

133917 - APPROVAL OF A TAX ABATEMENT AGREEMENT BETWEEN TARRANT COUNTY AND WINNER LLC FOR THE EXPANSION AND DEVELOPMENT OF A NEW DATA CENTER FACILITY IN THE CITY OF FORT WORTH



COMMISSIONERS COURT
COMMUNICATION

REFERENCE NUMBER

PAGE 1 OF 175

DATE 10/06/2020

C.O. #133917

SUBJECT: APPROVAL OF A TAX ABATEMENT AGREEMENT BETWEEN TARRANT COUNTY AND WINNER LLC FOR THE EXPANSION AND DEVELOPMENT OF A NEW DATA CENTER FACILITY IN THE CITY OF FORT WORTH

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court consider approval of a 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 Winner LLC for the expansion and development of new data center facility on its current data center campus in Alliance Gateway Park, said abatement being for a period of ten (10) years at a maximum abatement percentage of sixty percent (60%) as it relates to Tarrant County taxes and forty percent (40%) as it relates to Tarrant County Hospital District taxes, as set forth in the Agreement, and authorize the County Judge or his designee to execute the Agreement.

BACKGROUND:

In 2015 and 2016, Tarrant County approved participation with the City of Fort Worth in tax abatement for Winner LLC, for the development and operation of a multi-building Data Center off Alliance Gateway at Park Vista Boulevard in north Fort Worth. In order to meet the growth demands from its parent company, Winner LLC now plans expansion of its data center footprint within this location to construct a new 150,000 square foot data facility building on the far north end of its campus. Initial investment is expected to be in excess of \$125,000,000.00 in real property improvements and over \$75,000,000.00 in new business personal property. The expansion is expected to add a minimum of four (4) full-time jobs, with the average wage of employees located at the site at \$114,073.00 and healthcare and other benefits provided at a reasonable cost to full-time time employees.

The City of Fort Worth has previously approved a reinvestment zone for the site, along with a one (1) year tax abatement and an Economic Development Program Agreement for the overall Winner LLC project, providing up to twenty (20) years of incentive payments in the form of grants tied to increases in real and personal property taxes, sales tax, electric franchise fees and other revenues.

The attached Tax Abatement Agreement provides for a maximum of sixty percent (60%) abatement of new real and personal property value for Tarrant County taxes, and up to forty percent (40%) abatement for Tarrant County Hospital District taxes, for a period of ten (10) years, subject to minimum investment levels and performance-based criteria.

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



COMMISSIONERS COURT COMMUNICATION

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FISCAL IMPACT:

The minimum new real and personal property value added from this project is estimated at over \$200,000,000.00 (\$125,000,000.00 for real property and \$75,000,000.00 for business personal property). Based on current tax rates, should Winner LLC earn the maximum tax abatement from the County and Hospital District of sixty percent (60%) and forty percent (40%), respectively, for all 10 years, the project would receive a total ten (10) year tax abatement estimated at \$2,800,000.00 from the County and just under \$1,800,000.00 from the Hospital District.

Over that same period, the County and Hospital District will receive tax revenues from the unabated portion of the new improvements, expected to be approximately \$187,000.00 annually for the County and \$269,000.00 annually for the Hospital District.



RESOLUTION

PARTICIPATION IN TAX ABATEMENT FOR WINNER LLC, FORT WORTH

WHEREAS, Winner LLC, duly authorized to do business in the State of Texas, and duly acting by and through their authorized officers, (hereafter referred to collectively as "Owner"), plans to construct and equip a Data Center on real property under its ownership, more particularly described in the Abatement Agreement attached hereto and incorporated herein by reference ("Real Property"), located in the City of Fort Worth; 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 Real Property and all improvements thereon are located in Reinvestment Zone No. 90 and 90A in the City of Fort Worth, being a reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended (the "Code"); and

WHEREAS, the City Council of the City of Fort Worth has approved and executed a tax abatement agreement as to certain improvements thereon; and

WHEREAS, the Tax Abatement Agreement (the "Agreement") between Tarrant County and Owner, provides for the construction and operation of a minimum 150,000 square foot Data Center facility and installation of certain improvements at an estimated investment of over \$200,000,000, to be completed and equipped on or before June 1, 2030; and

WHEREAS, the Agreement with the Owner 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 Owner 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; and according to the 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 and Tarrant County Hospital District taxes be and is hereby approved; that the County and its Commissioners Court hereby agree to enter into the Agreement 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 6th day of October, 2020, 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
Subsequent Facility E

COUNTY OF TARRANT §

This Agreement is executed by and between **WINNER LLC**, a Delaware limited liability company (hereafter referred to as "**Owner**"), 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, in accordance with law, has adopted a Policy Statement for Tax Abatement, herein contained as **Exhibit "E"**, which constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the County; and
- WHEREAS, the Land (as hereafter defined) and the Eligible Property (as hereafter defined) are located in Reinvestment Zone No. 90 in the City of Fort Worth, Texas, established by Ordinance No. 21757-05-2015 adopted on May 19, 2015 and renewed by Ordinance No. 24199-05-2020 adopted May 5, 2020, and Reinvestment Zone No. 90A in the City of Fort Worth, Texas, established by Ordinance No. 22473-10-2016 adopted on October 18, 2016, being a commercial-industrial reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended (Reinvestment Zone No. 90 and Reinvestment Zone No. 90A are sometimes referred to collectively herein as the "Zone"); and
- WHEREAS, the City Council of the City of Fort Worth, Texas ("City") has approved and authorized the execution and delivery of a Tax Abatement Agreement abating certain property taxes on the Land, substantially in the form attached hereto as **Exhibit "B"**; and
- WHEREAS, Owner submitted an application for tax abatement to the County concerning contemplated improvements to the Land (the "Application for Tax Abatement"), attached hereto and incorporated herein as **Exhibit "D"**; and
- WHEREAS, Owner owns approximately 150 acres of land at the northeast corner of Alliance Gateway and Park Vista Boulevard, said land being located entirely within the Zone and more specifically defined in Section I.P. Owner has constructed and operates or will operate five Data Center facilities on the Land: the Initial Facility, Subsequent Facility A, Subsequent Facility B, Subsequent Facility C, and Subsequent Facility D (each as hereinafter defined and collectively, the "Existing Facilities"), each representing an investment of more than \$250,000,000 in real and business personal property investments; and

WHEREAS, Owner intends to construct and operate an additional Data Center facility on the Land, referred to herein as Subsequent Facility E, providing an additional investment of more than \$200,000,000 in real and business personal property investments; and

WHEREAS, the Commissioners Court finds that the contemplated use of the Land, the Eligible Property and the terms of this Agreement are consistent with encouraging development of the Zone in accordance with the purposes for its creation and are in compliance with the Policy Statement and other applicable law;

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

I.
Definitions

- A. "Abatement Term" has the meaning ascribed to it in Section IV.D.
- B. "Added Market Value" is defined as the market value of Eligible Property on the Land above the Base Year Value.
- C. "Affiliate" means all entities, incorporated or otherwise, under common control with, controlled by or controlling Owner. For purposes of this definition, "control" means fifty percent (50%) or more of the ownership determined by either value or vote.
- D. "Base Year Value" is defined as the tax year 2020 taxable value of real and personal property located on the Land in Reinvestment Zone No. 90 and Reinvestment Zone No. 90A on January 1, 2020, as finally determined by the Tarrant Appraisal District.
- E. "City's Zoning Ordinance" means the Zoning Ordinance of the City, being Ordinance No. 13896, as amended, codified as Appendix "A" of the Code of The City of Fort Worth (1986).
- F. "Completion Date" means the date as of which a temporary or permanent certificate of occupancy has been issued by the City for Subsequent Facility E.
- G. "Completion Deadline" means June 1, 2030, subject to all extensions of time allowed by this Agreement.
- H. "Construction Costs" are defined as the aggregate of the following costs expended or caused to be expended by Owner for the Real Property Improvements: actual site development and construction costs, general contractor and subcontractor fees, and the costs of supplies, materials and construction labor; engineering fees; and architectural and design fees; zoning fees; building permit fees; sewer basin fees; water and sewer tap fees; water, wastewater and thoroughfare impact fees; other costs and fees customarily incidental to construction of a commercial project; and insurance and taxes directly related to the construction of the Real Property Improvements. Construction Costs specifically excludes any costs associated with the acquisition of the Land.

- I. "Data Center" means real and personal property consisting of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment, used primarily to provide, as a service to persons other than the company operating the data center, data and transaction processing services, outsource information technology services and computer equipment colocation services, or, used primarily to provide, to a single user, including the user's affiliates, customers, lessees, vendors and other persons authorized by the user, data and transaction processing services.
- J. "DBE Companies" are defined as companies who are a Disadvantaged 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 amended.
 - 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 J(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 J(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 J(i) above.
- K. "Effective Date" has the meaning ascribed to it in Section IV.D.
- L. "Eligible Property" is defined as Real Property Improvements and Personal Property Improvements made for construction and operation of Subsequent Facility E as generally described in **Exhibit "C"**, constructed, delivered to, installed or placed on the Land after January 1, 2020 and throughout the Abatement Term, as set forth in this Agreement.
- M. "Existing Facilities" has the meaning ascribed to that term in the Recitals.

- N. "Initial Facility" means the first building that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- O. "Job" means a job provided to one (1) individual by Owner or an Affiliate on the Land for (i) forty (40) hours per week or (ii) less than forty (40) hours per week if such other measurement is used to define full-time employment by Owner or an Affiliate in accordance with its then-current personnel policies and regulations. For example, if Owner or an Affiliate has a company-wide policy that considers full-time employment to be thirty-five (35) hours per week, a job on the Land provided by Owner or an Affiliate for at least thirty-five (35) hours per week shall be considered a Job for purposes of this Agreement. Outsourced or independent contractor positions shall not be included in this definition.
- P. "Land" means that certain parcel of land located within Tarrant County, Texas and more particularly described in **Exhibit "A"** attached hereto and hereby made a part of this Agreement for all purposes, plus any additional land within the Zone acquired by Owner subsequent to the Effective Date for incorporation into the Eligible Property and otherwise allowable under Chapter 312 of the Texas Tax Code.
- Q. "Personal Property Commitment" has the meaning ascribed to it in Section III.B.
- R. "Personal Property Improvements" are defined as tangible personal property (except inventory or supplies) delivered to, installed or located on the Land for Subsequent Facility E after the Effective Date of this Agreement.
- S. "Real Property Improvements" are defined as improvements to the Land, and for purposes of this Agreement shall include structures or fixtures erected or affixed to the Land for Subsequent Facility E after the Effective Date of this Agreement.
- T. "Real Property Improvement Commitment" has the meaning ascribed to it in Section III.C.
- U. "Reinvestment Zone No. 90" is defined as the real property located in the City and described by City of Fort Worth Ordinance Nos. 21757-05-2015 and 24199-05-2020 (substantially in the form included within **Exhibit "B"**).
- V. "Reinvestment Zone No. 90A" is defined as the real property located in the City and described by City of Fort Worth Ordinance No. 22473-10-2016 (substantially in the form included within **Exhibit "B"**).
- W. "Subsequent Facility A" means the second facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- X. "Subsequent Facility B" means the third facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially

finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.

- Y. "Subsequent Facility C" means the fourth facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- Z. "Subsequent Facility D" means the fifth facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- AA. "Subsequent Facility E" means the sixth facility to be constructed and completed on the Land consisting of at least 150,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- BB. "Supply and Service Expenditures" are defined as those local discretionary expenditures made by Owner directly for the operation and maintenance of Land and any improvements thereon, excluding utility service costs.
- CC. "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.
- DD. "Term" has the meaning ascribed to it in Section IV.D.

II. General Provisions

- A. The Land and Eligible Property are not an improvement project financed by tax increment bonds.
- B. Neither the Land 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. Owner shall cause the Completion Date to occur by the Completion Deadline in accordance with this Agreement.

- B. Owner shall install or otherwise locate on the Land by the Completion Deadline Personal Property Improvements at a cumulative actual cost of not less than Seventy-Five Million Dollars (\$75,000,000) ("Personal Property Commitment").
- C. Owner shall expend or cause the expenditure by the Completion Deadline of at least One Hundred Twenty-Five Million (\$125,000,000) in Construction Costs for Real Property Improvements ("Real Property Improvement Commitment").
- D. Owner intends to expend or cause the expenditure by the Completion Deadline of at least fifteen percent (15%) of all Construction Costs for Real Property Improvements with DBE Companies.
- E. Owner intends to expend or cause the expenditure by the Completion Deadline of at least twenty-five percent (25%) of all Construction Costs for Real Property Improvements with Tarrant County Companies.
- F. Owner will provide for employment of a least thirty (30) Jobs on the Land throughout the Abatement Term. These Jobs are cumulative and include Jobs created for the Existing Facilities.
- G. Owner shall operate and maintain, or cause to be operated and maintained, the Eligible Property on the Land for the duration of this Agreement after the Completion Date.

IV.
Abatement Allowed

- A. As set forth in this section, the tax abatement allowed herein shall be for Tarrant County and Tarrant County Hospital District ad valorem real and personal property taxes, relative to Added Market Value of the Eligible Property located on the Land, subject to the following terms and conditions.
- B. If the Improvement Conditions and Requirements set forth in Section III A., B., C., F., and G. herein are met, County agrees to exempt from taxation (i) sixty percent (60%) of the Added Market Value of the Eligible Property for Tarrant County taxes, and (ii) forty percent (40%) of the Added Market Value of the Eligible Property for Tarrant County Hospital District taxes, in accordance with the various requirements established by the terms of this Agreement. The Improvement Conditions and Requirements in Section III shall in no event be considered a covenant or requirement of Owner to perform for any reason other than to receive the abatement allowed by this Agreement.

1. Reduction to Abatement

a. Completion of Eligible Property Investment

Failure of Owner to make the Real Property Improvements and Personal Property Improvements at the minimum values as set forth in this Agreement by the Completion Deadline is a breach of this Agreement and shall result in the termination of this Agreement in accordance with Section VII.

b. Employment and Spending Deficiencies

In any year that the employment level does not meet the minimum Jobs requirement set forth in Section III.F., the County shall reduce the abatement percentage for that year as set forth below. Notwithstanding the foregoing, if Owner meets the minimum Jobs requirement in the following years, Owner shall be entitled to the full abatement for such years.

- i. If the actual number of Jobs falls below the minimum Jobs requirement of thirty (30) Jobs, the abatement percentage will be reduced by two percent (2%) for each one (1) Job deficiency, for that year.

(Example: A total of 28 Jobs would be a deficiency of 2 Jobs, which would provide for a 4% reduction in the abatement.)

- ii. If less than twenty-five percent (25%) of all Jobs are filled by Tarrant County residents, Owner will receive a five percent (5%) reduction. For purposes of ascertaining compliance with this provision, an employee is considered a Tarrant County resident if the employee resides in Tarrant County on the date of hire.

- C. Owner intends to use its best efforts to meet the goals with respect to DBE Companies and Tarrant County Companies set forth in Sections III.D. and III.E.; provided, however, the parties expressly agree that, because the construction of a Data Center involves highly specialized labor, a failure to attain the goals with respect to DBE Companies and/or Tarrant County Companies is not a condition precedent to receiving any abatement under this Agreement nor does such a failure constitute a breach of this Agreement.
- D. This Agreement shall take effect on the date which both the County and Owner have executed this Agreement (the "Effective Date") and, unless terminated earlier in accordance with its terms and conditions, shall expire simultaneously upon expiration of the Abatement Term, as defined below (the "Term"). The term during which Owner may receive an abatement shall commence on January 1 of the tax year following the year as of which the Completion Date has occurred and shall expire on December 31 of the tenth (10th) year thereafter (the "Abatement Term").

V.

Reports, Audits and Inspections

- A. Annual Certification and Reports - Pursuant to state law, Owner shall certify annually to taxing units that Owner is in compliance with the terms of the Agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the Agreement, as follows:
 1. Certification - Owner shall complete and certify a Tax Abatement Evaluation Report substantially in the form attached hereto as **Exhibit "G"** 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 Agreement.

2. Eligible Property Reports - To the extent necessary to verify compliance with the terms of this Agreement or to otherwise administer the terms of this Agreement, but no more than once per calendar year, Owner shall make available to County, upon reasonable written request, the information in the Tax Abatement Evaluation Report applicable to all Eligible Property.
 3. Equipment Added, Replaced or Removed - Owner agrees to provide County, upon reasonable written request but no more than once per calendar year, a copy of its personal property tax return detailing any Eligible Property that has been added, replaced or removed from the Land.
 4. Report Upon Project Completion - Provided the Completion Date occurred by the Completion Deadline, within one-hundred eighty (180) days of completion of the Real Property Improvement Commitment and Personal Property Commitment, Owner shall provide County with a final Eligible Property Report that shall describe all Eligible Property for which Owner is granted tax abatement. The report may contemplate a reconciliation of the general ledger to the personal property rendition to satisfy this requirement.
 5. DBE and Tarrant County Companies Report - Owner shall complete and certify a DBE and Tarrant County Companies Report as provided for in the Tax Abatement Evaluation Report for each year of the tax abatement agreement, to be due annually not later than April 30. This report and certification shall include the total Construction Costs expended for the Real Property Improvements with DBE Companies and Tarrant County Companies, together with supporting invoices and other documents reasonably necessary to demonstrate that such amounts were actually paid.
 6. Failure to Submit Reports - If Owner fails to submit any report required by and in accordance with this Section V.A., the County shall provide written notice to Owner. If Owner fails to provide any such report within thirty (30) calendar days following receipt of such written notice, the County will provide a second written notice to Owner. If Owner fails to provide any such report within five (5) business days following receipt of this second written notice, the County will have the right to terminate this Agreement immediately by providing written notice to Owner.
- B. Right to Audit Books and Records - Provided at least ten (10) calendar days' notice is given and to the extent necessary to verify compliance with the terms of this Agreement or to otherwise administer the terms of this Agreement, but no more than once per calendar year, the County will have the right throughout the Term to audit the financial and business records of Owner that relate solely to the Real Property Improvements and Personal Property Improvements and are necessary to evaluate compliance with this Agreement or with the commitments set forth in this Agreement, including, but not limited to documents and invoices related to the construction of the Real Property Improvements and the purchase of Personal Property Improvements. Owner must make all such records described in this Section V.B. available to the County at Owner's offices in the County or at another location in the County acceptable to both parties and shall otherwise cooperate fully or cause full cooperation with the County during any audit. Further, Owner may require that all individuals reviewing the financial and business

records of Owner, an Affiliate or another party must first sign a reasonable confidentiality agreement under which they agree to not discuss or publicize information contained in such records except as necessary for them to complete an audit of such records in accordance with this Agreement.

- C. Inspection - At any time during Owner's normal business hours throughout the Term and following at least ten (10) calendar days' prior written notice to Owner, the County will have the right to inspect and evaluate the Land, and Owner will provide reasonable access to the same, in order for the County to monitor or verify compliance with the terms and conditions of this Agreement. Owner will reasonably cooperate with the County during any such inspection and evaluation. Notwithstanding the foregoing, Owner shall have the right to require that any representative of the County be escorted by a representative or security personnel of Owner during any such inspection and evaluation, and Owner shall be able to exercise its sole, reasonable discretion in scheduling a requested inspection so as not to interfere with its ongoing business operations on the Land. Further, Owner may require that all individuals inspecting the Land or Eligible Property must first sign a reasonable confidentiality agreement under which they agree to not discuss or publicize information revealed in such inspection except as necessary for them to complete such inspection in accordance with this Agreement.

