition to other “M/WBE” companies.
- j. Robert Hallam, Howard Hallam, John H. Hallam, Robert Hallam, Jr., John C. Hallam, James Hallam, Kevin Bartholomew, Mike Sweet, Gordon Crow, Craig Woodcock
- k. See attachment “Ex. K - BEK Incorporation Papers”
- l. Not applicable to this project.

Exhibit "C"



Legend

- Central City Boundary
- Zip Codes
- CDBG Eligible Area
- City Limit



Updated 08/27/2014

Housing and Economic Development CDBG Eligible Areas & Central City



EXHIBIT "C"

TARRANT COUNTY TAX ABATEMENT APPLICATION



Tarrant County

Application for Tax Abatement/Reinvestment Zone

I. APPLICANT INFORMATION

Applicant/Property Owner: Ben E. Keith Company
Company/Project Name: Ben E. Keith Company
Mailing Address: 601 E. 7th Street, Fort Worth, TX 76102
Telephone: 817-759-6107 **Fax:**

Applicant's Representative for contact regarding abatement request:

Name and Title: Eric Alexander
Mailing Address: 601 E. 7th Street, Fort Worth, TX 76102
Telephone: 817-759-6107 **Fax:** **E-mail:** ebalexander@benekeith.com

II. PROPERTY AND PROJECT DESCRIPTION

Address and legal description of property to be considered for Tax Abatement/Reinvestment Zone: 7650 Will Rogers Blvd, Fort Worth, TX 76140 (Please see attached "Exhibit A - Fort Worth metes & bounds description" for legal description)

Project Description: Please see attached "Exhibit B - Additional Information"

Description of activities, products, or services produced and/or provided at project location: Broadline foodservice distribution

Current Assessed Value: Real Property: \$21,687,000 (2018) Personal Property: \$67,311,420 (2018)

Estimated start date of construction/site improvements: July 31, 2019

Projected date of occupancy/commencement of operations at project site: June 30, 2021

Please indicate dates for phases if applicable: N/A

Location of existing company facilities: 7650 Will Rogers Blvd, Fort Worth, TX 76140

Requested level of Tax Abatement: 50% of eligible real and personal property for 7 years (same as City of Fort Worth committed)

Explain why tax abatement is necessary for the success of this project. Include business pro-formas or other information to substantiate your request. Tax abatements make the project feasible for BEK and help the project advance as planned. If abatements are not obtained, BEK may consider other options for expansion, whether at another facility or a new location. The foodservice distribution industry is a low-margin business and economic incentives are very helpful in allowing BEK to expand its operations.

III. PROJECTED VALUE OF IMPROVEMENTS

Estimated Value of Real Property Improvements \$27,000,000

Estimated Value of Personal Property Improvements \$11,000,000

Will any infrastructure improvements (roads, drainage, etc.) be requested of Tarrant County for this project?

Yes No

If yes, describe requested infrastructure improvements: Potentially require extension of existing utilities to the expansion area as needed

Detail any direct benefits to Tarrant County as a result of this project (i.e., inventory tax, etc.): Aside from the increase in full-time jobs and taxable property, BEK's expansion will benefit the County due to BEK's continued philanthropic commitments to local organizations, its focus on serving independent business, and its local purchasing commitments. BEK is a longtime Tarrant County company and its continued presence will positively impact the community by providing both its existing employees and new employees hired as a result of this expansion with compensation well above the County average and very competitive retirement and insurance benefits. BEK's compensation and benefits structure makes it less likely that its employees will require governmental assistance.

IV. EMPLOYMENT IMPACT AT PROJECT LOCATION

A. NEW EMPLOYMENT

Projected number of new jobs created as a result of the proposed improvements:

Full-time 283 by end of 2025 Part-Time 0

Provide types of jobs created and average salary levels: Please see attached "Exhibit B – Additional Information"

Start date and annual payroll of new permanent positions (if positions to be phased in, provide figures for each phase year): Hiring will be ongoing, as there will be a "ramp up" period prior to completion of construction, and then employees will be hired throughout the following 5+ years. Payroll of new employees will vary, as BEK will hire employees ranging from no experience to several years of experience. For purposes of any payroll requirement, BEK will use its average annual payroll figure from 2018 as reflected in Section C. below.

Percentage of new jobs too be filled be Tarrant County residents: At least 25%

Number of employees transferring from other company locations: None (expansion of existing facility)

B. CONSTRUCTION RELATED EMPLOYMENTS

Projected number of construction related jobs: approximately 300

Estimated total construction payroll: BEK estimates approximately 40% of all construction costs will be attributable to labor

Commitment as to percentage of construction dollars to be spent with Tarrant County contractors or subcontractors: \$3 million (same commitment to City of Fort Worth)

Commitment as to percentage & total dollars of construction contracts to be awarded to DBE: at least 15%

(same commitment as to City of Fort Worth)

C. CURRENT COMPANY/PROJECT LOCATION EMPLOYMENT

Current Number of Employees (as of 2018): Full-time 877 Part-time 14

Average annual payroll (as of 2018): \$73,000

Detail on workforce diversity – percentage breakdown of current employees by gender and ethnicity:

Gender:

Male – 781

Female - 96

Ethnicity:

American Indian – 5

Asian – 8

Black – 172

Hispanic – 263

Not Specified – 1

Pacific – 2

Multiple Ethnicities – 9

White - 417

D. COMPANY SPONSORED HEALTH CARE BENEFITS ARE AVAILABLE

Full-time Employees Part-time Employees Employee Dependents Not Available

Average monthly employee cost for health care benefits: Please see attached “Exhibit C – BEK Insurance Benefits”

Individual: \$ Information not readily available **Family:** \$ Information not readily available

Other employee benefits provided or offered: Please see attached “Exhibit C – BEK Insurance Benefits”

V. LOCAL BUSINESS & DISADVANTAGED BUSINESS ENTERPRISES (DBE) IMPACT

Estimated amount of annual supply and services expenses: \$ 5,800,000.00

Detail any supply/services expenses that are sole source: Premier (Freightliner trucks), Bruckner (Volvo trucks), and W&B Service (refrigeration units for trailers)