VI. Use of Land

The Land is intended to be used as a Data Center as that term is defined in the City's Zoning Ordinance as of the Completion Date and as defined in Section I.I. herein. After the Completion Deadline, the Land must be used for a lawful use related to the support and/or operation of Owner's commercial, business, retail, or industrial uses. The Land at all times shall be used in a manner that is consistent with the City's Zoning Ordinance and consistent with the general purpose of encouraging development within the Zone. Both parties acknowledge that the use of the Land as described in this Section VI is consistent with such purposes.

VII. Breach

- A. The following conditions shall constitute a breach of this Agreement:
1. Owner terminates the use of the Land in accordance with Section VI at any time during the Abatement Term; or
 2. Owner fails to meet the Abatement Conditions and Requirements as specified in Section III, A., B., C. or G.
 3. Violations of City Code, State or Federal Law - If (i) any written citation is issued to Owner due to the occurrence of a material violation of a material provision of an applicable City ordinance on the Land or on or within any improvements thereon and such citation is not paid or the recipient of such citation does not properly follow the legal procedures for protest and/or contest of any such citation; (ii) the County is notified by a governmental agency or unit with appropriate jurisdiction that Owner is in material violation of any material state or federal law, rule or regulation

on account of any portion of the Land owned by Owner, or on account of improvements owned or operated by Owner or any operations therein on the Land, and Owner does not take affirmative action to resolve, mitigate or protest and/or contest such violation under proper legal procedures.

4. Failure to Pay County Taxes - A breach shall occur under this Agreement if Owner allows its ad valorem taxes on the Land or Eligible Property owed to the County to become delinquent and Owner does not either pay or cause such taxes to be paid or properly follow the legal procedures for protest and/or contest of any such taxes. In this event, the County shall notify Owner in writing and Owner shall have the opportunity to cure such default in accordance with Section VII.B. If the default has not been fully cured by such time, the County shall have the right to terminate this Agreement immediately by providing written notice to Owner and shall have all other rights and remedies that may be available to it under the law or in equity necessary to collect such delinquent taxes. Additionally, County shall have the right to recapture taxes which otherwise would have been paid to County without the benefit of the Agreement for the year that Owner's taxes were delinquent. Either payment of such taxes or initiation of and ongoing engagement in legal proceedings for protest and/or contest of such taxes shall constitute a full cure pursuant to Section VII.B.
- B. Notice of Breach - In the event that County makes a reasonable determination that Owner has breached this Agreement, County shall give Owner written notice of such default. Owner has sixty (60) days following receipt of said written notice to reasonably cure such breach, or this Agreement may be terminated by County, and partial recapture of abated taxes may occur in accordance with Section VII.C. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail to Owner at its address provided in Section IX of this Agreement. It shall be the duty of County to determine whether to request partial recapture and payment of abated taxes and to demand payment of such.
- C. Recapture - Should Owner commit a breach of this Agreement according to items A.1. or A.2. of this Section VII and fail to cure as provided in Section VII.B., County may terminate this Agreement and recapture taxes abated for the years during which the cause for termination occurs. 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. 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. A breach under any sections of this Agreement other than Section VII.A.1., Section VII.A.2., Section VII.A.4., or Section XXI, shall not trigger a right to any recapture of taxes by County.
- 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 Land and Eligible Property described herein.

VIII.

Effect of Sale, Lease or Assignment of Property

A. Affiliate – Upon written notice to the County, Owner may assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any entity which is an Affiliate of Owner, without the consent of the County, in which case the benefits and obligations under this Agreement shall apply to the property and premises owned by such assignee.

B. Collateral Assignment - Owner may assign its rights and obligations under this Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or Eligible Property thereon with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld or delayed, provided that Owner and the financial institution or other lender first execute a written agreement with the County in substantially the same form as that attached hereto as **Exhibit "F"**, together with such other terms and conditions as may be agreed by the County, Owner and the financial institution or other lender with respect to such security interest (a "Consent to Collateral Assignment Agreement").

B. Sale/Leaseback - So long as Owner or an Affiliate of Owner remains the ground lessee or the substantial equivalent of the ground lessee, Owner may, with the written consent of the Commissioners Court, which shall not be unreasonably withheld or delayed, transfer fee simple title to the Land to a third party and continue to exercise its rights and obligations under this Agreement, including but not limited to the abatement, so long as the third party owner and Owner or its Affiliate first execute a written agreement with the County under which both the third party owner of the Land and Owner or its Affiliate, jointly or severally as may be appropriate under the circumstances, agree to be bound by all covenants and obligations of Owner under this Agreement.

C. Other Assignments - Except as otherwise provided in this Section VIII, the abatement granted by this Agreement shall not be assignable to any new owner or new lessee of all or a portion of the Land or Eligible Property unless such assignment is approved in writing by the County, which consent shall not be unreasonably withheld or delayed, conditioned on (i) findings, which shall likewise not be unreasonably withheld or delayed, that the assignee or successor is financially capable of meeting the terms and conditions of this Agreement and (ii) execution by the proposed assignee or successor of a written agreement with the County under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of Owner under this Agreement. Any such attempted assignment without the Commissioners Court's prior consent shall constitute grounds for termination of this Agreement following ten (10) calendar days of receipt of written notice from the County to Owner and failure to cure in accordance with Section VII.B. Any lawful assignee or successor in interest of Owner of all rights under this Agreement shall be deemed "Owner" for all purposes under this Agreement.

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, hand delivery, or by professional delivery service providing confirmation of receipt:

Owner:	Winner LLC 1 Hacker Way Menlo Park, CA 94025 Attention: Data Center Counsel
with a copy to:	Winstead PC 2728 N. Harwood Street Suite 500 Dallas, TX 75201 Attention: Paul N. Wageman
County:	Tarrant County County Administrator's Office 100 E. Weatherford Fort Worth, Texas 76196 Attention: County Administrator

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; Conflicting Law

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. If any law is enacted after the Effective Date that prohibits either party from materially performing its duties and obligations under this Agreement, the parties agree to meet and confer in good faith for a period of no less than thirty (30) and no more than ninety (90) days to seek to effectuate an amendment to this Agreement that preserves, to the extent reasonably possible, the original intentions of the parties under this Agreement, with the understanding that this Agreement cannot be amended without the approval of the Commissioners Court.

XII.
Estoppel Certificate

Upon written request by Owner to the County, as reasonably necessary to Owner, the County will provide Owner with a certificate stating, as of the date of the certificate, (i) whether

this Agreement is in full force and effect and, if Owner is in breach of this Agreement, the nature of the breach; (ii) a statement as to whether this Agreement has been amended and, if so, the identity of each amendment; and (iii) any other factual matters reasonably requested that relate to this Agreement.

XIII.
Owner's Standing

Owner, 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 Owner 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.
Independent Contractor

It is expressly understood and agreed that Owner shall operate as an independent contractor in each and every respect hereunder and not as an agent, representative or employee of the County. Owner 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. Owner acknowledges that the doctrine of *respondeat superior* will not apply as between the County and Owner, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. Owner further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the County and Owner.

XVI.
Indemnification

It is understood and agreed between the parties that the Owner, in performing its obligations hereunder, is acting independently, and County assumes no responsibility or liability to third parties in connection therewith, and Owner 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 Owner 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 Owner from any such responsibility or liability.

XVII.
Confidential Information

The County acknowledges that some information it receives from Owner under this Agreement may be considered confidential. Owner understands and agrees that the County is subject to the Texas Public Information Act, Chapter 552, Texas Government Code. The parties

agree to comply with the terms and conditions of that certain Single Party Non-Disclosure Agreement between the County and Owner dated effective as of August 24, 2018 that is on file in with the County to the extent that it relates to the rights, obligations, documents and/or information related to this Agreement and as allowed by Chapter 312 of the Texas Tax Code. By this reference, the above-described Non-Disclosure Agreement is made coterminous with the term of this Agreement.

XVIII.

Mutual Assistance; Dispute Resolution

The County and Owner will do all things reasonably necessary or appropriate to carry out the objectives, terms and provisions of this Agreement and to aid and assist each other in carrying out such objectives, terms and provisions, including without limitation, the County facilitating approval of permits, documents, and other instruments as may be reasonably necessary in carrying out such objectives. In case of any disputes arising under this Agreement, the County and Owner agree to attempt to resolve such disputes through good faith negotiations between authorized representatives of both parties. If necessary, both parties agree to submit a dispute to a non-binding mediation. If a dispute cannot be resolved through non-binding mediation, either party may pursue any available legal remedies in any court of competent jurisdiction that satisfies the requirements of Section XIV, or, if both parties mutually agree, the dispute may be submitted to binding arbitration. In the event of binding arbitration, the arbitrators will be chosen from a panel of arbitrators with substantive knowledge relative to the subject matter of the dispute. The arbitrators will apply the laws specified in this Agreement to the merits of any dispute or claim. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitrators may grant permanent injunctions or other relief in such dispute or claim.

XIX.

No Third Party Rights

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

XX.

Force Majeure

It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, strike, inclement weather, governmental restrictions, shortages or unavailability of labor or materials, unreasonable delays by the City (based on the then-current workload of the city department(s) responsible for undertaking the activity in question) in issuing any permits, consents, or certificates of occupancy or conducting any inspections of or with respect to the Land or Eligible Property, incidence of disease or other illness that reaches outbreak, epidemic, or pandemic proportions or other similar causes affecting the general area in which the Eligible Property is located, or other circumstances which are reasonably beyond the control of the party

obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement and the Completion Deadline shall be extended for a period of time equal to the period such party was delayed. Notwithstanding anything to the contrary herein, it is specifically understood and agreed that any failure to obtain adequate financing necessary to meet the Real Property Improvement Commitment or the Personal Property Commitment shall not be deemed to be an event of force majeure and that this Section XX shall not operate to extend the Completion Deadline in such an event.

XXI.

Knowing Employment of Undocumented Workers

Owner 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. Owner hereby certifies that Owner, and any branches, divisions, or departments of Owner, 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 Owner, or any branch, division, or department of Owner, 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 Owner, Owner 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 Owner hereunder, if any, plus Simple Interest at a rate of four percent (4%) per annum. Owner shall not be considered in violation of this section for any actions of a subsidiary, Affiliate, franchisee of Owner or a person or entity with whom Owner contracts.

XXII.

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.

XXIII.

Signatories

This Agreement is effective and binding on those parties that have duly signed below. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

XXIV.

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.

XXV.
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.

XXVI.
Binding Agreement

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.

XXVII.
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.

XXVIII.
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.

[Signatures appear on the following page.]

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

WINNER LLC,
a Delaware limited liability company:

By: _____
Name:
Title:

Date: _____

TARRANT COUNTY, TEXAS

By: _____
B. Glen Whitley
County Judge

Date: October 6, 2020

ATTEST:

APPROVED AS TO FORM*:

Deputy County Clerk

Asst. Criminal District Attorney

**By law, the 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.*

WINNER LLC
Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA §
 §
COUNTY OF _____ §

On _____ before me, _____ (name/title), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that he/she/their signature(s) on the instrument is/are the person(s), or the entity upon behalf of which the person(s) acted, executed this instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

DESCRIPTION OF 110.71 ACRES

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to AIL Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S 89°56'01"E, 368.25 feet;

THENCE S 00°04'42"W, 540.00

feet; **THENCE** S 89°55'36"E,

602.74 feet; **THENCE** N 71°51'00"E,

445.20 feet; **THENCE** N 62°28'25"E,

296.66 feet;

THENCE N 90°00'00"E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of 41°14'47", having a radius of 95.00 feet, the long chord which bears S 69°22'37"E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of 38°19'47", having a radius of 141.00 feet, the long chord which bears S 67°55'07"E, 92.58 feet;

THENCE S 87°05'00"E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of 05°55'58", having a radius of 1940.00 feet, the long chord which bears S 08°09'47"E, 200.79 feet;

THENCE S 05°15'42"E, 237.77 feet;

THENCE S 33°52'08"W, 95.68 feet to the beginning of a curve to the left;
THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of 02°29'57", having a radius of 3294.04 feet, the long chord which bears S 61°40'59"W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of 04°46'16", having a radius of 11479.16 feet, the long chord which bears S 58°08'59"W, 955.62 feet;

THENCE S 55°45'15"W, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of 09°18'33", having a radius of 7619.44 feet, the long chord which bears S 60°24'08"W, 1236.61 feet;

THENCE S 65°04'38"W, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of 05°51'36", having a radius of 3839.72 feet, the long chord which bears S 62°07'36"W, 392.54 feet;

THENCE S 59°11'47"W, 152.11

feet; THENCE S 89°11'47"W, 80.00

feet; THENCE N 36°10'14"W,

86.37 feet;

THENCE N 00°04'17"W, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of 12°38'40", having a radius of 760.00 feet, the long chord which bears N 06°10'12"W, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of 12°33'05", having a radius of 740.00 feet, the long chord which bears N 06°12'59"W, 161.78 feet;

THENCE N 00°03'31"E, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE $N 00^{\circ}01'18''E$, 115.00 feet to the **Point of Beginning** and containing 4,822,528 square feet or 110.71 acres of land more or less.

DESCRIPTION OF ADDITIONAL 39.407 ACRES

BEING A TRACT OF LAND SITUATED IN THE F. CUELLA SURVEY, ABSTRACT NUMBER 267, TARRANT COUNTY, TEXAS AND BEING ALL OF LOT 5R AND 6, BLOCK 3, ALLIANCE GATEWAY NORTH, AN ADDITION TO THE CITY OF FORT WORTH AS RECORDED IN INSTRUMENT NUMBER D215150766, COUNTY RECORDS. TARRANT COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID LOT 5R, BLOCK 3, THE SOUTHEAST CORNER OF LOT 1, BLOCK 3, ALLIANCE GATEWAY NORTH ADDITION, AN ADDITION TO THE CITY OF FORT WORTH RECORDED IN CABINET X, SLIDE 753, IN THE WEST LINE OF THAT TRACT OF LAND DESCRIBED IN A DEDICATION DEED (KNOWN AS INDEPENDENCE PARKWAY) TO THE CITY OF FORT WORTH, RECORDED IN VOLUME 13944, PAGE 528 OF COUNTY RECORDS, TARRANT COUNTY, TEXAS AND BEING THE BEGINNING OF A CURVE TO THE LEFT;

THENCE WITH SAID CURVE TO THE LEFT AND THE WEST RIGHT-OF-WAY LINE OF SAID INDEPENDENCE PARKWAY, AN ARC DISTANCE OF 673.39 FEET, THROUGH A CENTRAL ANGLE OF $119^{\circ}46'46''$, HAVING A RADIUS OF 2060.00 FEET, THE LONG CHORD WHICH BEARS $S 25^{\circ}49'55''E$, 670.40 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE $S 35^{\circ}11'48''E$, 166.77 FEET, WITH SAID RIGHT-OF-WAY LINE, TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND AT THE BEGINNING OF A CURVE TO THE RIGHT;

THENCE CONTINUING WITH SAID WEST RIGHT-OF-WAY LINE AND SAID CURVE TO THE RIGHT, AN ARC DISTANCE OF 814.90 FEET, THROUGH A CENTRAL ANGLE OF $24^{\circ}04'02''$, HAVING A RADIUS OF 1940.00 FEET, THE LONG CHORD WHICH BEARS $S 23^{\circ}09'47''E$, 808.92 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE $N 87^{\circ}05'00''W$, 103.97 FEET DEPARTING SAID RIGHT-OF-WAY LINE TO A 5/8" INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND THE AT NORTHEAST CORNER OF LOT 7, BLOCK 3 OF AFOREMENTIONED ALLIANCE GATEWAY NORTH AT THE BEGINNING OF A CURVE TO THE RIGHT BEING;

THENCE CONTINUING WITH SAID NORTH LINE AND SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 68.39 FEET, THROUGH A CENTRAL ANGLE OF $41^{\circ}14'47''$, HAVING A RADIUS OF 95.00 FEET, THE LONG CHORD WHICH BEARS $N 69^{\circ}22'37''W$, 66.92 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE N 90°00'00"W, 155.55 FEET WITH SAID NORTH LINE TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE S 62°28'25"W, 296.66 FEET WITH SAID NORTH LINE TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND AT THE SOUTHEAST CORNER OF LOT 4R. BLOCK 3, ALLIANCE GATEWAY NORTH, AN ADDITION TO THE CITY OF FORT WORTH AS RECORDED IN INSTRUMENT NUMBER 0209069793, SAID COUNTY RECORDS;

THENCE N 00°19'15"W, 1483.52 FEET WITH THE EAST LINE OF SAID LOT 4R TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND IN THE SOUTH LINE OF THE AFOREMENTIONED LOT 1, BLOCK 3, ALLIANCE GATEWAY NORTH ADDITION;

THENCE N 89°38'27"E, 637.87 FEET WITH THE SOUTH LINE OF SAID LOT 1 TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON " FOUND;

THENCE N 73°33'03"E, 244.92 FEET CONTINUING WITH SAID LOT 1 TO THE POINT OF BEGINNING AND CONTAINING 1,716,584 SQUARE FEET OR 39.407 ACRES OF LAND MORE OR LESS.

EXHIBIT "B"
**CITY OF FORT WORTH TAX ABATEMENT AGREEMENT
AND APPLICABLE ORDINANCES**

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 WINNER LLC, a Delaware limited liability company ("**Company**").

RECITALS

A. On May 20, 2014, the City Council adopted Resolution No. 4322-05-2014, 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 May 19, 2015 the City Council adopted Ordinance No. 21757-05-2015 (the "**Ordinance**") establishing Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas (the "**Zone**").

D. Company owns approximately 110 acres of Land in the City located at the northeast corner of Alliance Gateway and Park Vista Boulevard. The Land is located entirely within the Zone. Contingent upon receipt of the tax abatement herein, Company intends to construct and operate an approximately 250,000 square foot data center on the Land, with potential expansions and build-outs that could involve an aggregate investment of more than \$250,000,000.00 in real and business personal property investments.

E. On April 15, 2015 Company submitted an application for tax abatement to the City concerning Company's plans for the development (the "**Application**"), 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. The provisions of this Agreement, and the proposed use of the Land and nature and minimum capital investment required for the Project Improvements, as defined in Section 2, satisfy the eligibility criteria for commercial/industrial tax abatement pursuant to Section 4.3 of the Policy.

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.

I. The Abatement granted under this Agreement is in conjunction with a broader economic development incentive program governed by that certain Economic Development Program Agreement between the City and Company on file in the City Secretary's Office as City Secretary Contract No. 46728 (the "EDPA") to be executed substantially simultaneously with this Agreement.

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 ten percent (10%) of the City's incremental ad valorem real property taxes on the Land and all improvements located on the Land, based on the increase in values of the Land and all improvements located on the Land for the 2018 tax year over their values for the 2015 tax year (which is the year in which the parties entered into this Agreement); and (ii) the abatement of ten percent (10%) of the City's ad valorem taxes on New Taxable Tangible Personal Property, based on the taxable assessed value of the New Taxable Tangible Personal Property.

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.

Application has the meaning ascribed to it in Recital E.

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

Code has the meaning ascribed to it in Recital B.

Completion Date means the date as of which a temporary or permanent certificate of occupancy for at least 100,000 square feet of space within the Project Improvements has been issued.

Completion Deadline means December 31, 2017, subject to extension on account of force majeure, as provided in Section 22.

Comprehensive Plan means the City's 2015 Comprehensive Plan, adopted pursuant to Ordinance No. 21693-03-2015, adopted by the City Council on March 17, 2015.

Consent to Collateral Assignment Agreement has the meaning ascribed to it in Section 11.2.

Construction Costs means the aggregate of the following costs expended or caused to be expended by Company for the Project Improvements: actual site development and construction costs, general contractor and subcontractor fees, and the costs of supplies, materials and construction labor; engineering fees; and architectural and design fees; zoning fees; building permit fees; sewer basin fees; water and sewer tap fees; water, wastewater and thoroughfare impact fees; other costs and fees customarily incidental to construction of a commercial project; and insurance and taxes directly related to the construction of the Project Improvements. Construction Costs specifically excludes any costs associated with the acquisition or lease of the Land.

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

EDPA has the meaning ascribed to it in Recital I.

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

Employment Goal has the meaning ascribed to it in Section 4.3.

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.

Full-time Job means a job on the Land provided by Company or an Affiliate to one individual for (i) forty (40) hours per week or (ii) less than forty (40) hours per week if such other measurement is used to define full-time employment by Company or an Affiliate in accordance with its then-current personnel policies and regulations. For example, if Company or an Affiliate has a company-wide policy that considers full-time employment to be thirty-five (35) hours per week, a job on the Land provided by Company or an Affiliate for at least thirty-five (35) hours per week shall be considered a full-time job for purposes of this Agreement.

Land means the real property described on Exhibit "A" which is attached hereto and incorporated herein by reference for all purposes under this Agreement, plus any additional land within a half-mile radius of the real property boundaries referenced on Exhibit "A" that is acquired by Company subsequent to the Effective Date for incorporation into the Project Improvements and otherwise allowable under Chapter 312 of the Texas Tax Code.

Mortgagee means the holder of a mortgage on the Land.

New Taxable Tangible Personal Property means any personal property that (i) is subject to ad valorem taxation and is rendered for that purpose to Tarrant Appraisal District or another appraisal district having jurisdiction over the Land; (ii) is located on the Land; (iii) is owned or leased by Company or an Affiliate; and (iv) was not located in the City prior to the Effective Date of this Agreement.

Ordinance has the meaning ascribed to it in Recital C.

Personal Property Commitment has the meaning ascribed to it in Section 4.2.

Personal Property Report has the meaning ascribed to it in Section 4.4.2.

Policy has the meaning ascribed to it in Recital A.

Project Completion Report has the meaning ascribed to it in Section 4.4.1.

Project Improvements means improvements constructed or caused to be constructed on the Land by Company after the Effective Date of this Agreement.

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

Server means any computer data processing, storage, or other transmission equipment and any equipment at any time substituted for and performing the same or similar functions. "Server" does not include the software installed on any computer or data processing equipment.

Term has the meaning ascribed to it in Section 3.

Zone has the meaning ascribed to it in Recital C.

3. **TERM.**

This Agreement will take effect on the date of execution of this Agreement by both the City and Company (the "**Effective Date**") and, unless terminated earlier in accordance with its terms and conditions, will expire on December 31, 2018 (the "**Term**").

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

4.1. **Real Property Improvements and Uses.**

The Completion Date must occur on or before the Completion Deadline, and Company must expend or cause the expenditure by the Completion Deadline of at least One Hundred Twenty-five Million Dollars (\$125,000,000.00) in Construction Costs for the Project Improvements; provided, however, that if the Personal Property Commitment outlined in Section 4.2 is exceeded and if Company submits a written request to the City on or before submission of the Personal Property Report, the Director may reduce this One Hundred Twenty-five Million Dollar (\$125,000,000.00) minimum cost requirement by the same percentage by which the Personal Property Commitment was exceeded, but such reduction may not exceed twenty-five percent (25%), regardless of the percentage by which the Personal Property Commitment was exceeded, and with the understanding that any such reduction must be specified in writing and reflected in the Certificate of Completion issued pursuant to Section 5 (the "**Real Property Improvement Commitment**"). The Project Improvements are intended to be used as a "data center" as that term is defined in the City's Zoning Ordinance. After the Completion Deadline, the Project Improvements must be used for a lawful use related to the support and/or operation of Company's commercial, business, retail, or industrial uses and may not be used in conjunction with any use(s) that the City Council has determined cause or would cause materially adverse effects on the stability of the immediate neighborhood. Dollars counted as Construction Cost expenditures for purposes of measuring attainment of the Real Property Improvement Commitment under the EDPA will also be counted for purposes of measuring attainment of the Real Property Improvement Commitment under this Agreement.

4.2. Installation of Personal Property on Land.

By the Completion Deadline, Company intends to install or otherwise locate on the Land (including within the Project Improvements), or cause to be installed or otherwise located on the Land, New Taxable Tangible Personal Property having an aggregate actual cost of at least One Hundred Twenty-five Million Dollars (\$125,000,000.00); provided, however, that if the Real Property Improvement Commitment is exceeded and if Company submits a written request to the City on or before submission of the Project Completion Report, the Director may reduce this One Hundred Twenty-five Million Dollar (\$125,000,000.00) minimum cost requirement by the same percentage in which the Real Property Improvement Commitment was exceeded, but such reduction may not exceed twenty-five percent (25%), regardless of the percentage by which the Real Property Improvement Commitment was exceeded, with the understanding that any such reduction must be specified in writing and reflected in the Certificate of Completion issued pursuant to Section 5 (the "**Personal Property Commitment**"). Dollars counted as expenditures for purposes of measuring attainment of the Personal Property Improvement Commitment under the EDPA will also be counted for purposes of measuring attainment of the Personal Property Commitment under this Agreement.

4.3. Employment Goal.

During 2018, Company will use commercially reasonable efforts to provide or cause to be provided at least forty (40) Full-time Jobs on the Land (the "**Employment Goal**"). Full-time Jobs counted for purposes of measuring attainment of the Employment Goal under the EDPA will also be counted for purposes of measuring attainment of the Employment Goal under this Agreement.

4.4. Reports and Filings.

4.4.1. Notice of Completion and Final Construction Report.

Provided that the Completion Date occurred on or before the Completion Deadline, on or before February 28 of the year following the year in which the Completion Deadline occurs, Company must provide a written report to the City, substantially in the form attached hereto as **Exhibit "C"**, that specifically outlines the total Construction Costs expended for the Project Improvements, as well as the total Construction Costs expended for the Project Improvements with Fort Worth Companies and Fort Worth Certified M/WBE Companies (as those terms are defined in the EDPA), together with supporting invoices and other documents reasonably necessary to demonstrate that such amounts were actually paid (the "**Project Completion Report**"). Provision of the Project Completion Report under the EDPA will also constitute provision of the Project Completion Report under this Agreement.

4.4.2. Personal Property Report.

On or before February 28 of the year following the year in which the Completion Deadline occurred, Company must provide a written report to the City, substantially in the form attached hereto as **Exhibit "D"**, that specifically outlines the New Taxable Tangible Personal Property that has been installed or otherwise located on the Land, the legal owner of such New Taxable Tangible Personal Property, and the amounts actually paid for such New Taxable Tangible Personal Property, together with supporting invoices and other documents reasonably necessary to demonstrate that such amounts were actually paid (the "**Personal Property Report**"). Provision of the Personal Property Report under the EDPA will also constitute provision of the Personal Property Report under this Agreement.

4.4.3. Employment Report.

On or before February 28 of the first full calendar year following the year in which the Completion Deadline occurred, Company must provide the City with a report, substantially in the form attached hereto as **Exhibit "E"**, that sets forth the total number of individuals who held Full-time Jobs on the Land as of December 1 (or such other date requested by Company and reasonably acceptable to the City) of the previous year, together with reasonable supporting documentation. If the Employment Goal was not met, Company must include an explanation as to why Company believes the Employment Goal was not met and the efforts that were utilized to meet the Employment Goal. As provided in Section 7.7 below, a failure to meet the Employment Goal does not constitute a default under this Agreement. Notwithstanding anything to the contrary herein, provision of the employment report under the EDPA will also constitute provision of the employment report provided hereunder.

4.5. Audits.

Provided at least ten (10) calendar days' notice is given and to the extent necessary to verify compliance with the terms of this Agreement or to otherwise administer the terms of this Agreement, but no more than once per calendar year, the City will have the right throughout the Term to audit the financial and business records of Company that relate solely to the Project Improvements and New Taxable Tangible Personal Property and are necessary to evaluate compliance with this Agreement or with the commitments set forth in this Agreement, including, but not limited to documents and invoices related to the construction of the Project Improvements and the purchase of New Taxable Tangible Personal Property. If documentation of any Construction Cost expenditures or costs of New Taxable Tangible Personal Property is contained in

financial and business records of Company that also contain unrelated matters, and the City cannot verify such expenditures or costs in any other documents of Company, such expenditures and costs will not be counted for purposes of this Agreement unless Company allows the City to audit those records; provided, however, that if Company allows the City to audit those records, Company may redact any unrelated matters that are non-essential to the audit of any Construction Cost expenditures or costs of New Taxable Tangible Personal Property. If Company seeks to have Construction Cost expenditures made by another party or costs of New Taxable Tangible Personal Property by an Affiliate counted for purposes of this Agreement, Company must make or cause to be made the financial and business records of that party that relate to the expenditures in question. Company must make all such records described in this Section 4.5 available to the City at Company's offices in the City or at another location in the City acceptable to both parties and shall otherwise cooperate fully or cause full cooperation with the City during any audit. Further, Company may require that all individuals reviewing the financial and business records of Company, an Affiliate or another party must first sign a reasonable confidentiality agreement under which they agree to not discuss or publicize information contained in those records except as necessary for them to complete an audit of such records in accordance with this Agreement.

4.6. Inspections of Land and Project Improvements.

At any time during Company's normal business hours throughout the Term and following at least ten (10) calendar days' prior written notice to Company, the City will have the right to inspect and evaluate the Land and the Project Improvements, and Company will provide reasonable access to the same, in order for the City to monitor or verify compliance with the terms and conditions of this Agreement. Company will reasonably cooperate 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 representative or security personnel of Company during any such inspection and evaluation, and Company shall be able to exercise its sole, reasonable discretion in scheduling a requested inspection so as not to interfere with its ongoing business operations on the Land.

4.7. Use of Land.

The Land must be used at all times during the Term of this Agreement for purposes connected with the business operations of Company, as described in the Recitals, and further described in Section 4.1, and otherwise in a manner that is consistent with the general purposes of encouraging development or redevelopment of the Zone.

5. **CERTIFICATE OF COMPLETION.**

Within ninety (90) calendar days following receipt by the City of the Project Completion Report and the Personal Property Report submitted by Company in accordance with Sections 4.4.1 and 4.4.2, and assessment by the City of the information contained therein, if the City is able to verify that the Completion Date occurred on or before the Completion Deadline, that at least One Hundred Twenty-five Million Dollars (\$125,000,000.00) in Construction Costs were expended for the Project Improvements by the Completion Deadline, and that New Taxable Tangible Personal Property having an actual cost of at least One Hundred Twenty-five Million Dollars (\$125,000,000.00) (or such lower amount if authorized by the Director in writing in accordance with Section 4.2) was installed or otherwise located on the Land (including within the Project Improvements) by the Completion Deadline, the Director will issue Company a certificate confirming that both the Real Property Improvement Commitment and the Personal Property Commitment have been met (the "**Certificate of Completion**"). The issuance of the Certificate of Completion by City shall not be unreasonably conditioned, withheld or delayed.

6. **TAX ABATEMENT.**

Subject to the terms and conditions of this Agreement, provided that both the Real Property Improvement Commitment, as outlined in Section 4.1, and the Personal Property Commitment, as outlined in Section 4.2, were met, as confirmed in the Certificate of Completion issued by the City in accordance with Section 5, subject to all extensions of time allowed by this Agreement, Company will be entitled to receive the Abatement for the 2018 tax year. Section 11.5 of the Policy, which provides for a cap on the maximum amount of any given tax abatement, does not apply to this Agreement.

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

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

If the Completion Date does not occur on or before the Completion Deadline, or if the Real Property Improvement Commitment, as set forth in Section 4.1, or the Personal Property Commitment, as set forth in Section 4.2, are not met by the Completion Deadline, the City shall have the right, as its sole remedy, to terminate this Agreement by providing written notice to Company without further obligation to Company hereunder.

7.2. Failure to Pay City Taxes.

An event of default shall occur under this Agreement if any City taxes owed on the Land or on business personal property located on the Land by Company or an Affiliate, or arising on account of Company's or an Affiliate's operations on the Land, become delinquent and Company or the Affiliate does not either pay such taxes or properly follow the legal procedures for protest and/or contest of any such taxes. In this event, the City shall notify Company in writing and Company shall have thirty (30) calendar days to cure such default. If the default has not been fully cured by such time, the City shall have the right to terminate this Agreement immediately by providing written notice to Company and shall have all other rights and remedies that may be available to it under the law or in equity necessary to collect such delinquent taxes. Either payment of such taxes or initiation of and ongoing engagement in legal proceedings for protest and/or contest of such taxes shall constitute a full cure pursuant to this Section 7.2.

7.3. Violations of City Code, State or Federal Law.

An event of default shall occur under this Agreement if any written citation is issued to Company or an Affiliate due to the occurrence of a material violation of a material provision of the City Code on the Land or on or within any improvements thereon (including, without limitation, any material violation of the City's Building or Fire Codes and any other material City Code violations related to the environmental condition of the Land; the environmental condition other land or waters which is attributable to operations on the Land; or to matters concerning the public health, safety or welfare) and such citation is not paid or the recipient of such citation does not properly follow the legal procedures for protest and/or contest of any such citation. An event of default shall occur under this Agreement if the City is notified by a governmental agency or unit with appropriate jurisdiction that Company or an Affiliate, or any successor in interest thereto; or an occupant or tenant with access to any portion of the Land owned or operated by Company or an Affiliate pursuant to the express or implied permission of Company or an Affiliate if action was not taken within thirty (30) days of actual knowledge by Company or an Affiliate to resolve, mitigate or protest and/or contest such violation under proper legal procedures; or the City is in material violation of any material state or federal law, rule or regulation on account of any portion of the Land owned or operated by Company or an Affiliate, or on account of improvements owned or operated by Company or an Affiliate or any operations therein on the Land (including, without limitation, any material violations related to the environmental condition of any portion of the Land owned or operated by Company or an Affiliate; the environmental condition of other land or waters which is attributable to operations on any portions of the Land owned or operated by Company or an Affiliate; or to matters concerning the public health, safety or welfare). Upon the occurrence of any default described by this Section 7.3, the City shall notify Company in writing and Company shall

have (i) thirty (30) calendar days to cure such default or (ii) if Company has diligently pursued cure of the default but such default is not reasonably curable within thirty (30) calendar days, then such amount of time as is reasonably necessary to cure such default. If the default has not been fully cured by such time, the City shall have the right to terminate this Agreement immediately by providing written notice to Company and shall have all other rights and remedies that may be available under the law or in equity.

7.4. Foreclosure.

Subject to any rights of a lender that is a party to a Consent to Collateral Assignment Agreement executed pursuant to and in accordance with Section 11, upon the occurrence of any of the following events, the City will have the right to terminate this Agreement immediately upon provision of written notice to Company: (i) the completion of an action to foreclose or otherwise enforce a lien, mortgage or deed of trust on the Land or improvements located on the Land; (ii) the involuntary conveyance to a third party of the Land or improvements located on the Land; (iii) execution by Company or an Affiliate of any assignment of the Land or improvements located on the Land or deed in lieu of foreclosure to the Land or improvements located on the Land; or (iv) the appointment of a trustee or receiver for the Land or improvements located on the Land.

7.5. Failure to Submit Reports.

If Company fails to submit any report required by and in accordance with Section 4.4, the City shall provide written notice to Company. If Company fails to provide any such report within thirty (30) calendar days following receipt of such written notice, the City will provide a second written notice to Company. If Company fails to provide any such report within five (5) business days following receipt of this second written notice, the City will have the right to terminate this Agreement immediately by providing written notice to Company.

7.6. Knowing Employment of Undocumented Workers.

Company acknowledges that 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), 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 the value of the Abatement received by Company hereunder, if any, plus Simple Interest at a rate of four percent (4%) per annum.

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 Program Grants paid pursuant to this Agreement. This rate of interest can be applied each year, but will only apply to the amount of the Abatement received hereunder and is not applied to interest calculated. For example, if the value of the Abatement received by Company hereunder is \$10,000 and it is required to be paid back with four percent (4%) interest five years later, the total amount would be $\$10,000 + [5 \times (\$10,000 \times 0.04)]$, which is \$12,000. This Section 7.6 does not apply to violations of any subsidiary or other Affiliate of Company, any franchisees of Company, or any 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. Failure to Meet Employment Goal.

If Company fails to meet the Employment Goal, such event will not constitute a default hereunder and will not cause the amount of the Abatement to which Company is entitled hereunder to be reduced.

7.8. General Breach.

Unless and to the extent stated elsewhere in this Agreement, a party will be in default under this Agreement if that party breaches any term or condition of this Agreement and such breach remains uncured after thirty (30) calendar days following receipt of written notice from the other party referencing this Agreement (or, if the party in breach 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-breaching party, will have the right to terminate this Agreement immediately by providing written notice to the other party as well as all other available rights and remedies under the law.

7.9. City's Sole Remedy in the Event of Breach.

Except as otherwise provided in this Agreement, the City's sole remedy in the event of Company's uncured breach of any condition or obligation under this Agreement will be the City's right to terminate this Agreement in accordance with its provisions. In addition, except as required by Section 7.6 and Section 7.11 of this Agreement, Company will not be required to repay any Abatement or property tax revenue lost as a result of this Agreement.

7.10. Termination of EDPA.

In the event that the EDPA is lawfully terminated in accordance with its terms and conditions prior to expiration of this Agreement, this Agreement will automatically terminate on the same date as the effective date of termination under the EDPA.

7.11. Damages for Failure to Obtain Certificate of Completion.

Company acknowledges and agrees that termination of this Agreement due to a 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 a failure to obtain the Certificate of Completion, as authorized by Section 312.205(a)(4) of the Code, Company must pay the City all taxes that were abated in accordance with this Agreement 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 failure by Company to obtain a the Certificate of Completion and that this Section 7.11 is intended to provide the City with compensation for actual damages 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 shall be due, owing and paid to the City within sixty (60) days following the effective date of termination of this Agreement by the City. In the event that all or any portion of this amount is not paid to the City within sixty (60) 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).

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 *respondet 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 AND RELEASE.

COMPANY, AT NO COST TO THE CITY, AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES, 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 LAND, IMPROVEMENTS ON THE LAND, INCLUDING THE PROJECT IMPROVEMENTS, AND ANY OPERATIONS AND ACTIVITIES THEREON, OR OTHERWISE TO THE PERFORMANCE OF THIS AGREEMENT.