Percentage of total supplier/services expenses committed to Tarrant County businesses: \$900,000.00 (same commitment to City of Fort Worth)

Percentage of total supplier and services expenses committed to DBE: \$500,000.00

VI. ENVIRONMENTAL IMPACT OF PROJECT

Indicate if development, construction, equipment, distribution methods, and/or operational processes may impact the environment in the following areas, attach detail if necessary:

Air Quality Water Quality Solid Waste Disposal Storm/Water Runoff
Floodplain/Wetlands Noise levels Other (specify) The expansion will produce no known or anticipated environmental impacts

Provide detail on existing and new fleet vehicles, specifying types of vehicles, quantities and fuel used (gasoline, diesel, LP gas, CNG, etc.): See attached Exhibit G – Fleet and Emissions Reduction Information

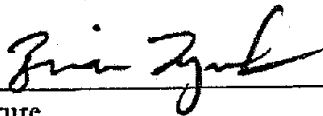
VII. ADDITIONAL INFORMATION (TO BE ATTACHED)

- Letter addressing Economic Qualifications and additional criteria for abatement, Section III (h) and (i) of Tarrant County Tax Abatement Policy (Please see attached "Exhibit F – Economic Qualifications & Additional Criteria")
- Descriptive list and value of real and personal property improvements (Please see attached "Exhibit B – Additional Information")
- Plat/Map of Project Location (See attached "Exhibit D – Site Plan")
- Project Time Schedule (Please see attached "Exhibit B – Additional Information")
- Owner's policy regarding use of disadvantaged Business Enterprises (Please see attached "Exhibit F – Economic Qualifications & Additional Criteria")
- Owner's policy addressing regional air quality/non-attainment status (use of alternative fuels, employee trip reduction, etc.) and plan for participation in regional Ozone Action Program (Please see attached "Exhibit F – Economic Qualifications & Additional Criteria")
- Tax Certificate showing property taxes paid for most recent year* (Please see attached "Exhibit E – Tax Information")

VIII. CERTIFICATION

Upon receipt of a completed application, Tarrant County may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.*

I certify the information contained in this application (including all attachments) to be true and correct to the best of my knowledge. I further certify that I have read the "Tarrant County Tax Abatement Policy" and agree to comply with the guidelines and criteria stated therein.



Signature

Vice President

Title

Brian Lynch

Printed Name

February 21, 2019

Date

Return completed application and attachments to:

**Economic Development Coordinator
Tarrant County Administrator's Office
100 E. Weatherford Street, Suite 404
Fort Worth, Texas 76196-0609**

You may also forward an electronic copy of the completed report to:

lmcmillan@tarrantcounty.com

Please note that if you do submit this form electronically, you must also submit an original hard copy of the report to the above stated physical address for proper filing and review.

For assistance call: (817) 884-2643

* As per Section IV (f) of the Tarrant County Tax Abatement Policy Guidelines and Criteria, this application must be filed prior to commencement of construction or installation of improvements in order to be eligible for County tax abatement.

Exhibit A

LEGAL PROPERTY DESCRIPTION

Being a tract of land situated in the John D. Hudson Survey, Abstract No. 741 and the William Hudson Survey, Abstract No. 738 in the City of Fort Worth, Tarrant County, Texas and being a portion of Block 4, Carter Industrial Park, per plat as recorded in Volume 388-31, Page 52 of the Deed Records of Tarrant County, Texas and being a portion of the third tract as deeded to Carter Foundation Production Company (aka Mereken Land & Production Company) per documents recorded in Volume 3587, Page 319 and Volume 3595, Page 24 of said Deed Records of Tarrant County, Texas, said tract being more particularly described by metes and bounds as follows:

BEGINNING at a found ½ inch iron rod on the West R.O.W. line of Will Rogers Boulevard (a 110 foot wide R.O.W. per said plat) being or intended to be the Southeast corner of a tract deeded to Ivy Corporation per document recorded in Volume 7665, Page 584 of said Deed Records, from said found ½ inch iron rod a found 5/8 inch capped iron rod (Carter & Burgess) being or intended to be the Northeast corner of said Ivy tract bears North 00 degrees 15 minutes 30 seconds West, a distance of 592.93 feet;

THENCE South 00 degrees 15 minutes 30 seconds East (Reference Bearing), along said West R.O.W. line of Will Rogers Boulevard, a distance of 2022.52 feet to a set 5/8 inch capped iron rod (BHB INC) being the Northeast corner of a tract deeded to Missouri Pacific Railroad Company per document recorded in Volume 9941, Page 1080 of said Deed Records, from said set 5/8 inch capped iron rod (BHB INC) a found 5/8 inch capped iron rod (Carter & Burgess) bears South 00 degrees 15 minutes 30 seconds East, a distance of 50.00 feet of which is being or intended to be the Northeast corner of a tract deeded to Mereken Land & Production Company per document recorded in Volume 12575, Page 2311 of said Deed Records;

THENCE South 89 degrees 45 minutes 00 seconds West, leaving said West R.O.W. line of Will Rogers Boulevard and along the North line of said Missouri Pacific Railroad Company tract, a distance of 624.22 feet to a set 5/8 inch capped iron rod (BHB INC), said set 5/8 inch capped iron rod (BHB INC) also being the beginning of a curve to the right whose chord bears North 48 degrees 04 minutes 00 seconds West, a distance of 736.90 feet and having a radius of 548.69 feet;

THENCE Northwesterly, along said curve to the right along the Northerly line of said Missouri Pacific Railroad Company tract, through a central angle of 84 degrees 22 minutes 01 seconds, an arc length of 807.94 feet to a set 5/8 inch capped iron rod (BHB INC) for the end of said curve;

THENCE North 05 degrees 52 minutes 59 seconds West, along the Easterly line of said Missouri Pacific Railroad Company tract, a distance of 249.38 feet to a set 5/8 inch capped iron rod (BHB INC) on the West line of said Block 4;

THENCE North 00 degrees 09 minutes 30 seconds West, along said West line of Block 4, a distance of 1279.51 feet to a found 5/8 inch iron rod being or intended to be the Southwest corner of a tract deeded to Miller Brewing Company per document recorded in Volume 6822, Page 1602 of said Deed Records;

THENCE North 89 degrees 45 minutes 00 seconds East, along the South line of said Miller Brewing Company tract, passing a found ½ inch iron rod at 428.70 feet and continuing along the South line of said Ivy tract for a total distance of 1192.40 feet to the POINT OF BEGINNING and containing 2,336,380 square feet or 53.64 Gross acres of land of which 90,846 square feet or 2.09 acres lies within a drainage area located along the southerly portion of said described tract between the 30 foot building setback line and the top of bank as located in the field in the month of May, 1997 and the area of the Chevron Pipeline Company Right of Way Easement lying Easterly of a 30 foot building setback line being 8,573 square feet or 0.20 acre, leaving a net area of 2,236,961 square feet or 51.35 acres of land, more or less.