THE CITY HEREBY RELEASES AND AGREES TO HOLD HARMLESS COMPANY, ITS OFFICERS, AGENTS, AFFILIATES AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY (i) THE CITY'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (ii) ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF THE CITY, ITS OFFICERS, SERVANTS, AGENTS, ASSOCIATES, EMPLOYEES CONTRACTORS (OTHER THAN COMPANY) OR SUBCONTRACTORS, RELATED TO THE LAND, IMPROVEMENTS ON THE LAND, INCLUDING THE PROJECT IMPROVEMENTS, AND ANY OPERATIONS AND ACTIVITIES THEREON, OR OTHERWISE TO THE PERFORMANCE 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
1000 Throckmorton
Fort Worth, TX 76102

Company:

Winner, LLC
c/o Tommy Mann
Winstead, PC
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201

with copies to:

the City Attorney and
Economic Development Department
Director at the same address

11. ASSIGNMENT AND SUCCESSORS.

11.1. Affiliates.

Company may at any time assign, transfer or otherwise convey any of its rights or obligations under this Agreement to an Affiliate that is in good standing to do business in the State of Texas, as determined by the Texas Secretary of State, without the consent of the City Council so long as Company, the Affiliate and the City first execute an agreement under which the Affiliate (and, if applicable, the owner of the Land) agrees to assume and be bound by all covenants and obligations of Company under this Agreement. Notwithstanding the foregoing, if the Affiliate is not the owner of the Land, the Agreement must also be assigned to the owner of the Land in accordance with Section 11.4.

11.2. Collateral Assignment.

Company may assign its rights and obligations under this Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or improvements thereon without the consent of the City Council, provided that Company and the financial institution or other lender first execute a written agreement with the City in substantially the same form as that attached hereto as Exhibit "F", together with such other terms and conditions as may be agreed by the City, Company and the financial institution or other lender with

respect to such security interest (a “**Consent to Collateral Assignment Agreement**”).

11.3. Sale/Leaseback.

So long as Company or an Affiliate to which this Agreement has been assigned under Section 11.1 remains the ground lessee, or its substantial equivalent, Company may, with consent of the City Council in accordance with Section 11.4, which shall not be unreasonably withheld, transfer fee simple title to the Land to a third party and continue to exercise its rights and obligations under this Agreement, including but not limited to the Abatement, so long as the third party owner and Company or its Affiliate first execute a written agreement with the City under which both the third party owner of the Land and Company or its Affiliate, jointly or severally as may be appropriate under the circumstances, agree to be bound by all covenants and obligations of Company under this Agreement.

11.4. Other Assignment.

Except as otherwise provided by Sections 11.1 and 11.2, 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 consent of the City Council, which consent shall not be unreasonably withheld, conditioned on (i) the prior approval of the assignee or successor and a finding by the City Council that the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement and (ii) 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 grounds for termination of this Agreement following ten (10) calendar days of receipt of written notice from the City to Company and failure to cure. 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. ESTOPPEL CERTIFICATE.

Upon written request by Company to the City, as reasonably necessary to Company, the City will provide Company with a certificate stating, as of the date of the certificate, (i) whether this Agreement is in full force and effect and, if Company is in breach of this Agreement, the nature of the breach; (ii) a statement as to whether this Agreement has been amended and, if so, the identity of each amendment; and (iii) any other factual matters reasonably requested that relate to this Agreement.

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

This Agreement will be subject to all applicable 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.

14. **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.

15. **ADDITIONAL PROVISIONS.**

15.1. **Future Land Uses and Zoning.**

The City acknowledges that Company's proposed land use is consistent with the current industrial zoning classification of the Land. Moreover, the current Comprehensive Plan provides that uses consistent with this zoning classification are the most appropriate for the Land. In the event that the City receives any request for a residential zoning classification within 250 feet of the Land, the City will use reasonable efforts to provide Company with written notice of such request.

15.2. **Expedited Permitting.**

During the Term, if requested by Company in writing, the City shall expedite the review and any response to the permits, approvals, maps, plans, inspections, applications and other administrative requests in connection with the Land and Project Improvements. The City shall use its best efforts to appoint an appropriate staff member with knowledge and experience in the relevant subject area for such permit or approval to organize and expedite such review.

16. **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.

17. 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.

18. SEVERABILITY; CONFLICTING LAW.

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. If any law is enacted after the Effective Date that prohibits either party from materially performing its duties and obligations under this Agreement, the parties agree to meet and confer in good faith for a period of no less than thirty (30) and no more than ninety (90) days to seek to effectuate an amendment to this Agreement that preserves, to the extent reasonably possible, the original intentions of the parties under this Agreement, with the understanding that this Agreement cannot be amended without the approval of the City Council, as specified in Section 25.

19. CONFIDENTIAL INFORMATION.

The City acknowledges that some information it receives from Company under this Agreement may be considered confidential. Company understands and agrees that the City is subject to the Texas Public Information Act, Chapter 552, Texas Government Code. The Parties agree to comply with the terms and conditions of that certain Single Party Non-Disclosure Agreement between the City and Company that is on file in the City Secretary's Office as City Secretary Contract No. 46664 to the extent that it relates to the rights, obligations, documents and/or information related to this Agreement.

20. MUTUAL ASSISTANCE; DISPUTE RESOLUTION.

The City and Company will do all things reasonably necessary or appropriate to carry out the objectives, terms and provisions of this Agreement and to aid and assist each other in carrying out such objectives, terms and provisions, including without limitation, the City facilitating approval of City permits, documents, and other instruments as may be reasonably necessary in carrying out such objectives. In case of any disputes arising under this Agreement, the City and Company agree to attempt to resolve such disputes through good faith negotiations between authorized representatives of both parties. If necessary, both parties agree to submit a dispute to a non-binding mediation. If a dispute cannot be resolved through non-binding mediation, either party may pursue any available legal remedies in any court of competent jurisdiction that satisfies the requirements of Section 17, or, if both parties mutually agree, the dispute

may be submitted to binding arbitration in accordance with procedures to which both parties agree.

21. **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.

22. **FORCE MAJEURE.**

It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, strike, inclement weather, shortages or unavailability of labor or materials, unreasonable delays by the City (based on the then-current workload of the City department(s) responsible for undertaking the activity in question) in issuing any permits, consents, or certificates of occupancy or conducting any inspections of or with respect to the Land and Project Improvements, or other circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement and the Completion Deadline shall be extended for a period of time equal to the period such party was delayed. Notwithstanding anything to the contrary herein, it is specifically understood and agreed that any failure to obtain adequate financing necessary to meet the Real Property Improvement Commitment or the Personal Property Commitment shall not be deemed to be an event of force majeure and that this Section 22 shall not operate to extend the Completion Deadline in such an event.

23. **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.

24. **CAPTIONS.**

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

25. **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.

26. **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.

27. **BONDHOLDER RIGHTS.**

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

28. **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 TWO (2) PAGES]

CITY OF FORT WORTH:

By: David Cooke
David Cooke
City Manager

Date: 6/9/2015



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-27303 5-19-15

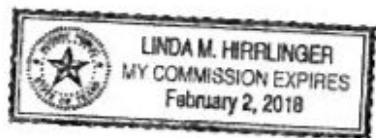
STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared **David Cooke**, 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 9th day of June, 2015.

Linda M. Hirlinger
Notary Public in and for
the State of Texas
Linda M. Hirlinger
Notary's Printed Name



Winner LLC
a Delaware Limited Liability company

By: Delfina Eberly
Name: Delfina Eberly
Title: Vice President
Date: 6/10/15

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA §
COUNTY OF San Mateo §

On 6/10/15 before me,
Leah McGettigan, Notary personally appeared
Delfina Eberly, who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that he/his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed this instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Leah McGettigan

(Seal)



EXHIBITS

“A” – Description and Map Depicting the Land

“B” – Company’s Tax Abatement Application

“C” – Form of Project Completion Report

“D” – Form of Personal Property Report

“E” – Form of Employment Report

“F” – Form of Consent to Collateral Assignment

EXHIBITS

- "A" – Description and Map Depicting the Land**
- "B" – Company's Tax Abatement Application**
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- "E" – Form of Employment Report**
- "F" – Form of Consent to Collateral Assignment**

EXHIBIT "A"
DESCRIPTION AND MAP DEPICTING THE LAND

**DESCRIPTION OF
110.71 ACRES**

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to All. Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S 89°56'01"E, 368.25 feet;

THENCE S 00°04'42"W, 540.00 feet;

THENCE S 89°55'36"E, 602.74 feet;

THENCE N 71°51'00"E, 445.20 feet;

THENCE N 62°28'25"E, 296.66 feet;

THENCE N 90°00'00"E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of 41°14'47", having a radius of 95.00 feet, the long chord which bears S 69°22'37"E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of 38°19'47", having a radius of 141.00 feet, the long chord which bears S 67°55'07"E, 92.58 feet;

THENCE S 87°05'00"E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of 05°55'58", having a radius of 1940.00 feet, the long chord which bears S 08°09'47"E, 200.79 feet;

THENCE S 05°15'42"E, 237.77 feet;

THENCE S 33°52'08"W, 95.68 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of 02°29'57", having a radius of 3294.04 feet, the long chord which bears S 61°40'59"W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of $04^{\circ}46'16''$, having a radius of 11479.16 feet, the long chord which bears $S 58^{\circ}08'59''W$, 955.62 feet;

THENCE $S 55^{\circ}45'15''W$, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of $09^{\circ}18'33''$, having a radius of 7619.44 feet, the long chord which bears $S 60^{\circ}24'08''W$, 1236.61 feet;

THENCE $S 65^{\circ}04'38''W$, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of $05^{\circ}51'36''$, having a radius of 3839.72 feet, the long chord which bears $S 62^{\circ}07'36''W$, 392.54 feet;

THENCE $S 59^{\circ}11'47''W$, 152.11 feet;

THENCE $S 89^{\circ}11'47''W$, 80.00 feet;

THENCE $N 36^{\circ}10'14''W$, 86.37 feet;

THENCE $N 00^{\circ}04'17''W$, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of $12^{\circ}38'40''$, having a radius of 760.00 feet, the long chord which bears $N 06^{\circ}10'12''W$, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of $12^{\circ}33'05''$, having a radius of 740.00 feet, the long chord which bears $N 06^{\circ}12'59''W$, 161.78 feet;

THENCE $N 00^{\circ}03'31''E$, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE N 00°01'18"E, 115.00 feet to the **Point of Beginning** and containing 4,822.528 square feet or 110.71 acres of land more or less.

"Integral parts of this document"

1. Description - 3 Pages
2. Exhibit

"Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document" 22 TAC 663.18C

Todd A. Bridges, RPLS 4940

Date: 04.21.2015

EXHIBIT "B"
COMPANY'S TAX ABATEMENT APPLICATION

FORT WORTH



Economic Development Incentive Application

Housing and Economic Development
Business Development Division
1150 South Freeway
Fort Worth, Texas 76104
(817) 212-2663

Incentive Application

1. COMPANY INFORMATION

Date: Apr 15, 2015

Company Name: Winner LLC DBA Ernst LLC

Company Address: c/o Winstead PC - 500 Winstead Building, 2728 N. Harwood Street

City: Dallas

State: TX

Zip: 75201

Contact Person: Tommy Mann

Title/Position: Attorney/Shareholder - Winstead PC

Telephone Number: 214.745.5724

Mobile Telephone Number: _____

Fax Number: 214.745.5390

E-Mail Address: tmann@winstead.com

Company Ownership (check one): Public Traded Stock Privately Held

Form of Business (choose one): Corporation Limited Liability Company - not an option on incentive application

How long has the company been in operation (Years)? 1

Describe the company's principal business (attach additional sheets as necessary):

Winner LLC is a special purpose entity whose sole and principal business will be the operation and maintenance of the proposed data center for its parent company. Winner LLC's parent company is a publicly traded, multi-national Internet company headquartered outside of Texas.

2. PROJECT INFORMATION

For real estate projects, please include below the project concept, project benefits and how the project relates to existing community plans. A real estate project is one that involves the construction or renovation of real property that will be either for lease or for sale. 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 property owner/developer to be eligible to receive incentives and/or tax abatement for a project, the property owner/developer:

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

For business expansions projects, please include below services provided or products manufactured, major customers and locations, etc. For business expansion project involving the purchase and/or construction of real estate, please answer all that apply.

Type of Project (choose one): Commercial/Industrial

Describe the company's plans for expanding or locating in Fort Worth (attach additional sheets as necessary):

The proposed project would involve the purchase of approximately 150 acres of vacant land and the construction of a new data center. The data center would be specifically designed to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment used primarily to provide data center services to Winner LLC's parent and parent's affiliates.

Applicant has already obtained permits for all horizontal/infrastructural work for development and is prepared to submit full building permit drawings for a groundbreaking as early as June if an acceptable incentive agreement can be reached.

Describe the specific operations to be performed at the proposed Fort Worth facility (attach additional sheets as necessary):
Winner LLC would provide data hosting services to its parent company. Parent would have remote access to the content hosted in the Texas data center.

Area (Square Foot) Requirements:

(a) Office _____
(b) Manufacturing _____
(c) Warehouse _____
(d) Showroom/Retail _____
(e) Other 250,000 SF

Total Area (a+b+c+d+e): 250,000 SF

**The proposed project would involve the construction of at least one data center building and as many as three on the proposed site. The provided building area is subject to change.*

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

Expansion

Relocation If relocation, where is the company currently located? New data center location

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

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

Will the facility be built or does the facility already exist? New Existing

If the company is occupying an existing facility, what is the address? N/A

If the company is constructing a new facility, what is the approximate location or address of the site? _____

NE corner of Alliance Gateway Freeway and Park Vista Blvd, Fort Worth.

If the company is constructing a new facility, what is the anticipated date for commencement of construction? Q3'2015

Anticipated date for company to move into the facility: Q3'2016

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

Replat

Rezoning *Technically not a rezone, just an amendment to the zoning ordinance.
Current Zoning: _____ Requested Zoning: _____

Variances If yes, please describe: _____

Downtown Design Review Board

Landmark Commission

Real Estate Development

1. Current Assessed Valuation of: Land \$ \$15,784 Improvements \$ \$0

Total Size of Project: 250000 SF

Total Capital Investment: \$ 125,000,000

Hard Construction Costs: \$ 82,500,000

**The proposed project would involve the construction of at least one data center building and as many as three on the proposed site. The provided building area is subject to change.*

2. For mixed-use projects, please list square footage for each use: _____

Business Personal Property and Inventory

1. Business Personal Property

Total investment on equipment, machinery, furnishing, etc.: \$ 125,000,000 Lease Purchase

*Estimated taxable value of equipment, machinery, furnishing, etc.: \$ 93,750,000

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

2. Inventory and Supplies

Value of Inventory \$ 0 Value of Supplies: \$ 0

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

3. EMPLOYMENT AND JOB CREATION

From Development

1. How many persons are currently employed? 0
2. What percent of current employees above are Fort Worth residents? 0 %
3. What percent of current employees above are Central City residents? 0 %
4. Please complete the following table for new jobs to be created from direct hire by applicant.

	First Year	By Fifth Year	By Tenth Year
Total Jobs to be Created	5	40	40
Less Transfers*	0	0	0
Net Jobs	5	40	40
% of Net Jobs to be filled by Fort Worth Residents			
% of Net Jobs to be filled by Central City residents			

* If any employees will be transferring, please describe from where they will be transferring.

N/A

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

5. Does the company provide the following benefits Retirement Health Dental Domestic Partner

6. Average wage paid to employees to be located at Fort Worth facility: \$ 69,000

4. INCENTIVES REQUEST

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

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

What level of abatement will you request: Years? 10 Percentage? 100 %

5. LOCAL COMMITMENTS

During Construction

What percent of the construction costs described under Real Estate Development will be committed to:

Fort Worth businesses? 100 %

Fort Worth Certified Minority and Women Business Enterprises? 100 %

For Annual Supply and Service Needs

Regarding discretionary supply and service expenses (i.e. landscaping, office or manufacturing supplies, janitorial services, etc; no utilities):

1. What is the annual amount of discretionary supply and service expenses? \$ 1,000,000
2. What percentage will be committed to Fort Worth businesses? TBD %
3. What percentage will be committed to Fort Worth Certified Minority and Women Business Enterprises? TBD %

Provide company contact information for the purchasing representative if known.

TBD

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

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.) Describe any direct benefits to the City of Fort Worth as a result of this project.
- 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 description of the jobs to be created (technician, engineer, manager, etc.), tasks to be performed for each, and wage rate for each classification.
- i.) 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.
- j.) Attach a plan for the utilization of Fort Worth Certified M/WBE companies.
- k.) Attach a listing of the applicant's Board of Director's, if applicable.
- l.) Attach a copy of Incorporation Papers noting all principals, partners, and agents and all Fort Worth properties owned by each.

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 Housing and Economic Development Department. Upon approval by City Council, the balance of \$3,000 can be credited towards required building permits, inspections fees, replating 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.

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.

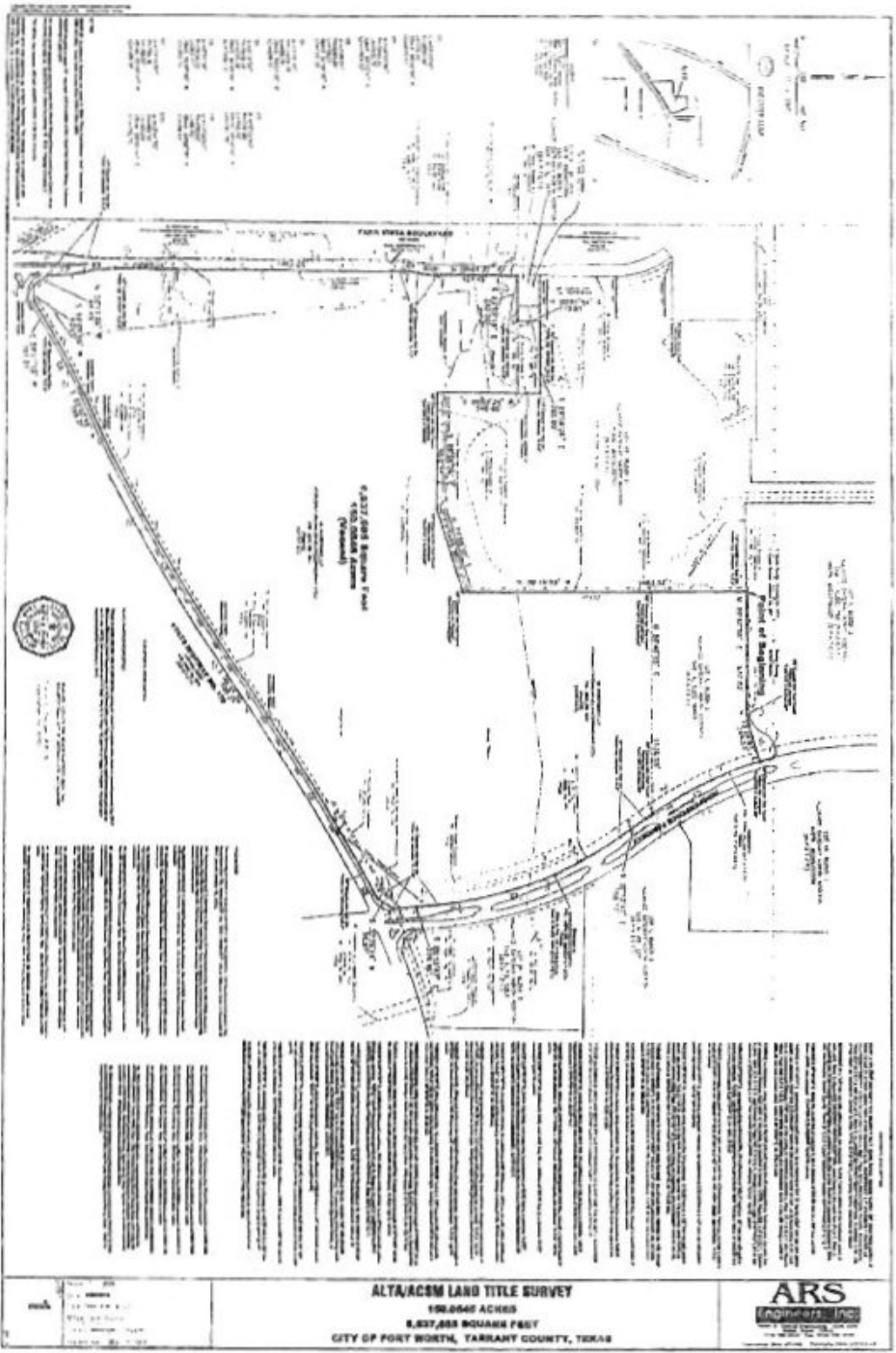
Printed Name: TOMMY MANN

Title: SHAREHOLDER, WINSTEAD PC

Signature: [Handwritten Signature]

Date: 4/20/15

Appendix A - Site Plan of the Project



ALL RIGHTS RESERVED
 THIS SURVEY IS THE PROPERTY OF
 ARS ENGINEERS, INC.
 AND IS NOT TO BE REPRODUCED
 OR TRANSMITTED IN ANY FORM
 OR BY ANY MEANS, ELECTRONIC
 OR MECHANICAL, INCLUDING
 PHOTOCOPYING, RECORDING, OR
 BY ANY INFORMATION STORAGE
 AND RETRIEVAL SYSTEM, WITHOUT
 THE WRITTEN PERMISSION OF
 ARS ENGINEERS, INC.