Exhibit B - Project Description

Ben E. Keith Company d/b/a Ben E. Keith Foods ("BEK") is a broadline foodservice distribution company which offers more than 20,000 products to its customers. BEK's customer base includes independent restaurants, chain restaurants, hospitals, hotels, schools, country clubs, bars, and other businesses preparing/serving food on-site.

BEK is considering adding approximately 185,000 square feet to its existing Dallas-Fort Worth Division regional headquarters facility located at 7650 Will Rogers Blvd., Fort Worth, Texas. The expansion would not require a replat or zoning changes. BEK anticipates the total cost of construction to be approximately \$27 million, and the total investment in business personal property to be approximately \$11 million. Construction is expected to begin by July 31, 2019 and will commence no later than June 30, 2021.

The expansion is projected to create approximately 283 new full-time jobs (administrative, sales, transportation, warehouse) after the completion of five years following the expansion completion. The DFW Division's gross payroll for fiscal year 2018 was \$62.6 million, which is expected to increase to \$111.1 million five years following the expansion completion. In BEK's fiscal year 2018, the average sales and administrative employee at the DFW Division was paid \$101,651 and the average transportation and warehouse employee was paid \$58,581 (vs. Tarrant County per capita income of \$48,050 and median household income of \$61,553, per the 2016 US Census). After the first year following the expansion completion, the average annual wage for sales and administrative employees at the DFW Division is projected to be \$111,700 while the average annual wage for transportation and warehouse employees is projected to be \$63,900. After five years following completion, the average projections increase to \$126,200 for sales and administrative employees and \$71,900 for transportation and warehouse employees.

Employment Impact at Project Location

The jobs to be created are generally broken down into 2 categories: (i) administrative and sales positions and (ii) transportation and warehouse positions. Average salary levels are based on the existing workforce, and therefore, estimated salary levels for the new employees to be hired are unknown at this time and will vary based on experience.

Administrative and Sales Positions

Description: Five years following the expansion completion, BEK projects 95 additional administrative and sales positions will have been created with the average projected annual wage for an administrative or sales employee being \$126,200.

Administrative employees generally work in an office setting and perform various tasks depending on the department they are assigned to, such as compliance, credit, human resources, information services, logistics, marketing, purchasing, safety, etc. The specific duties of each position vary depending on which department an employee is assigned.

Sales employees generally are tasked with servicing existing customers and obtaining new customers. Sales representatives, sales managers, and business development specialists all use their product knowledge to help customers make the right purchases for their businesses.

Transportation and Warehouse Positions

Description: Five years following the expansion completion, BEK projects 188 additional transportation and warehouse positions will have been created with the average projected wage for a transportation and warehouse employee being \$71,900.

Transportation employees are involved in ensuring products are delivered to customers in a safe and timely manner from the warehouse. Drivers sometimes have helpers who accompany them on routes to assist with deliveries.

Warehouse employees are involved in receiving inbound product, ensuring all product is properly and safely stored in the warehouse, and preparing product to be shipped to customers. There are several categories of warehouse positions and several layers of management within the warehouse employee group.

Community Involvement

BEK's DFW Division partners with many local organizations in pursuit of maintaining its reputation as an exemplary corporate citizen. BEK strongly believes in giving back to the community and has partnered with organizations such as Folds of Honor (a non-profit organization that provides educational scholarships to spouses and children of fallen or disabled military service members) as well as the American Heart Association, American Cancer Association, March of Dimes, Habitat for Humanity, and local food banks, shelters, and schools.



RON WRIGHT
TARRANT COUNTY
TAX ASSESSOR-COLLECTOR

Facebook.com/TarrantCountyTAC
@TarrantCoTax

160 E. Weatherford, Fort Worth, TX 76106
(817) 884-1100
e-mail: taxoffice@tarrantcounty.com
web: www.tarrantcounty.com
IN GOD WE TRUST

2018 TAX STATEMENT

DATE: 10/04/2018
ACCOUNT: 00007345925

LEGAL: CARTER INDUSTRIAL PARK ADDN BL
OCK 4 LOT 4

Ben Keith / 11

V11

OWNER: BEN E KEITH CO
PARCEL ADDRESS: 0607650 WILL ROGERS BLVD
EXEMPTIONS

5550000786

LAND VALUE	IMPRV VALUE	APPRAISED VAL				
3,504,570	18,182,430	21,687,000				
TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT	TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
FT WORTH CITY	21,687,000	0	21,687,000	0.785000	170,242.95	170,242.95
TARRANT COUNTY	21,687,000	0	21,687,000	0.234000	50,747.55	50,747.55
REG WATER DIST	21,687,000	0	21,687,000	0.019400	4,207.28	4,207.28
T C HOSPITAL	21,687,000	0	21,687,000	0.224429	48,671.92	48,671.92
T C COLLEGE	21,687,000	0	21,687,000	0.135070	29,509.50	29,509.50
FT WORTH ISD	21,687,000	0	21,687,000	1.352000	293,289.24	293,289.24
				TOTAL TAXES	596,587.47	596,587.47

TOTAL AMOUNT DUE 596,587.47
INCLUDES PAYMENT RECEIVED

Pay by Credit Card or Check



Pay online with these cards
Or by phone at 817-884-1110



"YOUR CHECK WILL BE CONVERTED INTO AN ELECTRONIC FUND TRANSFER"