THE SURVEY IS BASED UPON THE
 FOLLOWING RECORDS:
 1. PLAT 123456789, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 2. PLAT 987654321, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 3. PLAT 567890123, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 4. PLAT 234567890, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 5. PLAT 890123456, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 6. PLAT 456789012, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 7. PLAT 012345678, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 8. PLAT 678901234, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 9. PLAT 345678901, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.
 10. PLAT 789012345, TARRANT COUNTY,
 TEXAS, SHOWING THE
 ORIGINAL SURVEY OF THE
 CITY OF FORT WORTH,
 TARRANT COUNTY,
 TEXAS, BY
 JOHN W. BROWN,
 SURVEYOR,
 1856.

ALTA/ACSM LAND TITLE SURVEY
 190,040 ACRES
 8,837,858 SQUARE FEET
 CITY OF FORT WORTH, TARRANT COUNTY, TEXAS

ARS
 Engineers, Inc.
 1000 Main Street
 Fort Worth, Texas 76102
 Phone: 817.552.1234
 Fax: 817.552.5678
 Email: info@ars-engineers.com
 Website: www.ars-engineers.com

Appendix B – Why incentives are necessary for the success of this project

The company is conducting a nationwide data center site selection effort. Our effort includes alternative locations in multiple jurisdictions outside of Texas. In completing our evaluation, many factors are considered, but we have an obligation to lower project related costs (both capital and operational). State and local taxes comprise a large piece of our ongoing operational expenses; therefore we need to be prudent in leveraging tax incentive programs when available. Competing states have the ability to offset state and local tax liability for twenty or more years.

Below are examples of states that have been successful in attracting large data center projects primarily based on their state and local tax incentives:

Oregon

- No sales and use tax in the state.
- Long-term Rural Enterprise Zones have the ability to abate up to 100% of new real and personal property tax value for 15-years. This includes all taxing districts.¹

Iowa

- The state offers a data center sales and use tax incentives that runs for the life of the data center (no sunset date).²
- No business personal property tax in the state.
- The High Quality Jobs Program grants local municipalities the ability to abate up to 100% of new real property tax value for up to 20-years. This includes all taxing districts.³

North Carolina

- The state offers a data center sales and use tax incentive that runs for the life of the data center (no sunset date).⁴
- Local governments have the ability to refund real and personal property taxes via annual incentive grants for up to 100% of the value added to the property. There are no statutory limitations on the term of these annual incentive grants.⁵

Based on the above, incentives are an important determining factor in locating this data center project in Fort Worth, TX.

¹ ORS 285C.400-285C.420, OAR 123-690-5200

² Iowa Code §423.3(95)a

³ Iowa Code §15.329

⁴ N.C. Gen. Stat. §105-164.13 (55), N.C. Gen. Stat. §105-164.3

⁵ N.C. Gen. Stat. §158-7.1

Appendix C – Description of environmental impacts associated with the project

Environmental impacts are anticipated to be extremely minor, but may include the following:

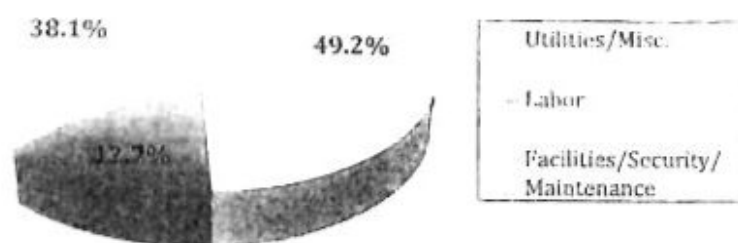
- Minor traffic increases around the site will have a small impact on air quality from the minimal traffic increase.
- Onsite generators will have a small impact on air quality. This impact will be extremely minimal given that they will only run in the rare case of utility loss and short maintenance periods.
- The data center will be run with 100% clean and renewable energy, which will offset 120 MW of additional brown power production. This will have an extremely positive environmental impact.
- Lastly, the proposed data center will meet or exceed all requirements for erosion control, storm water management and landscaping.

Appendix D - Infrastructure improvements that will be constructed as part of the project

All offsite city water and sewer infrastructure and public roads are already in place. Minor sewer line and transmission line extensions will be completed onsite.

presumably at three year increments going forward). However, at this point, the vendors of this equipment are not located in Texas, and so this investment is not included in the economic impact calculations. Once the Project moves to the operations phase, annual spending will total just over \$43 million in year four, (including the cost of electricity & other utilities, labor, and contract security and maintenance). The share of each is presented in Figure 2, with the underlying figures used as inputs into the impact model.

Figure 2: Project Operational Spending by Major Category (2013)



Economic Impact Methodology

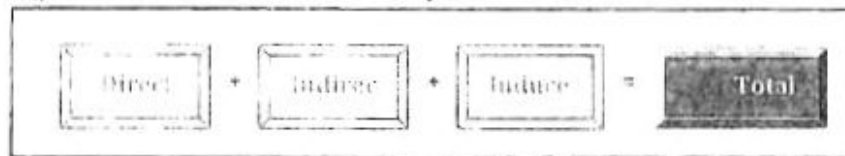
Input-output analysis includes three types of expenditure effects: direct, indirect, and induced. Direct effects are production changes associated with the immediate effects or final demand changes. The purchase of contract security by a data center is an example of a direct effect.

Indirect effects are production changes in backward-linked industries caused by the changing input needs of directly affected industries - typically, additional purchases to produce additional output. In order to provide security services, a contracted firm will need to hire workers, as well as provide them with whatever technology and/or equipment is necessary to do their jobs. These downstream purchases affect other local merchants and workers.

Induced effects are the changes in regional household spending patterns caused by changes in household income generated from the direct and indirect effects. The workers at the data center and security firm see increased compensation from their efforts, for example, as do the establishments that provide the necessary materials or other services to the designer and/or the producers. Induced effects capture the way in which this increased income is in turn spent in the local economy.

Once the ripple effects have been calculated, the results can be expressed in a number of ways. Three of the most common are "Output," equivalent to sales or receipts; "Earnings," which represents the compensation to employees and proprietors; and "Employment," which refers to permanent, full-time jobs that have been created in the local economy. The interdependence between different sectors of the economy is reflected in the concept of a "multiplier." An output multiplier, for example, divides the total (direct, indirect and induced) effects by the direct effect.

Figure 3: The Flow of Economic Impacts



Results of the Modeling Effort

A large data center project is estimated to cost approximately \$250 million to build, with annual operations spending that will total just over \$43 million (including the cost of electricity, labor, other utilities, and contract security and maintenance). Per the discussion above, this data is used as inputs into local models of the regional economy; when the multiplier effects are included, the translation is a total injection of \$610.7 million in economic activity, total compensation of \$199.6 million, and 4,643 total jobs associated with the construction phase of the project. On the operations side, \$43.1 million in annual spending translates into of \$75.2 million in economic activity each year, total compensation of \$15.4 million, and 250 permanent total jobs. Summary results are in Table 1; Tables 2 and 3 provide a detailed breakdown of the impact by industry for Construction and Operations.

Table 1: Total Economic Impact of the Project by Phase (\$2013)

Industry	Output/Receipts	Earnings/Payroll	Employment
Total Construction-Related	\$610,700,000	\$199,625,000	4,643
Annual Operations-Related	\$75,156,766	\$15,371,613	250

Source: TXP

Table 2: Total Construction Economic Impact of the Project by Industry (\$2013)

Industry	Output/Receipts	Earnings/Payroll	Employment
Agriculture, etc.	\$575,000	\$100,000	5
Mining	\$2,550,000	\$550,000	9
Utilities	\$5,400,000	\$1,050,000	10
Construction	\$252,575,000	\$95,625,000	1,977

Manufacturing	\$68,950,000	\$13,875,000	270
Wholesale Trade	\$21,000,000	\$6,725,000	94
Retail Trade	\$33,825,000	\$11,700,000	427
Transportation/Warehouse	\$15,900,000	\$5,425,000	121
Information	\$18,775,000	\$4,250,000	68
Finance & Insurance	\$35,850,000	\$10,550,000	256
Real Estate	\$46,950,000	\$4,175,000	227
Prof./Technical Services	\$32,875,000	\$15,575,000	241
Management of Companies	\$7,750,000	\$3,125,000	44
Admin./Waste Services	\$12,450,000	\$5,450,000	211
Educational Services	\$2,825,000	\$1,125,000	41
Healthcare & Social	\$22,875,000	\$10,825,000	248
Arts, Entertainment, etc.	\$2,625,000	\$1,025,000	50
Accommodation	\$3,275,000	\$1,000,000	37
Food Services, etc.	\$9,400,000	\$3,000,000	167
Other Services	\$14,275,000	\$4,225,000	107
Households	N.A.	\$250,000	34
Total Annual	\$610,700,000	\$199,625,000	1,643

Source: TXP

Table 3: Annual Operations Economic Impact of the Project by Industry (\$2013)

Industry	Output/Receipts	Earnings/Payroll	Employee
Agriculture, etc.	\$23,425	\$3,909	0
Mining	\$756,491	\$153,846	2
Utilities	\$5,462,017	\$1,071,700	10
Construction	\$305,879	\$115,219	2
Manufacturing	\$1,805,901	\$328,083	7
Wholesale Trade	\$890,191	\$284,751	4
Retail Trade	\$1,627,293	\$563,502	21
Transportation/Warehouse	\$979,250	\$317,267	6
Information	\$44,312,165	\$5,747,102	45
Finance & Insurance	\$2,544,595	\$745,028	18
Real estate	\$3,383,629	\$287,578	16
Prof./Technical Services	\$7,721,474	\$3,604,991	50
Management of Companies	\$447,673	\$180,560	3
Admin./Waste services	\$789,315	\$360,329	15
Educational Services	\$214,355	\$86,230	3
Healthcare & Social	\$1,732,455	\$818,506	18
Arts, Entertainment, etc.	\$207,915	\$79,907	4
Accommodation	\$286,984	\$88,384	3
Food services, etc.	\$786,058	\$251,863	14

Other services	\$879,693	\$262,610	7
Households	N.A.	\$20,168	3
Total Annual	\$75,156,766	\$15,371,613	250

Source: TXP

The Impact of a Cluster Beyond an Individual Facility

Beyond the impact of an individual facility or facilities, it is generally accepted that there are economic benefits associated with agglomeration, or clustering within an industry that render the sum greater than the parts. In particular, there are three broad benefit categories associated with clustering. First, a cluster allows for a more efficient sharing of local infrastructure and facilities, a variety of intermediate input suppliers, or a pool of workers with similar skills. Second, a cluster also allows for a better matching between employers and employees, buyers and suppliers, or business partners. Finally, a well-developed cluster can also facilitate learning, for instance by promoting the development and widespread adoption of new technologies and business practices. In the case of data centers, the infrastructure created (especially related to power and telecommunications) can also become a competitive advantage to the attraction and/or development of new products, services, and industries. This is especially true given the focus on green energy, in this case wind, as the aggregate demand from a data center cluster would greatly enhance wind's scale, creating a range of associated consumer benefits.

Appendix F -- Legal description or surveyor's certified metes and bounds description

BEING a 150.0843 acre tract of land situated in the F. Cualla Survey, Abstract Number 287, same being portions of tracts 12 and 13 of those certain tracts of land conveyed to AIL INVESTMENT, L.P. (FORMERLY KNOWN AS HILLWOOD/FREEDWAY, LTD.) as recorded in Volume 9527, Page 1011, Official Public Records, Tarrant County, Texas (O.P.R.T.C.T.), and all of Lot 5, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth as recorded in Cabinet A, Slide 12608, O.P.R.T.C.T., and being further described as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the northwest corner of said Lot 5, Block 3, ALLIANCE GATEWAY NORTH ADDITION, same being in the south line of Lot 1, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth as recorded in Cabinet X, Slide 752, Plat Records, Denton County, Texas (P.R.D.C.T.) and Instrument Number 0207181295 O.P.R.T.C.T. ;

THENCE N 89°40'55" E, along the south line of said Lot 1, for a distance of 637.82 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURDESS" found for corner;

THENCE N 73°29'07" E, continuing along said south line, for a distance of 244.53 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURDESS" found for the northeast corner of said Lot 5, same being in the west line of Independence Parkway (120' width at this point), as recorded in Cabinet 5, Page 17, P.R.D.C.T. and Volume 13944, Page 528 O.P.R.T.C.T., further being the beginning of a non-tangent curve to the left, having a radius of 2050.00 feet and a chord which bears S 26°50'54" E, for 670.41 feet;

THENCE southeasterly, along said curve to the left and said west line of Independence Parkway and the west line of Independence Parkway (120' width at this point), as recorded in Volume 12571, Page 222, O.P.R.T.C.T., Cabinet 5, Slide 1531, O.P.R.T.C.T. and Cabinet N, Page 185, P.R.D.C.T., through a central angle of 18°43'47", for an arc distance of 673.40 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 35°12'47" E, continuing along said west line, for a distance of 106.77 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the right, having a radius of 1940.00 feet and a chord which bears S 20°12'47" E, for 1004.22 feet;

THENCE southeasterly, along said curve to the right and said west line of Independence Parkway, through a central angle of 30°00'00", for an arc distance of 1015.78 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 05°12'47" E, continuing along said west line, for a distance of 236.48 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 33°39'18" W, continuing along said west line, for a distance of 95.97 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner in the north line of State Highway No. 170 (variable width ROW) as recorded in Volume 9882, Page 707, O.P.R.T.C.T., same being the beginning of a non-tangent curve to the left, having a radius of 3294.04 feet and a chord which bears S 61°45'48" W, for 143.20 feet;

THENCE southwesterly, along said curve to the left and along the north line of said State Highway No. 170, through a central angle of 02°29'31", for an arc distance of 143.27 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the left, having a radius of 11479.18 feet and a chord which bears S 50°07'46" W, for 958.50 feet;

THENCE southwesterly, along said curve to the left and continuing along said north line, through a central angle of 04°45'32", for an arc distance of 988.78 feet to an aluminum TxDOT monument found for corner;

THENCE S 55°44'30" W, continuing along said north line, for a distance of 156.24 feet to an aluminum TxDOT monument found for corner at the beginning of a curve to the right, having a radius of 7819.44 feet and a chord which bears S 60°23'40" W, for 1236.12 feet;

THENCE southwesterly, along said curve to the right and continuing along said north line, through a central angle of 09°18'20", for an arc distance of 1237.48 feet to an aluminum TxDOT monument found for corner;

THENCE S 65°02'49" W, continuing along said north line, for a distance of 195.20 feet to a concrete TxDOT monument found for corner at the beginning of a curve to the left, having a radius of 3379.72 feet and a chord which bears S 62°07'00" W, for 392.54 feet;

THENCE southwesterly, along said curve to the left and continuing along said north line, through a central angle of 05°51'36", for an arc distance of 382.71 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 68°11'12" W, continuing along said north line, for a distance of 151.91 feet to a concrete TxDOT monument found for corner;

THENCE S 68°05'16" W, continuing along said north line, for a distance of 80.00 feet to a concrete TxDOT monument found for corner at the intersection of said north line with the east line of Park Vista Boulevard (60' ROW), as recorded in Instrument Number 0206240791, O.P.R.T.C.T.

THENCE N 36°11'26" W, along said east line, for a distance of 86.45 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the left, having a radius of 760.00 feet and a chord which bears N 05°23'00" W, for 188.08 feet;

THENCE northwesterly, along said curve to the left and continuing along said east line, through a central angle of 14°12'57", for an arc distance of 188.57 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a reverse curve to the right, having a radius of 740.00 feet and a chord which bears N 06°12'58" W, for 161.78 feet;

THENCE northwesterly, along said curve to the right and continuing along said east line, through a central angle of 12°33'04", for an arc distance of 162.10 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE N 00°03'34" E, along said east line, for a distance of 1482.88 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the right, having a radius of 430.00 feet and a chord which bears N 06°02'37" E, for 89.66 feet;

THENCE northeasterly, along said curve to the right and said east line, through a central angle of 11°58'07", for an arc distance of 89.82 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the left, having a radius of 490.00 feet and a chord which bears N 06°00'44" E, for 102.70 feet;

THENCE northeasterly, along said curve to the left and said east line, through a central angle of 12°01'53", for an arc distance of 102.89 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE N 00°01'37" E, continuing along said east line, for a distance of 424.45 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the southwest corner of Lot 10, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth as recorded in Cabinet B, Slide 3577, O.P.R.T.C.T.;

THENCE S 80°56'10" E, departing said east line and along the south line of said Lot 10, for a distance of 232.00 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the southeast corner of said Lot 10;

THENCE N 00°01'44" E, along the east line of said Lot 10, for a distance of 115.01 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the northeast corner of said Lot 10, same being in the northerly south line of Lot 4R, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth, as recorded in Instrument Number D209069793, O.P.R.T.C.T.;

THENCE S 80°56'26" E, along said northerly south line, for a distance of 358.00 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the south inner-ail corner of said Lot 4R;

THENCE S 00°03'34" W, along the southerly west line of said Lot 4R, for a distance of 540.00 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for the most southerly southwest corner of said Lot 4R;

THENCE S 89°56'26" E, along the southerly line of said Lot 4R, for a distance of 602.74 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for corner;

THENCE N 71°50'10" E, continuing along the south line of said Lot 4R, for a distance of 445.20 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for the southeast corner of said Lot 4R;

THENCE N 00°19'05" W, along the east line of said Lot 4R, for a distance of 1483.52 feet to the POINT OF BEGINNING and containing 6,537.686 square feet or 150.0846 acres of land, more or less.

Appendix G - Most recent property tax statement from the appropriate appraisal district for all parcels involved in the project

Tarrant Appraisal District

Real Estate

9/12/2015

Account Number: 41945165
 Georeference: A 167-1A01
 Property Location: 14149 INDEPENDENCE PKWY, FORT WORTH, 76177
 (b)

Owner Information: AIL INVESTMENTS LP
 13800 HERITAGE PKWY STE 200
 FORT WORTH TX 76177-5198

Legal Description: CUELLA FRANCISCO SURVEY
 Lot:
 Abstract: 267 Tract: 1801

Taxing Jurisdictions: 026 CITY OF FORT WORTH
 220 TARRANT COUNTY
 911 NORTHWEST ISD
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total \$
Market Value	\$67,017	\$0	\$67,017
Appraised Value †	\$329	\$0	\$329
Gross Building Area III			0
Net Leasable Area III			0
Land Sqft			134,034
Land Acres			3.077

† Appraised value for 2014 is based on the 2013 appraisal roll. The 2014 appraisal roll is not yet available.
 The Appraised Value for 2014 is based on the 2013 appraisal roll. The 2014 appraisal roll is not yet available. For details, see the 2013 appraisal roll.