BEN E KEITH CO
5550000786

7018 0680 0001 6210 4422

RETURN WITH PAYMENT

PAY THIS AMOUNT

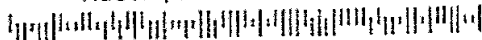
\$596,587.47

Delinquent after: 01/31/2019

00007345925 2018
-6535---4---1 TC



00026671 AADC 0.405 T 84
MORRISON & HEAD LP
4210 SPICEWOOD SPRINGS RD # 211
AUSTIN, TX 78759-8354



IF PAID IN	AMOUNT DUE
FEB	638,348.60
MAR	660,280.35

Make checks payable to:
RON WRIGHT, TAX ASSESSOR-COLLECTOR

PO BOX 951018
FORT WORTH TX 76161-0018

00007345925

0059658747

00063834860

00065028035

1004201800000



RON WRIGHT
TARRANT COUNTY
TAX ASSESSOR-COLLECTOR

@TarrantCoTax
 Facebook.com/TarrantCountyTAC

100 E. Weatherford, Fort Worth, TX 76196
 (817) 884-1100
 e-mail:taxoffice@tarrantcounty.com
 web:www.tarrantcounty.com

DATE: 10/22/2018

2018 TAX STATEMENT

IN GOD WE TRUST

ACCOUNT: 00011010495

LEGAL: BEN E KEITH CO-DFW FOOD DIV
 PERSONAL PROPERTY TANGIBLE
 COMMERCIAL

e-STATEMENT

OWNER: BEN E KEITH CO
 PARCEL ADDRESS: 0007650 WILL ROGERS BLVD
 EXEMPTIONS:

VI.5

TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT	TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
FT WORTH CITY	67,311,420	0	67,311,420	0.785000	528394.65	528394.65
TARRANT COUNTY	67,311,420	0	67,311,420	0.234000	157508.72	157508.72
REG WATER DIST	67,311,420	0	67,311,420	0.019400	13058.42	13058.42
T C HOSPITAL	67,311,420	0	67,311,420	0.224429	151066.35	151066.35
T C COLLEGE	67,311,420	0	67,311,420	0.136070	91590.65	91590.65
FT WORTH ISD	67,311,420	0	67,311,420	1.352000	910050.40	910050.40
TOTAL TAXES					1,851,669.19	1,851,669.19

TOTAL AMOUNT DUE 1,851,669.19
INCLUDES PAYMENTS RECEIVED

Pay by Credit Card or eCheck



Pay online with these cards
 Or by phone at 817-884-1110

****YOUR CHECK WILL BE CONVERTED INTO AN ELECTRONIC FUND TRANSFER****

BEN E KEITH CO

7018 0680 0001 6210 4422

00011010495
 00011010495

H 925834.6

00011010495 2018

77092654
 77092654

BEN E KEITH CO ATTN: TAX DEPT
 7650 WILL ROGERS BLVD
 FORT WORTH, TX 76140-8022

RETURN WITH PAYMENT

PAY THIS AMOUNT \$1,851,669.19
 Delinquent after: 12/31/2019

IF PAID IN	AMOUNT DUE
NOV	1,851,669.19
DEC	1,851,669.19

Make checks payable to:
RON WRIGHT, TAX-ASSESSOR-COLLECTOR

PO BOX 961018
 FORT WORTH TX 76161-0018

00011010495

0185166919

0185166919

0185166919

1022201800000

Exhibit F - Letter Addressing Economic Qualifications and Additional Criteria for Abatement

Section III(h) - Economic Qualifications

BEK's potential expansion of its DFW regional headquarters facility will produce over \$3 million in added value in real and personal property improvements to Tarrant County. BEK will sustain existing employment levels during and after the expansion, and projects the addition of approximately 283 new full-time jobs by the end of the fifth calendar year following completion of the expansion. BEK's project is an expansion so no employees will be transferred.

BEK's potential expansion is necessary because BEK's current facility is close to maximum capacity. If BEK wishes to grow its DFW Division, it will need to do one of the following: (i) expand on the existing property, (ii) relocate to a larger site (possibly outside of Tarrant County), or (iii) shift the future business growth to its other divisions located in and out of Texas.

Section III(i) - Additional Criteria for Abatement

Use of DBE and Tarrant County Businesses

BEK will strive to utilize (i) Disadvantaged Business Enterprises for a minimum of 15% of its total costs of construction and annual service and supply contracts, and (ii) Tarrant County businesses for a minimum of 25% of its total costs of construction and annual service and supply contracts. However, due to the necessity to hire contractors which provide specialty work not otherwise offered in Tarrant County, BEK may not be able to meet some or all of these requirements even with BEK's good faith efforts.

Although BEK does not have a formal policy in place regarding the use of Disadvantaged Business Enterprises and Tarrant County businesses, BEK is nonetheless committed to transacting with businesses which fall into either or both categories. BEK requests the assistance of Tarrant County in helping BEK identify appropriate DBEs and Tarrant County businesses to include in BEK's bidding process for the expansion construction, as well as for BEK to consider using for its annual service and supply expenditures.

Tarrant County Employment

BEK is committed to hiring Tarrant County residents to fill the new full-time positions that will be created as a result of the expansion and anticipates a minimum of 25% of such positions to be filled by Tarrant County residents.

Environmental Impacts

BEK does not anticipate any environmental impacts to result from the project. Although BEK does not have formal policies in place concerning air quality mitigation, participation in the region's Ozone Action Program, and alternative commute programs/employee trip reductions, BEK continuously strives to be an exemplary corporate citizen and has employed (and continues to employ) environmental-friendly measures in its day-to-day operations. Some examples of green initiatives undertaken by the BEK DFW Division are:

- BEK trucks are equipped with next generation engines to produce less carbon emissions. Excessive idle on the trucks is monitored, which will automatically shut off if left idling.
- 3rd party audits on refrigeration systems, lighting and all energy usage. Conference calls are routinely held to monitor such usage.
- All lighting is LED. The warehouse has motion-sensing LED lighting, which will automatically shut off after a certain period of time when no movement has been detected.
- Recycling program that includes shrink wrap and cardboard.
- White reflective roof to reduce energy usage.
- BEK uses Roadnet route optimization software to reduce miles traveled and fuel used for deliveries.
- Several paperless technologies employed, such as electronic driver logs, online ordering platform for customers, and ACH payments.