5-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$332	\$0	\$332	\$67,017	\$0	\$67,017
2012	\$332	\$0	\$332	\$67,017	\$0	\$67,017
2011	\$317	\$0	\$317	\$134,034	\$0	\$134,034
2010	\$317	\$0	\$317	\$134,034	\$0	\$134,034
2009	\$320	\$0	\$320	\$134,034	\$0	\$134,034

2013 Value Rank:

Percent Decline:

Exemptions: AGRICULTURAL 101 23.51

Property Data:

Appraisal Site: 0068760

Deed Date: 12/21/1997
 Deed Page: 000000
 Deed Volume: 000000
 Instrument: 0000000000000

Site Name: 4901 HWY 170

Class: Vacant Land - Commercial
 # of Parcels: 1

State Code: 01 Qualified Open Space Land

Primary Building:
 Building Name:
 Building Type:
 Year Built:

TAD Map: 2072-610
 MAPSCO: TAR-009
 Agent: RYAN LLC

Tarrant Appraisal District

Real Estate

02/12/2015

Account Number: 40770986
 Georeference: A 262-1A
 Property Location: 14301 INDEPENDENCE PKWY, FORT WORTH, 76177
□

Owner Information: AIL INVESTMENT LP
 13600 HERITAGE PKWY STE 200
 FORT WORTH TX 76177-4320

Legal Description: CUELLA, FRANCISCO SURVEY
 Lot:
 Abstract: 267 Tract: 1a

Taxing Jurisdictions: 026 CITY OF FORT WORTH
 220 TARRANT COUNTY
 911 NORTHWEST ISD
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total (1)
Market Value	\$202,728	\$0	\$202,728
Appraised Value :	\$956	\$0	\$956
Gross Building Area (1)			0
Net Leasable Area (1)			0
Land Sqt			405.456
Land Acres			9.308

1. The value of the property is based on the value of the property as of the date of the appraisal. The value of the property is based on the value of the property as of the date of the appraisal. The value of the property is based on the value of the property as of the date of the appraisal.

5-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$1,005	\$0	\$1,005	\$202,728	\$0	\$202,728
2012	\$1,005	\$0	\$1,005	\$202,728	\$0	\$202,728
2011	\$959	\$0	\$959	\$304,092	\$0	\$304,092
2010	\$959	\$0	\$959	\$304,092	\$0	\$304,092
2009	\$956	\$0	\$956	\$405,456	\$0	\$405,456

2015 Notice Sent

Printed Details

Exemptions:

Property Data:

Appraisal Site: 00865072

Deed Date: 12/31/1997	Site Name: 4001 HWY 170
Deed Page: 0000000	
Deed Volume: 0000000	
Instrument: 0000000000000	Class: Vacant Land -Commercial
	# of Parcels: 1
State Code: 01 Qualified Open Space Land	
	Primary Building:
TAD Map: 2122-140	Building Name:
MAPSCO: TAD-009	Building Type:
Agent:	Year Built:

Tarrant Appraisal District

Real Estate

3/1/2015

Account Number: 41410196
 Georeference: 418673
 Property Location: 14217 INDEPENDENCE PKWY, FORT WORTH, 76177

Owner Information: AIL INVESTMENT LP
 13500 HERITAGE PKWY STE 200
 FORT WORTH TX 76177-4320
 Legal Description: ALLIANCL-GATEWAY NORTH ADDN
 Block: 3 Lot: 5
 Taxing Jurisdictions: 025 CITY OF FORT WORTH
 229 TARRANT COUNTY
 911 NORTHWEST ISO
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total II
Market Value	\$254,652	\$0	\$254,652
Appraised Value I	\$1,251	\$0	\$1,251
Gross Building Area III			0
Net Leasable Area III			0
Land SqFt			109,304
Land Acres			11.692

For more information, please contact the Tarrant Appraisal District at 500 West 7th Street, Suite 2000, Fort Worth, TX 76102. Phone: (817) 517-2200. Fax: (817) 517-2201. Website: www.tarrantappraisal.com

3-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$1,263	\$0	\$1,263	\$254,652	\$0	\$254,652
2012	\$1,263	\$0	\$1,263	\$254,652	\$0	\$254,652
2011	\$1,204	\$0	\$1,204	\$509,304	\$0	\$509,304
2010	\$1,204	\$0	\$1,204	\$509,304	\$0	\$509,304
2009	\$1,216	\$0	\$1,216	\$509,304	\$0	\$509,304

2015 Notice Sent:

Printed Deadline:

Exemptions:

Property Data:

Appraisal Site: 60873414

Deed Date: 01/01/2008 Site Name: 14217 INDEPENDENCE PKWY
 Deed Page: 0000000
 Deed Volume: 0000000
 Instrument: 0000003000000 Class: Vacant Land - Commercial
 # of Parcels: 1
 State Code: 01 Qualified Open Space Land
 Primary Building:
 TAD Map: 2072-39L Building Name:
 MAPSCO: TAR-009J Building Type:
 Agent: RYAN LLC Year Built:

Tarrant Appraisal District

Real Estate

02/12/2013

Account Number: 03805794
 Georeference: A45Z-3C
 Property Location: 4901 ALLIANCE GATEWAY FWY, FORT WORTH, 76177

Owner Information: AIL INVESTMENT LP
 13800 HERITAGE PKWY STE. 200
 FORT WORTH TX 76177-4330

6 Prior Owners

Legal Description: CUBILLA, FRANCISCO SURVEY
 Lot
 Abstract: 267 Tract 1c
 1D & 1F

Taxing Jurisdiction: 026 CITY OF FORT WORTH
 220 TARRANT COUNTY
 911 NORTHWEST ISD
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total (1)
Market Value	\$2,468,700	\$0	\$2,468,700
Appraised Value (1)	\$13,208	\$0	\$13,208
Gross Building Area (1)			0
Net Leasable Area (1)			0
Land SqFt			5,376,829
Land Acres			123.435

(1) Appraised value for the year 2014 is based on the 2013 appraisal roll. Market value is based on the 2013 appraisal roll. The appraised value for the year 2014 is based on the 2013 appraisal roll. The market value for the year 2014 is based on the 2013 appraisal roll.

5-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$13,331	\$0	\$13,331	\$2,468,700	\$0	\$2,468,700
2012	\$13,331	\$0	\$13,331	\$2,468,700	\$0	\$2,468,700
2011	\$12,714	\$0	\$12,714	\$2,468,700	\$0	\$2,468,700
2010	\$12,714	\$0	\$12,714	\$4,032,621	\$0	\$4,032,621
2009	\$14,088	\$0	\$14,088	\$4,425,609	\$0	\$4,425,609

2013 Notice Sent:

Print Header:

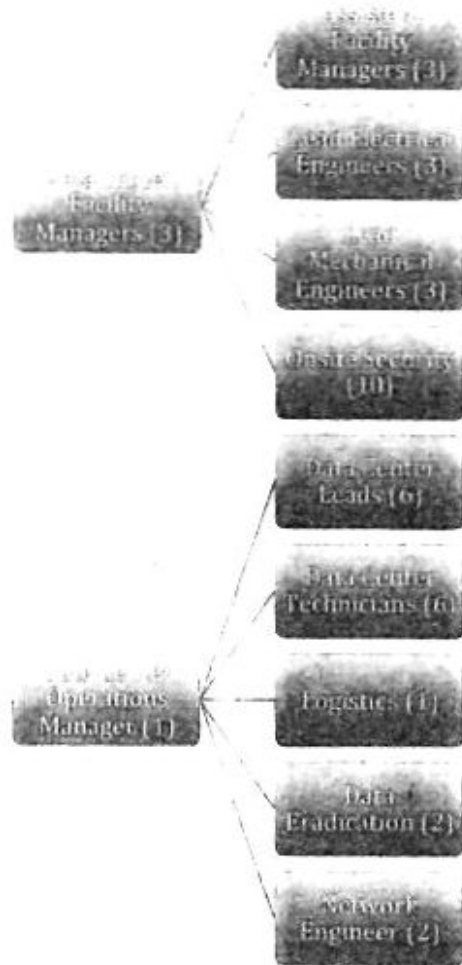
Exemptions: AGRICULTURAL 101 20.51

Property Data:

Appraisal Site: 00270395

Deed Date: 1/23/1997	Site Name: 00270395
Deed Page: 0000000	
Deed Volume: 0000000	
Instrument: 0000000000000	Class: Vacant Land-Ag
	# of Parcels: 3
State Code: 01 Qualified Open Space Land	
FAD Map: 1972-175	Primary Building:
MAPSCO: TAR-009	Building Name:
Agent: RYAN LLC	Building Type:
	Year Built:

Appendix H - Description of the jobs to be created



The proposed project estimates creating approximately 40 full-time jobs onsite. These jobs may be a mix of company employees and third party contractors working at the data center. Each new job will have at least 1,820 annual hours of employment and would be paid at least 120 percent of the county average weekly wage. Above we've provided an estimate of data center positions to be filled.

Appendix I - Brief description of the employee benefit package offered

Employee benefits would include the following:

- Health insurance
 - 100% covered for employee only
 - Depending on the size of the employees family and choice of PPO, EPO or HMO insurance would cost anywhere from \$55.38 to \$145.00 per biweekly paycheck
- Dental insurance
- Vision insurance
- 401(k)
- Pre-tax flex spending accounts
- Life insurance
- Accidental death and dismemberment

Appendix J - Plan for utilization of Fort Worth Certified M/WBE companies

The following targeted procurement approach will be utilized to achieve goals:

- 1) Civil, structural, and architectural (CSA) scope
 - a. CSA plan will involve the following approaches:
 - i. Solicitation of M/WBE subcontractors in a primary sub role.
 - ii. Requirement of primary CSA subcontractors to provide 10% sub tier work to M/WBE firms.
 - iii. Breaking up larger CSA scopes into multiple small packages to attract M/WBE participation.
 - b. Example scopes of work:
 - i. Landscaping
 - ii. Flagging
 - iii. Truck, Hauling & Shipping
 - iv. Metal Stud Framing & Drywall
 - v. Glazing
 - vi. Painting
 - vii. Flooring
 - viii. Interior Finishes
 - ix. Interim/Final Clean
 - x. Construction Site Services
- 2) Mechanical, electrical and plumbing (MEP) scope
 - a. Require that primary mechanical and electrical subs issue 10% of contract work to M/WBE firms.
 - b. M/WBE firms must participate in specifically designated bid packages to ensure opportunities are presented and market competition is achieved.
 - c. General contractor to work with mechanical and electrical subs to develop specific sub tier bid scopes
 - d. Examples of scopes:
 - i. General contracting activities
 - ii. Piping insulation
 - iii. Trucking and shipping
 - iv. Other - TBD

Appendix K – Listing of Applicant's Board of Directors

To be supplemented at a later date.

**Appendix I. - Incorporation papers noting all principals, partners, and agents
and all Fort Worth properties owned by each**

To be supplemented at a later date.

EXHIBIT "C"
FORM OF PROJECT COMPLETION REPORT

**CITY OF FORT WORTH - TAX ABATEMENT AGREEMENT
PROJECT COMPLETION REPORT**

Date: _____
 Company: _____
 Effective Date of Agreement: _____

Calendar Year	Total Construction Costs Spent with Fort Worth Companies	Total Construction Costs Spent with M/WBE Companies	Total Investment in Real Property Improvements	Total Investment in Personal Property Improvements	Total Annual Investment in Real and Personal Property
2015					\$ -
2016					\$ -
2017					\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -

Notes:

(1) Fort Worth Company means a business that has a principal office located within the corporate limits of the City that performs a commercially useful function and that provides the services for which Company is seeking credit under this Agreement. For purposes of this definition, a "principal" office does not mean its headquarters and can be one of multiple offices throughout the state of Texas and/or the United States of America maintained by such company.

(2) Fort Worth Certified M/WBE Company means a minority or woman-owned business that (i) has received certification as either a minority business enterprise (MBC), a woman business enterprise (WBE) or a disadvantaged business enterprise (DBE) by the North Central Texas Regional Certification Agency (NCTRCA); (ii) has a principal business office located within the corporate limits of the City; and (iii) from such principal business office performs a function or provides a service useful or necessary for construction of the Project for which Company is also seeking credit under this Agreement. For purposes of this definition, a "principal" office does not mean its headquarters and can be one of multiple offices throughout the state of Texas and/or the United States of America maintained by such company.

(3) Project Completion Report to be accompanied by invoices and proof of payment necessary to properly document the above referenced totals.

EXHIBIT "D"
FORM OF PERSONAL PROPERTY REPORT

**CITY OF FORT WORTH - TAX ABATEMENT AGREEMENT
PERSONAL PROPERTY REPORT**

Date:	
Company:	
Effective Date of Agreement:	

Calendar Year	New Taxable Tangible Personal Property Installed or Otherwise Located on the Land
2015	
2016	
2017	
Total	\$ -

Notes:

(1) Personal Property Report to be accompanied by invoices and proof of payment necessary to properly document the above referenced totals.

EXHIBIT "E"
FORM OF EMPLOYMENT REPORT

CITY OF FORT WORTH - TAX ABATEMENT AGREEMENT
ANNUAL EMPLOYMENT REPORT

Date:
Company:
Effective Date of Agreement:

Number	Employer	Redacted Employee Number (last 3 digits)	Start Date	Full-Time (Yes/No)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35				
36				
37				
38				
39				
40				
Total	Total			\$ -

EXHIBIT "F"
FORM OF CONSENT TO COLLATERAL ASSIGNMENT

EXHIBIT "F"

Form of Consent to Collateral Assignment

CONSENT TO ASSIGNMENT
FOR SECURITY PURPOSES OF
TAX ABATEMENT AGREEMENT
BETWEEN CITY OF FORT WORTH AND

(CITY SECRETARY CONTRACT NO. _____)

This CONSENT TO ASSIGNMENT FOR SECURITY PURPOSES OF TAX ABATEMENT AGREEMENT ("Consent") is entered into by and between the CITY OF FORT WORTH ("City"), a home rule municipal corporation organized under the laws of the State of Texas; _____ ("Company"), a _____; and _____ ("Lender"), a _____.

RECITALS

The City, Company and Lender hereby agree that the following statements are true and correct and constitute the basis upon which the parties have entered into this Consent:

A. The City and Company previously entered into that certain Tax Abatement Agreement, dated as of _____, 2015 (the "Agreement") pursuant to which the City agreed to abate a percentage of Company's ad valorem real and personal property taxes in return for Company's construction of _____, as more specifically outlined in the Agreement (the "Project Improvements"). The Agreement is a public document on file in the City Secretary's Office as City Secretary Contract No _____.

B. Section 11 of the Agreement allows Company to assign its rights and obligations under the Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or Project Improvements without the approval of the City Council, provided that Company and the financial institution or other lender first execute a written agreement with the City governing the rights and obligations of the City, Company, and the financial institution or other lender with respect to such security interest.

C. Company wishes to obtain a loan from Lender in order to [state reason for loan] (the "Loan"). As security for the Loan, certain agreements between Company and Lender governing the Loan and dated _____, including, but not limited

to, that certain Loan Agreement and [list other related documents] (collectively, the "Loan Documents") require that Company assign, transfer and convey to Lender all of Company's rights, interest in and to the Agreement until such time as Company has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender's security interest in the Agreement (the "Assignment").

D. The City is willing to consent to this Assignment specifically in accordance with the terms and conditions of this Consent.

AGREEMENT

1. The City, Company and Lender hereby agree that the recitals set forth above are true and correct and form the basis upon which the City has entered into this Consent.

2. The City hereby consents to the Assignment at the request of Company and Lender solely for the purpose of Lender's securing the Loan pursuant to and in accordance with the Loan Documents. Notwithstanding such consent, the City does not adopt, ratify or approve any of the particular provisions of the Loan Documents and, unless and to the extent specifically acknowledged by the City in this Consent, does not grant any right or privilege to Lender or any assignee or successor in interest thereto that is different from or more extensive than any right or privilege granted to Company under the Agreement.

3. In the event that the City is required by the Agreement to provide any kind of written notice to Company, including notice of breach or default by Company, the City shall also provide a copy of such written notice to Lender, addressed to the following, or such other party or address as Lender designates in writing, by certified mail, postage prepaid, or by hand delivery:

or such other address(es) as Lender may advise City from time to time.

4. If Company fails to cure any default under the Agreement, the City agrees that Lender, its agents or designees shall have an additional thirty (30) calendar days or such greater time as may specifically be provided under the Agreement to perform any of the obligations or requirements of Company imposed by the Agreement and that the City will accept Lender's performance of the same as if Company had performed such obligations or requirements; provided, however, that in the event such default cannot be cured within such time, Lender, its agents or designees, shall have such additional time as may be reasonably necessary if within such time period Lender has commenced and is diligently

pursuing the remedies to cure such default, including, without limitation, such time as may be required for lender to gain possession of Company's interest in the Company property pursuant to the terms of the Loan Documents.

5. If at any time Lender wishes to exercise any foreclosure rights under the Loan Documents, before taking any foreclosure action Lender shall first provide written notice to the City of such intent (a "**Notice**"). Lender shall copy Company on the Notice and deliver such Notice to Company by both first class and certified mail return receipt concurrent with its transmittal of the Notice to the City and represent in the Notice that it has done so. Notwithstanding anything to the contrary herein, unless Lender enters into a written agreement with the City to assume and be bound by all covenants and obligations of Company under the Agreement, Lender understands and agrees that the City shall not have any obligation to Lender under the Agreement. In addition, Lender understands and agrees that if Lender wishes to sell all or any portion of the Land or Project Improvements to a third party following Lender's exercise of any foreclosure rights under the Loan Documents, the City shall not owe any obligation to such third party pursuant to the Agreement unless Lender and such third party comply with the procedure for assignment set forth in Section 11 of the Agreement, including the obligation of such third party to enter into a written agreement with the City to assume and be bound by all covenants and obligations of Company under the Agreement.

6. In the event of any conflict between this Consent and the Agreement or any of the Loan Documents, this Consent shall control. In the event of any conflict between this Consent and any of the Loan Documents, this Consent shall control. In the event of any conflict between the Agreement and any of the Loan Documents, the Agreement shall control.

7. This Consent may not be amended or modified except by a written agreement executed by all of the parties hereto. Notwithstanding anything to the contrary in the Loan Documents, an amendment to any of the Loan Documents shall not constitute an amendment to this Consent or the Agreement.

8. Once Company has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender's security interest in the Agreement and such security interest is released, Lender shall provide written notice to the City that Lender has released such security interest, in which case this Consent shall automatically terminate.

9. This Consent shall be construed in accordance with the laws of the State of Texas. Venue for any action arising under the provisions of this Consent shall lie in state courts located in Tarrant County, Texas or in the United States District Court for the Northern District of Texas, Fort Worth Division.

10. Capitalized terms used but not specifically defined in this Consent shall have the meanings ascribed to them in the Agreement.

11. This written instrument contains the entire understanding and agreement between the City, Company and Lender as to the matters contained herein. Any prior or contemporaneous oral or written agreement concerning such matters is hereby declared null and void to the extent in conflict with this Consent.

12. This Consent shall be effective on the later date as of which all parties have executed it. This Consent may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. The failure of any party hereto to execute this Consent, or any counterpart hereof, shall not relieve the other signatories from their obligations from their obligations hereunder.

EXECUTED as of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT PAGE]

CITY OF FORT WORTH:

APPROVED AS TO FORM
AND LEGALITY:

By: _____
Name:
Assistant City Manager

By: _____
Name:
Assistant City Attorney

Date: _____

M&C: none required

_____:

By: _____

Date: _____

STATE OF TEXAS §

COUNTY OF TARRANT §

**AMENDMENT NO. 1 TO
CITY SECRETARY CONTRACT NO. 46727**

**TAX ABATEMENT AGREEMENT BETWEEN
CITY OF FORT WORTH AND WINNER LLC**

This **AMENDMENT NO. 1 TO CITY SECRETARY CONTRACT NO. 46727** (“**Amendment**”) is entered into by and between the **CITY OF FORT WORTH** (the “**City**”), a home rule municipality organized under the laws of the State of Texas, and **WINNER LLC** (“**Company**”), a Delaware limited liability company.

The City and Company hereby agree that the following statements are true and correct and constitute the basis upon which the City and Company have entered into this Amendment:

A. The City and Company previously entered into that certain Tax Abatement Agreement on file in the City Secretary’s Office as City Secretary Contract No. 46727 (the “**Agreement**”). Under the Agreement, the City agreed to abate certain ad valorem real property taxes on improvements proposed to be constructed on certain property owned by Company at the northeast corner of Alliance Gateway and Park Vista Boulevard (such property identified in Exhibit “A” of the Agreement and defined as the “**Land**”) and certain ad valorem taxes on business personal property located on the Land in return for Company’s construction of at least a 250,000 square foot data center on the Land, with a minimum combined real and personal property investment of \$250,000,000.00, all as more specifically outlined in the Agreement.

B. The Land is defined in the Agreement to include additional land within a half-mile radius of the property described in Exhibit “A” of the Agreement that is acquired by Company after the Effective Date of the Agreement. As contemplated in the Agreement, Company has now acquired for this project that certain real property adjacent to the Land identified in Exhibit “A” of the Agreement. This additional property is described on **Exhibit “A-1”**, attached hereto and hereby made a part of this Amendment for all purposes (the “**Additional Adjacent Property**”). For the sake of clarity, the parties wish to amend the Agreement to more specifically define the “**Land**” as including the Additional Adjacent Property.

C. On October 18, 2016 the City Council adopted Ordinance No. 22473-10-2016 to expand Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas to include the Additional Adjacent Property, which Property is now designated as Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas.

D. This Amendment is authorized under § 312.208 of the Texas Tax Code because (i) the provisions of this Amendment could have been included in the original Agreement and (ii) this Amendment has been entered into following the same procedure in which the Agreement was approved and executed.

NOW, THEREFORE, the City and Company, for and in consideration of the terms and conditions set forth herein, do hereby contract, covenant and agree as follows:

1. Section 2 of the Agreement (Definitions) is hereby amended to change the definitions of the following terms, as follows:

Abatement means (i) the abatement of ten percent (10%) of the City's incremental ad valorem real property taxes on the Land and all improvements located on the Land, based on the increase in values of the Land and all improvements on the Land for the 2018 tax year over their values for (a) for that portion of the Land described in Exhibit "A", the 2015 tax year (which is the year in which the parties entered into this Agreement), and (b) for that portion of the Land described in Exhibit "A-1", the 2016 tax year (which is the year in which the Zone was expanded and that portion of the Land was thereby also designated as a reinvestment zone), and (ii) the abatement of ten percent (10%) of the City's ad valorem taxes on New Taxable Tangible Personal Property, based on the taxable assessed value of the New Taxable Tangible Personal Property.

Land means the real property described on **Exhibit "A"** and the real property described on **Exhibit "A-1"**. Both Exhibits are attached hereto and hereby made a part of this Agreement for all purposes.

Zone means that real property comprising Tax Abatement Reinvestment Zone No. 90, designated by the City Council under Ordinance No. 21757-05-2015, and that real property comprising Tax Abatement Reinvestment Zone No. 90A, designated by the City Council under Ordinance No. 22473-10-2016, which comprises all of the Land.

2. Capitalized terms used but not identified in this Amendment shall have the same meanings assigned to them in the Agreement.

3. Except as otherwise specifically amended in this Amendment, the Agreement shall remain in full force and effect.

4. This Amendment contains the final written expression of the City and Company with respect to the subject matter hereof. This Amendment may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

EXECUTED to be effective of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT PAGE]



CITY OF FORT WORTH:

ATTEST:

By: Jesus J. Chapa
Jesus J. Chapa
Assistant City Manager

By: Mary S. Kayser
Name: Mary S. Kayser
Title: City Secretary

Date: 11-30-16

Date: 12/15/16

APPROVED AS TO FORM AND LEGALITY:

By: Peter Vaky
Peter Vaky
Deputy City Attorney

M&C: G-18858 10-18-16

Form 1295 No. 2016-120005

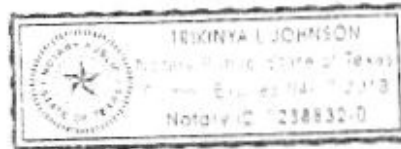
STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared **Jesus J. Chapa**, Assistant City Manager of the **CITY OF FORT WORTH**, a municipality 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 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 30th day of November, 2016.

Tekinya L. Johnson
Notary Public in and for
the State of Texas
Tekinya L. Johnson
Notary's Printed Name



WINNER LLC,
a Delaware limited liability company:

By: [Signature]
Name: Rachel Peterson
Title: Authorized Representative

Date: Nov. 10, 2016

STATE OF CA §
COUNTY OF San Mateo §

BEFORE ME, the undersigned authority, on this day personally appeared Rachel Peterson, Authorized Rep of WINNER LLC, a Delaware limited liability company, 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 WINNER LLC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 10 day of November, 2016.

[Signature]
Notary Public in and for
the State of CA

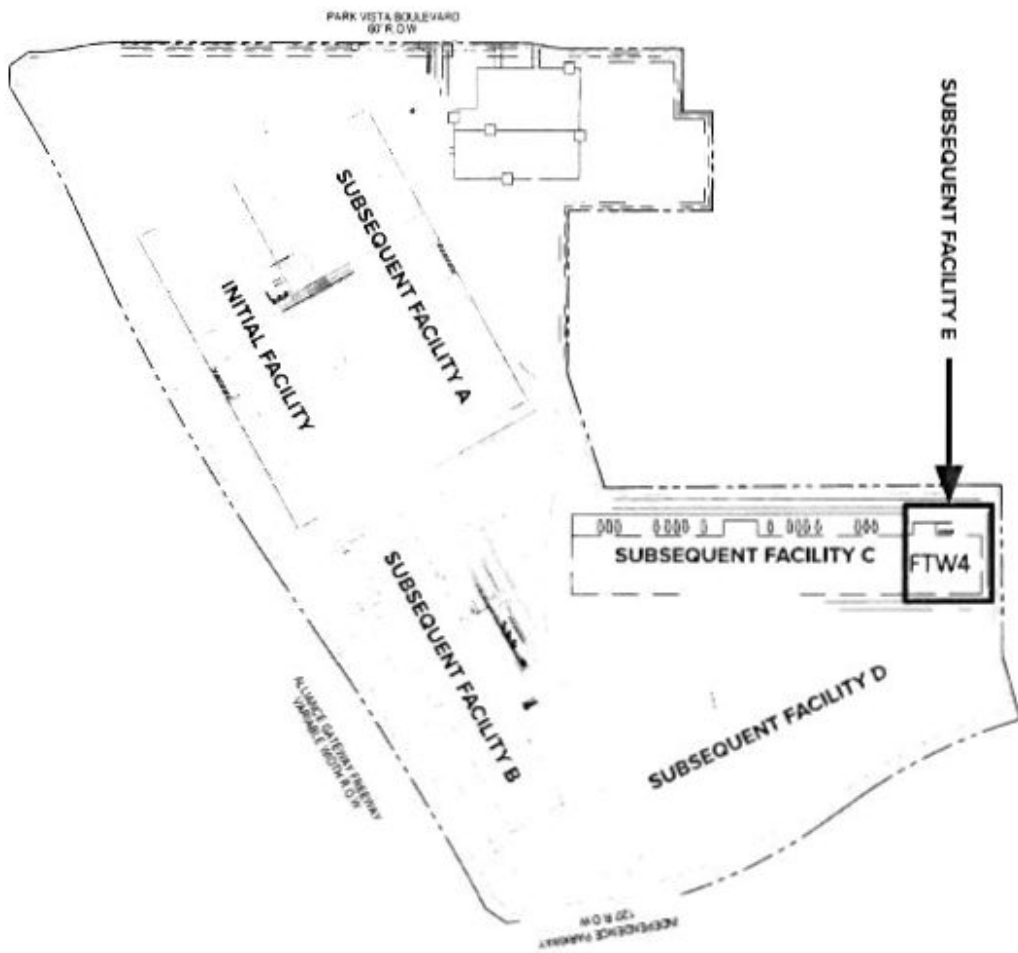
Leah McGettigan
Notary's Printed Name



EXHIBIT "A-1"

ADDITIONAL ADJACENT PROPERTY

EXHIBIT "C"
DESCRIPTION AND DEPICTION OF
ELIGIBLE PROPERTY IMPROVEMENTS



Description and Depiction of Eligible Improvements

- Construction of a new data center.
 - The proposed data center would be specifically designed to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment, (which would include an uninterruptible power source and generator backup power) used primarily to provide data center services to applicant's parent company and parent's affiliates.
 - The proposed data center would have a complete fire alarm system, which would include sprinklers and fire smoke dampers. There would be physical security that would restrict access to the data center in addition to video surveillance, and electronic system to monitor the site.
 - The proposed data center would be approximately 150,000 square feet in area.
- Equipment purchased for use within the proposed data center would include but not be limited to:
 - Computer servers;
 - Chassis;
 - Storage heads;
 - Flash storage cards;
 - Network switches;
 - Routers;
 - Blades;
 - Racks; and
 - Miscellaneous server components.

ORDINANCE NO. 21757-05-2015

AN ORDINANCE DESIGNATING A CERTAIN AREA IN THE CITY OF FORT WORTH AS "TAX ABATEMENT REINVESTMENT ZONE NUMBER NINETY, 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 May 20, 2014 of Resolution No. 4322-05-2014 (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, Winner, LLC ("**Company**") wishes to expend or cause to be expended at least \$125 million in real property improvements for the construction of a new data center located in the Zone, and Company intends to install new taxable tangible business personal property having a value of approximately \$125 million in such facility (collectively, the "**Improvements**"); and

WHEREAS, Company expects that this project will create at least 40 new jobs once the Improvements are completed; 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 May 12, 2015 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 May 4, 2015, 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 in excess of 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, City of Fort Worth, Texas." This project is eligible for commercial/industrial tax abatement pursuant to Section 4.3 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 of five (5) years or less.

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: May 19, 2015

APPROVED AS TO FORM AND LEGALITY:

By: Peter Vaky
Peter Vaky, Deputy City Attorney

Ronald P. Gonzales
Ronald P. Gonzales
Assistant City Secretary

M&C: G-18488

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

DESCRIPTION OF 110.71 ACRES

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to AIL Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S $89^{\circ}56'01''$ E, 368.25 feet; THENCE S $00^{\circ}04'42''$ W, 540.00 feet; THENCE S $89^{\circ}55'36''$ E, 602.74 feet; THENCE N $71^{\circ}51'00''$ E, 445.20 feet; THENCE N $62^{\circ}28'25''$ E, 296.66 feet;

THENCE N $90^{\circ}00'00''$ E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of $41^{\circ}14'47''$, having a radius of 95.00 feet, the long chord which bears S $69^{\circ}22'37''$ E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of $38^{\circ}19'47''$, having a radius of 141.00 feet, the long chord which bears S $67^{\circ}55'07''$ E, 92.58 feet;

THENCE S $87^{\circ}05'00''$ E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of $05^{\circ}55'58''$, having a radius of 1940.00 feet, the long chord which bears S $08^{\circ}09'47''$ E, 200.79 feet;

THENCE S $05^{\circ}15'42''$ E, 237.77 feet;

THENCE S $33^{\circ}52'08''$ W, 95.68 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of $02^{\circ}29'57''$, having a radius of 3294.04 feet, the long chord which bears S $61^{\circ}40'59''$ W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of $04^{\circ}46'16''$, having a radius of 11479.16 feet, the long chord which bears $S 58^{\circ}08'59''W$, 955.62 feet;

THENCE $S 55^{\circ}45'15''W$, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of $09^{\circ}18'33''$, having a radius of 7619.44 feet, the long chord which bears $S 60^{\circ}24'08''W$, 1236.61 feet;

THENCE $S 65^{\circ}04'38''W$, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of $05^{\circ}51'36''$, having a radius of 3839.72 feet, the long chord which bears $S 62^{\circ}07'36''W$, 392.54 feet;

THENCE $S 59^{\circ}11'47''W$, 152.11 feet; THENCE $S 89^{\circ}11'47''W$, 80.00 feet; THENCE $N 36^{\circ}10'14''W$, 86.37 feet;

THENCE $N 00^{\circ}04'17''W$, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of $12^{\circ}38'40''$, having a radius of 760.00 feet, the long chord which bears $N 06^{\circ}10'12''W$, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of $12^{\circ}33'05''$, having a radius of 740.00 feet, the long chord which bears $N 06^{\circ}12'59''W$, 161.78 feet;

THENCE $N 00^{\circ}03'31''E$, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE $N 00^{\circ}01'18''E$, 115.00 feet to the Point of Beginning and containing 4,822,528 square feet or 110.71 acres of land more or less.

Tax Abatement Reinvestment Zone No. 90

Intersection of Park Vista Parkway and Alliance Gateway Freeway
Fort Worth, TX
"Exhibit A"



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City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 5/19/2015 - Ordinance No. 21757-05-2015

DATE: Tuesday, May 19, 2015

REFERENCE NO.: G-18488

LOG NAME: 17ED TARIZ90

SUBJECT:

Conduct Public Hearing and Adopt Ordinance Designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for Property Located at the Northeast Corner of Alliance Gateway and Park Vista Boulevard for Construction of a Data Center Facility (COUNCIL DISTRICT 7)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing concerning the designation of Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for property located at the northeast corner of Alliance Gateway and Park Vista Boulevard; and
2. Adopt the attached ordinance designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, pursuant to and in accordance with Chapter 312 of the Texas Tax Code.

DISCUSSION:

The proposed Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, is for the property located at the northeast corner of Alliance Gateway and Park Vista Boulevard. Winner LLC, (Company) is considering the construction of a new Data Center facility at this site. The proposed project will result in at least \$250 million in real and business personal property investment (\$125 million for construction of the facility and \$125 million in business personal property that will be installed in the facility).

As required by Chapter 312 of the Texas Tax Code, a public hearing must be conducted regarding the creation of a Reinvestment Zone. The exact boundaries of the proposed zone are described in Exhibit A of the attached ordinance. Notice of this hearing was delivered to the governing body of each affected taxing unit and published in a newspaper of general circulation at least seven days prior to this hearing.

The area encompassing the proposed Zone meets the statutory criteria for designation as a Tax Abatement Reinvestment Zone, pursuant to Chapter 312 of the Texas Tax Code, in that the area is reasonably likely, as a result of the designation, to contribute to the retention or expansion of primary employment or to attract major investment in the Zone that would be a benefit to the property and that would contribute to the economic development of the City. Further, the improvements sought in the Zone are feasible, practical and would be a benefit to the land to be included in the Zone and to the City after any Tax Abatement Agreements, which may be entered into, have expired.

The term of the proposed Zone will be five years from the date of adoption of the attached ordinance and may be renewed for periods not to exceed five years each.

The proposed Zone is located in COUNCIL DISTRICT 7, Mapsco 9J.

FISCAL INFORMATION / CERTIFICATION:

The Financial Management Services Director certifies that this action will not increase the total appropriations of City funds.

FUND CENTERS:

TO Fund/Account/Centers

FROM Fund/Account/Centers

CERTIFICATIONS:

Submitted for City Manager's Office by:

David Cooke (6116)

Originating Department Head:

Jay Chapa (5804)

Additional Information Contact:

Robert Sturns (212-2663)

ORDINANCE NO. 22473-10-2016

AN ORDINANCE DESIGNATING A CERTAIN AREA IN THE CITY OF FORT WORTH AS "TAX ABATEMENT REINVESTMENT ZONE NUMBER 90A, 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 June 28, 2016 of Resolution No. 4647-06-2016 (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 real property located at 14101 and 14217 Independence Parkway in the City, as more specifically depicted in Exhibit "A" of this Ordinance (the "**Zone**"), through the creation of a reinvestment zone for purposes of granting a tax abatement, as authorized by and in accordance with Chapter 312 of the Code; and

WHEREAS, Winner, LLC ("**Company**") wishes to construct a new Facebook data center or centers on property in the Zone, with a minimum expenditure of at least \$250 million in real and business property improvements (collectively, the "**Improvements**"); and

WHEREAS, the Zone is adjacent to that real property designated as Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas (the “**Initial Zone**”); and

WHEREAS, the City previously granted Company a tax abatement on property and improvements located in the Initial Zone in return for Company’s construction of a data center on such property, with a minimum expenditure of at least \$250 million in real and business property improvements, as set forth in that certain Tax Abatement Agreement on file in the City Secretary’s Office as City Secretary Contract No. 46727; and

WHEREAS, Company expects that the overall project in the Zone and the Initial Zone will create at least 40 new jobs; and

WHEREAS, the Improvements planned for the Zone will complement that portion of the project constructed in the Initial Zone; and

WHEREAS, on October 18, 2016 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 October 9, 2016, 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 in excess of 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 herein and depicted in the map attached hereto as **Exhibit "A"** and made a part of this Ordinance for all purposes as a reinvestment zone for purposes of granting a commercial-industrial 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 90A, City of Fort Worth, Texas." This project is eligible for commercial/industrial tax abatement pursuant to Section 4.1 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 of five (5) years or less.

Section 4.

SEVERABILITY.

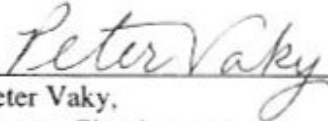
That if any portion, section or part of a section of this Ordinance is subsequently declared invalid, inoperative or void for any reason by a court of competent jurisdiction, the remaining portions, sections or parts of sections of this Ordinance shall be and remain in full force and effect and shall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

Section 5.

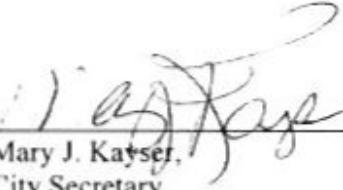
IMMEDIATE EFFECT.

That this Ordinance shall take effect upon its adoption.