Please also reference Exhibit G – Fleet and Emissions Reduction Information for more information on measures BEK has undertaken to reduce emissions from its fleet vehicles.

Employee Benefits

BEK offers a competitive benefit plans to its full-time employees at reasonable rates. BEK benefit plans include medical, dental, vision, and life insurance, all of which allow access by the employees' dependents. BEK also offers several other benefits at no additional cost to employees, such as a 401(k) plan with a 4% matching contribution and long-term and short-term disability programs. For more information on BEK's employee benefits, please see the attached "Exhibit C – BEK Insurance Benefits."

Exhibit G

Fleet and Emissions Reduction Information

General Fleet Information

Straight trucks – 8

Tractors - 200 (132 single axle and 68 double axles)

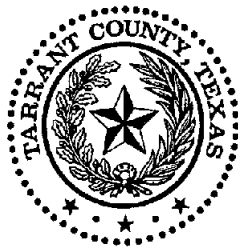
Type of fuel used: TEXLED ULSD

Ave. # of gallons per week: 33,132

- All tractors are programmed to automatically shut off if left idling for 5 minutes.
- All RSAs are monitored for idle time during routes.
- RSAs are regularly coached to assist in keeping idle time to minimum
- Current telematic system, ELD, calculates idle time and other applicable data for drivers. This is used as a training tool to set goals to lower idle.
- Evaluate and monitor number of tractors to optimize fleet size.
- Published retirement schedule for all vehicles.
- Using TXLED ULSD diesel
- Perform yearly DOT inspections
- Proper tire pressure maintained
- Pre and Post trip inspections are performed each time tractor is taken out on route
- Check engine lights are address immediately and/or tractor is put on repair line and fixed before going back into service.
- Fleet is 2010 and newer. Any tractor still currently onsite has been marked as out of service and awaiting sale. Our current average age is 5.3 years.
- ELDs are installed in all tractors and includes GPS.
- PMs schedules are adhered to and monitored.
- Smith System Driver Training
- ROADNET Software is used to optimized routes to reduce miles traveled.
- Recycle fluids, such as used oil
- Driver Recognition program

EXHIBIT "D"

TARRANT COUNTY TAX ABATEMENT POLICY AND GUIDELINES



TARRANT COUNTY

TAX ABATEMENT POLICY GUIDELINES AND CRITERIA

I. GENERAL PURPOSE AND OBJECTIVES

As authorized under Chapter 312 of the Texas Tax Code, Tarrant County has established this policy so as to work in concert with other taxing authorities as part of an overall publicly supported incentive program designed to create job opportunities that bring new economic advantages or strengthen the current economic base of our community.

It is the intent of the Commissioners Court to consider approval or denial of any request for tax abatement for projects in unincorporated Tarrant County or participation in any tax abatement agreement agreed to and adopted by an incorporated city, which meets the minimum eligibility criteria as set forth in this policy, following the filing of a formal application for tax abatement from the County. As prescribed by Section 312.206 of the Tax Code, the Commissioners Court may approve participation with a municipality in a tax abatement agreement no later than the 90th day after the date the municipal agreement is executed. Further it is the intent of Tarrant County that the County will not approve nor join an abatement agreement that provides one Tarrant County city a competitive advantage over another Tarrant County city seeking the same project or encourages an applicant to move from one Tarrant County city to another, unless such agreement is agreeable to both such incorporated cities and both parties have indicated their approval in writing to Tarrant County.

In the case where the property is located within a municipality's extraterritorial jurisdiction, the municipality shall be the initiating taxing entity unless expressly deferred to the County. For those areas within Tarrant County that are not located within the boundaries of an incorporated municipality and a municipality has deferred to the County or in unincorporated areas not located in a municipality's extraterritorial jurisdiction, the guidelines and criteria contained in this policy will be applied by the Commissioners Court when considering the establishment of a reinvestment zone and the adoption of an abatement agreement.

II. DEFINITIONS

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real and/or personal property in a reinvestment zone designated for economic development purposes.

- (b) **"Eligible Jurisdiction"** means Tarrant County and any municipality, school district, college district, or other entity, which is located in Tarrant County, that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- (c) **"Agreement"** means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (d) **"Base Year Value"** means the assessed value of the applicant's real and personal property located in a designated reinvestment zone on January 1 of the year of the execution of the agreement, plus the agreed upon value of real and personal property improvements made after January 1, but before the execution of the agreement.
- (e) **"Economic Life"** means the number of years a property improvement is expected to be in service in a facility.
- (f) **"Deferred Maintenance"** means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) **"Disadvantaged Business Enterprise (DBE)"** means:
 - (1) a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially or economically disadvantaged because of their identification as members of certain groups that have been subject to racial or ethnic prejudice or cultural bias without regard to their qualities as individuals or capabilities as a business, and whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared to others in the same line of business who are not socially disadvantaged. "DBE" includes the State of Texas definition of historically underutilized businesses (HUBs) as defined in Texas Government Code 407.101 and as it may be updated.
 - (2) a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described in paragraph (1);
 - (3) a partnership that is formed for the purpose of making a profit in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by paragraph (1), and in which minority or women partners have proportionate interest in the control, operation, and management of the partnership affairs.

- (h) **"Expansion"** means the addition of buildings, structures, fixed machinery and equipment, and fixed personal property for the purposes of increasing production capacity.
- (i) **"Facility"** means property improvements completed or in the process of construction which together comprise an integral whole.
- (j) **"Fixed Machinery and Equipment and/or Personal Property"** means tangible machinery, equipment, or personal property that is securely placed or fastened and stationary within a building or structure, or which is movable but remains at and is used solely at the project site.
- (k) **"Manufacturing Facility"** means buildings and structures, including fixed machinery and equipment, and fixed personal property, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (l) **"Modernization"** means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation, and extends the economic life of the facility. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery and equipment, and fixed personal property. It shall not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.
- (m) **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (n) **"Other Basic Industry"** means buildings and structures including fixed machinery and equipment, and fixed personal property not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside Tarrant County [or the Fort Worth Consolidated Metropolitan Statistical Area] and result in the creation of new permanent jobs and bring new wealth in to Tarrant County.
- (o) **"Regional Distribution Center Facility"** means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- (p) **"Non-Manufacturing Facilities"** means buildings and structures, used to service and/or house individuals on a permanent or temporary basis.
- (q) **"Regional Service Facility"** means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used to service goods.

- (r) "Reinvestment Zone" is an area designated as such for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code.
- (s) "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of the users reside at least 100 miles from its location in the County.
- (t) "Regional Retail Facility" means buildings and structures including fixed machinery and equipment used or to be used to provide retail services from which a large portion of the revenues generated by the activity at the facility are derived from users outside the County.
- (u) "Research Facility" means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

III. ABATEMENT AUTHORIZED

- (a) **Authorized Facility.** A facility may be eligible for abatement if it is a Manufacturing Facility, a Research Facility, a Regional Distribution Center Facility, A Regional Service Facility, a Regional Entertainment Facility, Regional Retail Facility, a Non-Manufacturing Facility, or Other Basic Industry as defined. The economic life of a facility and any improvements must exceed the life of the abatement agreement.
- (b) **Creation of New Value.** Abatement may be only granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between the County and the property owner and lessee, subject to such limitations as Commissioners Court may require.
- (c) **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- (d) **Eligible Property.** Abatement may be extended to the value above the Base Year Value of buildings, structures, fixed machinery and equipment, fixed personal property, and site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- (e) **Ineligible Property.** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; private aircraft; deferred maintenance investments; property to be rented or leased except as provided in Section 3 (f); also, any property included in the calculation of base year value as defined.

- (f) **Owned/Leased Facilities.** If a leased facility is granted abatement the agreement shall be executed with the lessor and the lessee.
- (g) **Value and Term of Abatement.** Abatement shall be granted effective with the execution of the agreement. The value of the abatement will be determined based on the merits of the project, including, but not limited to, total capital investment value and added employment. Up to one hundred percent of the value of new eligible properties may be abated for a total term of abatement not to exceed ten years. However, a project must provide an extraordinary economic benefit to the County to be considered for a one hundred percent abatement.
- (h) **Economic Qualification.** In order to be eligible for designation as a County reinvestment zone and/or receive County tax abatement, the planned improvement:
- (1) for new businesses, must be reasonably expected to produce a minimum added value of Five Million Dollars (\$5,000,000) in real and personal property to Tarrant County and create and sustain a minimum of 25 new full-time jobs.
 - (2) for expansions or modernizations of existing businesses, must be reasonably expected to produce a minimum added value of Three Million Dollars (\$3,000,000) in real and personal property improvements to Tarrant County, and sustain existing employment levels.
 - (3) must not be expected to solely or primarily have the effect of transferring employment from one part of Tarrant County to another without a majority vote of approval from the Commissioners Court.
 - (4) must be necessary for expansion and/or modernization because the capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements.
 - (5) the above investment and employment minimums may be waived at the discretion of the Commissioners Court for projects located in Federal or State designated Enterprise Zones.
- (i) **Additional Criteria For Abatement.** To be eligible for abatement, the project must be expected to meet the specific goals and requirements as noted below. If a company is unable to meet the minimum requirements of this section, a variance must be requested with a detailed explanation as to the circumstances that preclude the company from meeting the minimum requirements.
- (1) **Use of DBE and Tarrant County Businesses.** The project must provide for the utilization of Disadvantaged Business Enterprises for a minimum of 15% of the total costs for construction contracts and annual supply and service contracts.

Additionally, the project must provide for the utilization of Tarrant County businesses for a minimum of 25% of the total costs for construction contracts and annual supply and services contracts.

- (2) **Tarrant County Employment.** The company must hire Tarrant County residents for a minimum of 25% of the new full time jobs to be created by the project. Residents, for the purpose of this policy, are those employees who reside in Tarrant County, whether through relocation or existing residency.
 - (3) **Environmental Impacts.** Environmental impact information must be provided, noting any anticipated impacts of the project on the environment, including, but not limited to, water quality, storm water and runoff, floodplain and wetlands, solid waste disposal, noise levels, and air quality. Additionally, the company must provide a written company policy on air quality mitigation, the company's plan for participation in the region's Ozone Action Program, and a report of employer assistance in encouraging alternative commute programs and employee trip reductions. For companies new to the region, the above policies and plan must be completed and presented within the first year of the abatement.
 - (4) **Employee Benefits.** The company must offer a health benefit plan to its full-time employees at a rate that is reasonable to the majority of its employees and which allows access to the plan by the employees' dependents. For additional consideration, the company may provide information on other employee benefits provided, such as retirement/pension programs and subsidies for education, job-training, transportation assistance and child/elderly care.
- (j) **Taxability.** From the execution of the abatement to the end of the agreement period taxes shall be payable as follows:
- (1) The value of ineligible property as provided in Section III (e) shall be fully taxable;
 - (2) The base year value of existing eligible property shall be fully taxable, as well as the value of any existing personal property currently on the tax rolls in Tarrant County that is either moved to a new abated location or is replaced due to modernization or expansion.
 - (3) The additional value of new eligible property shall be taxable in the manner and for the period provided for in the abatement agreement, subject to the terms described in Section III (g); and
 - (4) The additional value of new eligible property shall be fully taxable at the end of the abatement period.

IV. APPLICATION

- (a) Any present or potential owner of taxable property in Tarrant County may request the creation of a reinvestment zone and/or tax abatement by filing a written request with the County Judge.**
- (b) The application shall consist of a completed application form including, but not limited to: a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; a time schedule for undertaking and completing the proposed improvements; employment and contract information; the location of existing company locations in Tarrant County and the surrounding counties and the expected number of transferring employees; details of the environmental impacts of the project, and employee benefit information. In the case of modernization a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant, to be attached to the application.**
- (c) All applications for creation of reinvestment zones or abatements shall incorporate a feasibility study estimating the economic effect of the proposed reinvestment zone and tax abatement on Tarrant County, other eligible participating jurisdictions, and the applicant.**
- (d) Upon receipt of a completed application for creation of a reinvestment zone, the County Judge shall notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible jurisdiction.**
- (e) Upon receipt of a completed application and/or request to participate with a municipality in an abatement agreement, Tarrant County Administrator's Office must review and provide recommendation to the Commissioners Court within 30 days and before the public hearing.**
- (f) The County shall not establish a reinvestment zone, nor participate in an abatement, if it finds that the application for County reinvestment zone/tax abatement was filed after the commencement of construction, alteration, or installation of improvements related to the proposed modernization, expansion or new facility.**
- (g) Variance. Request for variance from the provisions of this policy must be made in written form to the County Judge and submitted with the application for abatement, provided, however, the total duration of an abatement shall in no instance exceed ten years. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Request for variance must**

be approved by a majority vote of the Commissioners Court.

V. PUBLIC HEARINGS AND APPROVAL

- (a) For projects in unincorporated Tarrant County, the Commissioners Court may not adopt a resolution designating a County reinvestment zone until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be clearly identified on the Commissioners Court agenda at least 30 days prior to the hearing. The presiding officers of eligible jurisdictions shall be notified in writing at least 15 days prior to the hearing.
- (b) Prior to entering into a tax abatement agreement the Commissioners Court may, at its option, hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the tax abatement agreement.
- (c) In order to enter into a tax abatement agreement, the Commissioners Court must find that the terms of the proposed agreement meet these Guidelines and Criteria and that:
 - (1) there will be no substantial adverse affect on the provision of the jurisdiction's service or tax base: and
 - (2) the planned use of the property will not constitute a hazard to public safety, health or morals.
- (d) Any application requesting a variance under Section IV (g) shall be approved by a majority vote of the Commissioners Court. No application which deviates from the requirements of these Guidelines and Criteria shall be approved unless accompanied by a request for variance as provided under Section IV (g).

VI. AGREEMENT

- (a) After approval the County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required. The Court Order shall include:
 - (1) estimated value of real and personal property to be abated and the base year value;
 - (2) percent of value to be abated each year as provided in Section III (g);
 - (3) the commencement date and the termination date of abatement;
 - (4) the proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provide in Section IV (b);

- (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections III (a), III (e), III (g) VII, VIII, and IX, or other provisions that may be required for uniformity or by state law, and;
- (6) a statement of the facility owner's policy regarding Disadvantaged Business Enterprises (DBEs), and the estimated dollar amount and percentage of total contracts to be awarded to DBEs for construction, professional services, purchases of equipment and supplies and other services required for the abated improvements;
- (7) amount of investment and average number of jobs involved; and
- (8) an assessment of the environmental impacts of the project, including a statement of the owner's policy addressing regional air quality and information on the use of alternative fuels in fleet vehicles.
- (9) a statement indicating the provision of a health care benefit plan for employees and dependents.

Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation to the County.

- (b) Participation in tax abatement agreements with municipalities requires additional information to be included in the Court Order approving the agreement, as follows:
 - (1) a copy of the agreement between the applicant and municipality shall be attached and made part of the Court Order for all purposes;
 - (2) authorization for the County Judge to execute a signatory page on behalf of the Commissioners Court which shall be attached and made part of the original agreement.

VII. RECAPTURE

Commissioners Court reserves the right to review compliance for full or partial recapture in the event that the applicant fails to perform in "good faith." If a project is not completed as specified in the tax abatement agreement, the County has the right to cancel the abatement agreement and abated taxes shall become due to the County and other affected taxing units as provided by law. If any of the provisions contained in the tax abatement agreement, i.e., employment, amount of investment, etc., are not met, the County shall have the right to reduce or cancel the abatement agreement. If a project granted a tax abatement ceases to operate or is no longer in conformance with the tax abatement agreement, the agreement shall not be in

effect for the period of time during which the project is not operating or is not in conformance.

VIII. ADMINISTRATION

- (a) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the chief Appraiser shall notify the affected jurisdictions which levies taxes of the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of the County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- (c) Upon completion of construction the County and/or the jurisdiction creating the reinvestment zone shall annually (or at such other times as deemed appropriate by the Commissioners Court) evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the contract and agreement to the Commissioners Court and the District Attorney. On or before April 30th of every year during the life of the abatement agreement, the company or individual receiving the abatement shall complete and file a Tax Abatement Evaluation Report, along with other required written documentation, detailing and certifying the abatement recipient's compliance with the terms of the abatement agreement. Failure to provide information requested in the compliance evaluation by the prescribed deadline may result in taxes abated in the prior year being due and payable. The company or individual receiving a tax abatement shall provide information to the County for the evaluation which shall include, but not be limited to, the following:

 - (1) the number and dollar amounts of all construction contracts and subcontracts awarded on the project;
 - (2) the total number of employees of the company, their gross salaries, and the number of employees residing in Tarrant County and their gross salaries, reported in job classifications appropriate to the employee;
 - (3) the gross dollars spent on supplier and professional service contracts, indicating the amounts by contract awarded and performed by Tarrant County business and individuals;

- (4) the dollar amount of contracts awarded to Disadvantaged Business Enterprises;
- (5) detail of actions taken to mitigate any adverse environmental impacts of the project, if applicable; and
- (6) should the dollars, percentages, or actions not meet the original or modified requirements of the abatement agreement, a statement shall be provided explaining the reason for the failure to meet the requirements and a recommended course of rectification.

IX. ASSIGNMENT

Tax abatement agreements may be assigned to a new owner or lessee of the facility with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if the assignor or the assignee are indebted to the County for ad valorem taxes or other obligations.

X. SUNSET PROVISION

These Guidelines and Criteria are effective on January 1 of the year following the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the County to determine whether the goals have been achieved. Based on that review, the guidelines and Criteria will be modified, renewed or eliminated. These Guidelines and Criteria may be amended by Commissioners Court at any time during their effective period.

EXHIBIT "E"

TARRANT COUNTY TAX ABATEMENT EVALUATION FORM



Tarrant County Annual Tax Abatement Evaluation Report

Reporting Period: January 1, 201_ to December 31, 201_

I. PROJECT INFORMATION

Property Owner: "[Response]"

Company/Project Name: "[Response]"

Project Contact: "[Response]" Title: "[Response]"

Telephone: "[Response]" Fax: "[Response]" E-mail: "[Response]"

Property Owner Address: "[Response]"

Company Address (if different): "[Response]"

Address of Property Subject to Abatement: "[Response]"

TAD Tax Account Number(s) of Property Subject to Abatement:

Has construction/installation of planned improvements commenced? Yes No

If Yes, on what date? "[Response]"

If No, please explain. "[Response]"

Has construction/installation of planned improvements been completed? Yes No

If Yes, on what date? "[Response]"

If No, please estimate completion date *and* attach a current time schedule for the project:

"[Response]"

Date on which *Certificate of Occupancy* from City was received: "[Response]"

II. INVESTMENT / VALUATION

REAL PROPERTY

Beginning Year Appraised Value – Land: \$"[Response]"

Beginning Year Appraised Value – Improvements: \$"[Response]"

Construction Costs Incurred This Reporting Period: \$"[Response]"

Appraised Value of Improvements Added This Period: \$"[Response]"

PERSONAL PROPERTY

Beginning Year Appraised Value – Machinery, Equipment, Other Business Personal Property: \$ "[Response]"

New M&E, and other Business Personal Property Value Added During Period: \$"[Response]"

Beginning Year Appraised Value Inventory and Supplies: \$[Response]

New Inventory Value Added This Period: \$[Response]

Percentage/Amount of Inventory Subject to Exemption (i.e., Freeport/Foreign Trade Zone): "[Response]" %

III. JOB CREATION / RETENTION

Total Current Employees at End of Reporting Period: Full-time "[Response]" Part-time "[Response]"

Number of Current Employees Residing in Tarrant County: "[Response]"

Number of New Employees Added During Reporting Period: Full-time "[Response]" Part-time "[Response]"

Number of New Employees Added During Tax Abatement Term: Full-time "[Response]" Part-time "[Response]"

Current Workforce Diversity Percentages:

Gender: Male "[Response]" Female "[Response]"

Ethnicity: Caucasian "[Response]" Asian "[Response]" African American "[Response]"

Hispanic "[Response]" Other "[Response]"

Annual Payroll During Reporting Period: \$[Response]

Average Salary During Reporting Period: \$[Response]

IV. CONSTRUCTION & SUPPLY/SERVICES EXPENDITURES

CONSTRUCTION:

Construction Dollars Spent This Reporting Period: \$[Response]

Number of Construction Related Jobs This Period: "[Response]"

Total Construction Payroll This Period: \$[Response]

CONSTRUCTION SPENDING WITH TARRANT COUNTY & DISADVANTAGED BUSINESS ENTERPRISES (DBE):

Total Dollars of Construction Spending with Tarrant County Contractors: \$[Response]

Percent of Total Construction Spending with Tarrant County Contractors: "[Response]" %

Total Dollars of Construction Spending with DBE Contractors: \$[Response]

Percent of Total Construction Spending with DBE Contractors: "[Response]" %

ANNUAL SUPPLY/SERVICES EXPENSES:

Total Number Supply/Services Contracts This Period: "[Response]"

Total Dollars Spent on Supply/Services Expenditures This Period: \$[Response]

Total Dollars of Supply/Services Expenditures with Tarrant County Businesses: "[Response]" %

Percent of Supply/Services Expenditures with Tarrant County Businesses: "[Response]" %

Total Dollars of Supply/Services Expenditures with DBE Businesses: "[Response]" %

Percent of Supply/Services Expenditures with to DBE Businesses: "[Response]" %

V. EMPLOYEE AND ENVIRONMENTAL FACTORS

Company Sponsored Health Care Benefits Are Available To (check all that apply):

Full-time Part-time No Employees

Number of Employees Enrolled in Health Care Plan at End of Period: "[Response]"

Name of Health Care/Insurance Provider: "[Response]"

Average Percentage of Monthly Health Insurance Premiums Paid by Company: "[Response]" %

Average Monthly Employee Cost for Health Care Benefits: Individual: \$"[Response]" Family: \$"[Response]"

List Other Company Benefits Provided (life insurance, pension plan, childcare, etc.): "[Response]"

Does Your Company Encourage, Facilitate, and/or Provide Subsidies/Initiatives for Alternative Commute Options (i.e., bus, vanpools, carpools, telecommuting, etc.)? Yes No

If Yes, Please Describe: "[Response]"

Describe the Number, Type, and Fuels Used (Gas, Diesel, LPG, Electric, etc.) for Fleet Vehicles On Site:

VI. ADDITIONAL INFORMATION (TO BE ATTACHED)

- Copy of Personal Property List Rendered to the Tarrant Appraisal District
- Brief Narrative Highlighting The Progress And Status of the Project
- If Applicable, a Statement Addressing Any Failure to Meet Requirements of the Tax Abatement Agreement and a Plan for Recertification

VII. CERTIFICATION

I certify that, to the best of my knowledge and belief, the information and attachments provided herein are true and accurate and in compliance with the terms of the Tax Abatement Agreement with Tarrant County.

Name of Certifying Officer

Title

Phone

Email Address

Signature of Certifying Officer

Date

In order to remain eligible for the abatement of Tarrant County and/or Tarrant County Hospital District property taxes, you must return the completed report by April 30th to:

Lisa McMillan
Economic Development Coordinator
Tarrant County Administrator's Office
100 E. Weatherford Street, Suite 404
Fort Worth, Texas 76196-0609

You may also forward an electronic copy of the completed report to:

lmcmillan@tarrantcounty.com

Please note that if you do submit this form electronically, you must also submit an original hard copy of the report to the above stated physical address for proper filing and review.

For assistance call: (817) 884-2643