APPROVED AS TO FORM AND LEGALITY:



Peter Vaky,
Deputy City Attorney



Mary J. Kayser,
City Secretary

M&C: G-18858

ADOPTED AND EFFECTIVE: October 18, 2016

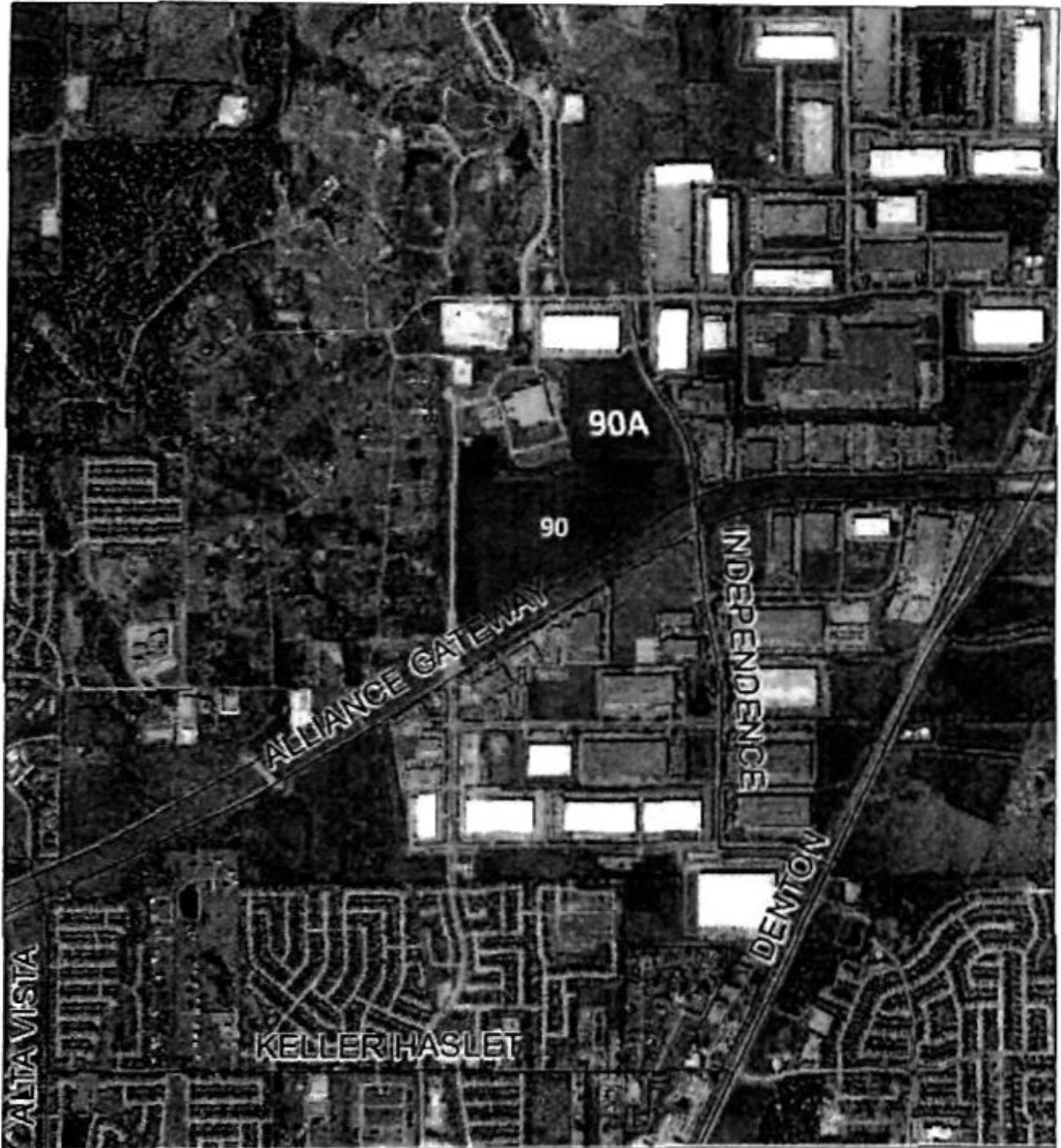
EXHIBIT "A"
MAP DEPICTING ZONE

Tax Abatement Reinvestment Zone No. 90A

14217 Independence Parkway & 14101 Independence Parkway

Fort Worth, TX, 76177

"Exhibit A-1"

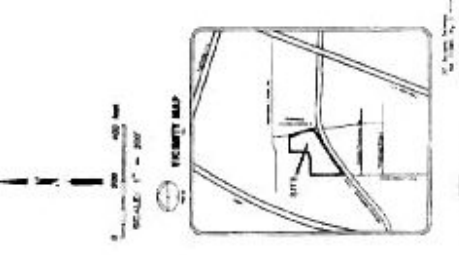
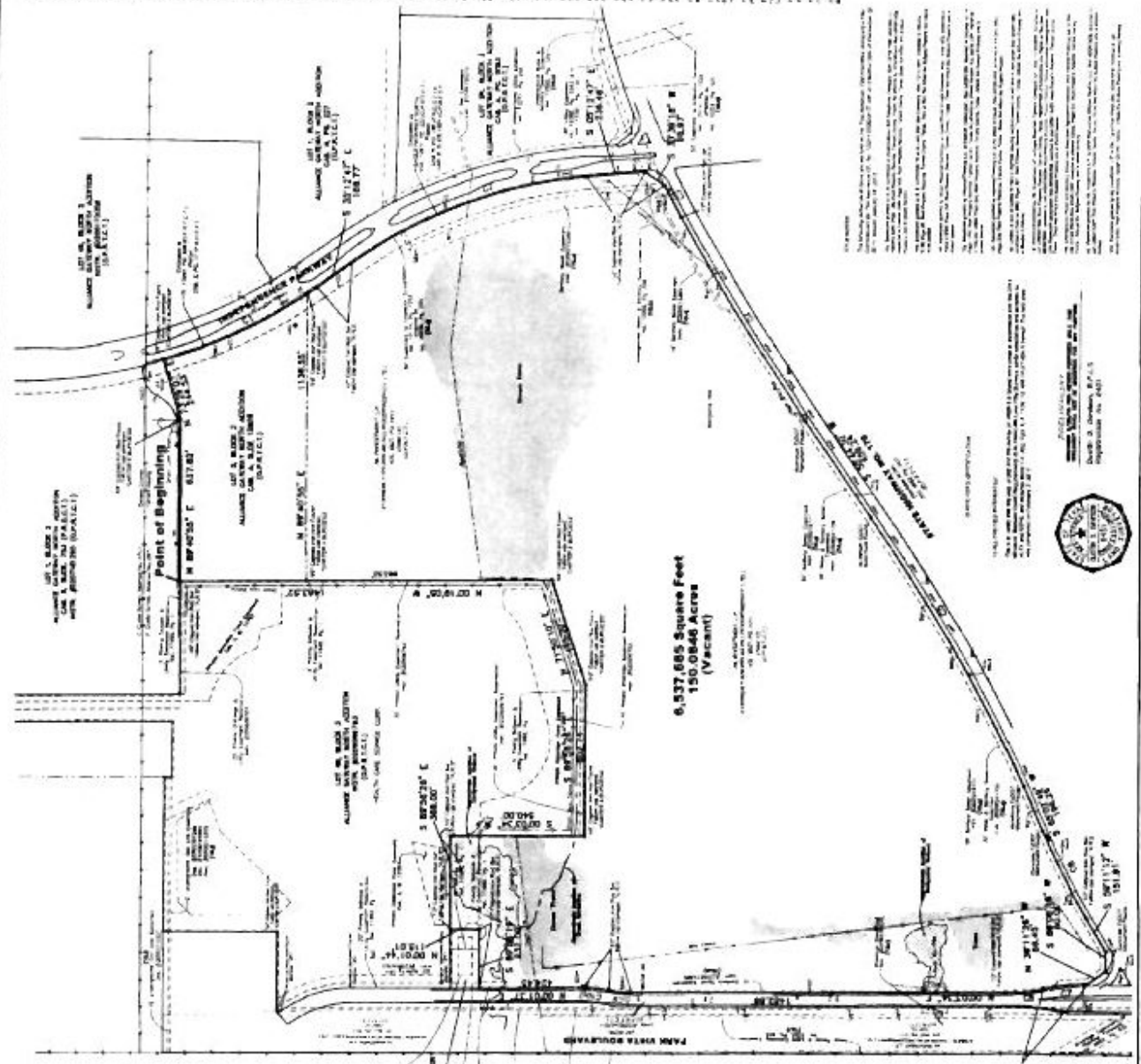


Copyright 2016 City of Fort Worth. Unauthorized reproduction is a violation of applicable laws. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The City of Fort Worth assumes no responsibility for the accuracy of said data.

DATE	11-20-2017
PROJECT	ALTA/CSM LAND TITLE SURVEY
CLIENT	CITY OF FORT WORTH
SCALE	AS SHOWN
DRAWN BY	J. W. BROWN
CHECKED BY	J. W. BROWN
APPROVED BY	J. W. BROWN

GENERAL NOTES:

1. THIS SURVEY IS A RECONSTRUCTION OF THE ORIGINAL SURVEY AND DOES NOT REPRESENT THE ACTUAL SURFACE CONDITIONS.
2. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
3. ALL ANGLES ARE IN DEGREES, MINUTES AND SECONDS.
4. THE TOTAL AREA OF THIS SURVEY IS 150,084.8 ACRES OR 6,537,685 SQUARE FEET.
5. THE POINT OF BEGINNING IS LOCATED AT THE INTERSECTION OF THE CENTERLINE OF THE RAILROAD AND THE CENTERLINE OF THE ROAD.
6. THE SURVEY IS SUBJECT TO ALL RIGHTS OF WAY AND EASEMENTS.
7. THE SURVEY IS SUBJECT TO ALL RECORDS AND INSTRUMENTS ON FILE IN THE PUBLIC RECORDS.
8. THE SURVEY IS SUBJECT TO ALL RECORDS AND INSTRUMENTS ON FILE IN THE PUBLIC RECORDS.
9. THE SURVEY IS SUBJECT TO ALL RECORDS AND INSTRUMENTS ON FILE IN THE PUBLIC RECORDS.
10. THE SURVEY IS SUBJECT TO ALL RECORDS AND INSTRUMENTS ON FILE IN THE PUBLIC RECORDS.



- 1. BEARING S 01° 15' 00" E DISTANCE 100.00
- 2. BEARING S 01° 15' 00" E DISTANCE 100.00
- 3. BEARING S 01° 15' 00" E DISTANCE 100.00
- 4. BEARING S 01° 15' 00" E DISTANCE 100.00
- 5. BEARING S 01° 15' 00" E DISTANCE 100.00
- 6. BEARING S 01° 15' 00" E DISTANCE 100.00
- 7. BEARING S 01° 15' 00" E DISTANCE 100.00
- 8. BEARING S 01° 15' 00" E DISTANCE 100.00
- 9. BEARING S 01° 15' 00" E DISTANCE 100.00
- 10. BEARING S 01° 15' 00" E DISTANCE 100.00



NOTARY PUBLIC
 State of Texas
 My Comm. Expires 11/20/2021

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 10/18/2016 - Ordinance No. 22473-10-2016

DATE: Tuesday, October 18, 2016

REFERENCE NO.: G-18858

LOG NAME: 17ED TARIZ90-A

SUBJECT:

Conduct a Public Hearing and Adopt Ordinance Designating Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas, for Property Located at 14217 and 14101 Independence Parkway and Amend Tax Abatement Agreement, City Secretary Contract No. 46727, to Include Such Additional Property (COUNCIL DISTRICT 7)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing concerning the designation of Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas, for property located at 14217 and 14101 Independence Parkway;
2. Adopt the attached ordinance for the designation of Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas, pursuant to and in accordance with Chapter 312 of the Texas Tax Code; and
3. Amend Tax Abatement Agreement with Winner, LLC, City Secretary Contract No. 46727, to reflect that the property subject to abatement under the Agreement includes the property located in Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas.

DISCUSSION:

On May 19, 2015 the City Council adopted Ordinance No. 21757-05-2015, designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, and approved execution of a Tax Abatement Agreement with Winner LLC (City Secretary Contract No. 46727). Under the Tax Abatement Agreement, the City has agreed to abate 10 percent of the incremental ad valorem taxes on real and business personal property owned by Winner LLC (Company) provided that Company expended at least \$250,000,000.00 on construction and equipment of a Facebook data center located on property in the reinvestment zone.

The Tax Abatement Agreement also provides a mechanism for Company to acquire additional land adjacent to the site in order to expand the project footprint. Company has announced that it wishes to construct additional data center improvements on property it has since acquired at 14101 and 14217 Independence Parkway. This land is adjacent to the current reinvestment zone. In order for this property to be covered under the Tax Abatement Agreement, as allowed under the Agreement, the City Council must also designate this property as a reinvestment zone.

As required by Chapter 312 of the Texas Tax Code, a public hearing must be conducted regarding the creation or expansion of a Reinvestment Zone. The exact boundaries of the proposed zone are described in Exhibit A of the attached ordinance. Notice of this hearing was delivered to the governing body of each affected taxing unit and published in a newspaper of general circulation at least seven days prior to this hearing.

The area encompassing the proposed Zone meets the statutory criteria for designation as a Tax Abatement Reinvestment Zone, pursuant to Chapter 312 of the Texas Tax Code, in that the area is likely, as a result of the designation, to contribute to the expansion of the Company's major investment in the Zone that would be a benefit to the property and that would contribute to the economic development of the City. Further, the improvements sought in the Zone are feasible, practical and would be a benefit to the land to be included in the Zone and to the City after the existing Tax Abatement Agreement to be amended, has expired.

The term of the proposed Zone will be five years from the date of adoption of the attached ordinance and may be renewed for periods not to exceed five years each.

The property included in the City of Fort Worth Reinvestment Zone No. 90 consists of a 110 acre tract, with an established base year of 2015. The 40-acre tract of land to be included in the expanded City of Fort Worth Reinvestment Zone No. 90A, will establish base year of 2016 for improvements that occur within this zone. Staff recommends the expansion of Reinvestment Zone No. 90A and amending City Secretary Contract No. 46727 to establish dual base years in the Tax Abatement Agreement.

The proposed Zone is located in COUNCIL DISTRICT 7, Mapsco 9J.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of this Agreement will have no material effect on the Fiscal Year 2017 budget. While no current year impact is anticipated from this action, any effect on expenditures and revenues will be budgeted in future fiscal years and will be included in the long-term financial forecast.

FUND IDENTIFIERS (FIDs):

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount

FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount

CERTIFICATIONS:

Submitted for City Manager's Office by:

Jay Chapa (5804)

Originating Department Head:

Robert Sturns (212-2663)

Additional Information Contact:

Ossana Hermosillo (212-2665)

ORDINANCE NO. 24199-05-2020

AN ORDINANCE RENEWING TAX ABATEMENT REINVESTMENT ZONE NUMBER NINETY, CITY OF FORT WORTH, TEXAS; PROVIDING THE EFFECTIVE AND EXPIRATION DATES FOR THE ZONE, AS RENEWED, AND A MECHANISM FOR ADDITIONAL RENEWALS OF THE ZONE; AND CONTAINING OTHER MATTERS RELATED TO THE ZONE.

WHEREAS, on May 19, 2015 the City Council adopted Ordinance No. 21757-05-2015 designating Tax Abatement Reinvestment Zone Number Ninety, City of Fort Worth, Texas, a reinvestment zone created pursuant to and in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the "**Zone**"); and

WHEREAS, the Zone encompasses the area in the City more specifically described in Exhibit "A" of this Ordinance; and

WHEREAS, the Zone has been utilized as a valuable and successful economic development tool for the City, enabling an investment by Winner, LLC of over \$300 million in the Zone to date for operation of multiple data centers on behalf of Facebook, Inc., as reflected in two Tax Abatement Agreements between the City and Winner, LLC (City Secretary Contract No. 46727, as amended, and City Secretary Contract No. 52160), as supported by an Economic Development Program Agreement (City Secretary Contract No 46728); and

WHEREAS, pursuant to Section 3 of Ordinance No. 21757-05-2015, the term of the Zone commenced May 19, 2015 and will expire May 18, 2020, unless renewed by the

City Council for one or more subsequent terms of five (5) years or less, as authorized by Section 312.203 of the Texas Tax Code; and

WHEREAS, in order to encourage additional significant investment and job creation in the Zone, the City Council wishes to renew the Zone for an additional term of five (5) years beyond its original expiration date; and

WHEREAS, on May 5, 2020 the City Council held a public hearing regarding renewal of the Zone, received information concerning development in the Zone during the initial term of 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**"); and

WHEREAS, notice of the Public Hearing was published in a newspaper of general circulation in the City on April 27th, 2020, and 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 located in the Zone; and

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 renewal 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 renewal 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.
- 1.2. The improvements constructed to date in the Zone, as more specifically outlined in the Public Hearing, have provided significant benefit to the Zone as well as the City, and will continue to do so for a period in excess of ten (10) years from the initial effective date of the Zone, and additional similar investment in the future will likewise benefit the Zone and the City.
- 1.3. As a result of renewal of the Zone, the area within the Zone is reasonably likely to contribute to the continued 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.

RENEWAL OF ZONE.

That the Zone is hereby renewed effective May 19, 2020 and shall expire five (5) years thereafter. The Zone may additionally be renewed by the City Council for one or more subsequent terms of five (5) years or less.

Section 3.

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 4.

IMMEDIATE EFFECT.

That this Ordinance shall take effect upon its adoption.

ADOPTED AND EFFECTIVE: May 5, 2020

APPROVED AS TO FORM AND LEGALITY:

By: Peter Vaky
Peter Vaky (May 27, 2020 11:21 CDT)

Peter Vaky
Deputy City Attorney

Mary J. Kayser

Mary J. Kayser
City Secretary



M&C:20-0284

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

DESCRIPTION OF 110.71 ACRES

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to AIL Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S 89°56'01"E, 368.25 feet; THENCE S 00°04'42"W, 540.00 feet; THENCE S 89°55'36"E, 602.74 feet; THENCE N 71°51'00"E, 445.20 feet; THENCE N 62°28'25"E, 296.66 feet;

THENCE N 90°00'00"E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of 41°14'47", having a radius of 95.00 feet, the long chord which bears S 69°22'37"E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of 38°19'47", having a radius of 141.00 feet, the long chord which bears S 67°55'07"E, 92.58 feet;

THENCE S 87°05'00"E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of 05°55'58", having a radius of 1940.00 feet, the long chord which bears S 08°09'47"E, 200.79 feet;

THENCE S 05°15'42"E, 237.77 feet;

THENCE S 33°52'08"W, 95.68 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of 02°29'57", having a radius of 3294.04 feet, the long chord which bears S 61°40'59"W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of $04^{\circ}46'16''$, having a radius of 11479.16 feet, the long chord which bears $S 58^{\circ}08'59''W$, 955.62 feet;

THENCE $S 55^{\circ}45'15''W$, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of $09^{\circ}18'33''$, having a radius of 7619.44 feet, the long chord which bears $S 60^{\circ}24'08''W$, 1236.61 feet;

THENCE $S 65^{\circ}04'38''W$, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of $05^{\circ}51'36''$, having a radius of 3839.72 feet, the long chord which bears $S 62^{\circ}07'36''W$, 392.54 feet;

THENCE $S 59^{\circ}11'47''W$, 152.11 feet; THENCE $S 89^{\circ}11'47''W$, 80.00 feet; THENCE $N 36^{\circ}10'14''W$, 86.37 feet;

THENCE $N 00^{\circ}04'17''W$, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of $12^{\circ}38'40''$, having a radius of 760.00 feet, the long chord which bears $N 06^{\circ}10'12''W$, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of $12^{\circ}33'05''$, having a radius of 740.00 feet, the long chord which bears $N 06^{\circ}12'59''W$, 161.78 feet;

THENCE $N 00^{\circ}03'31''E$, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

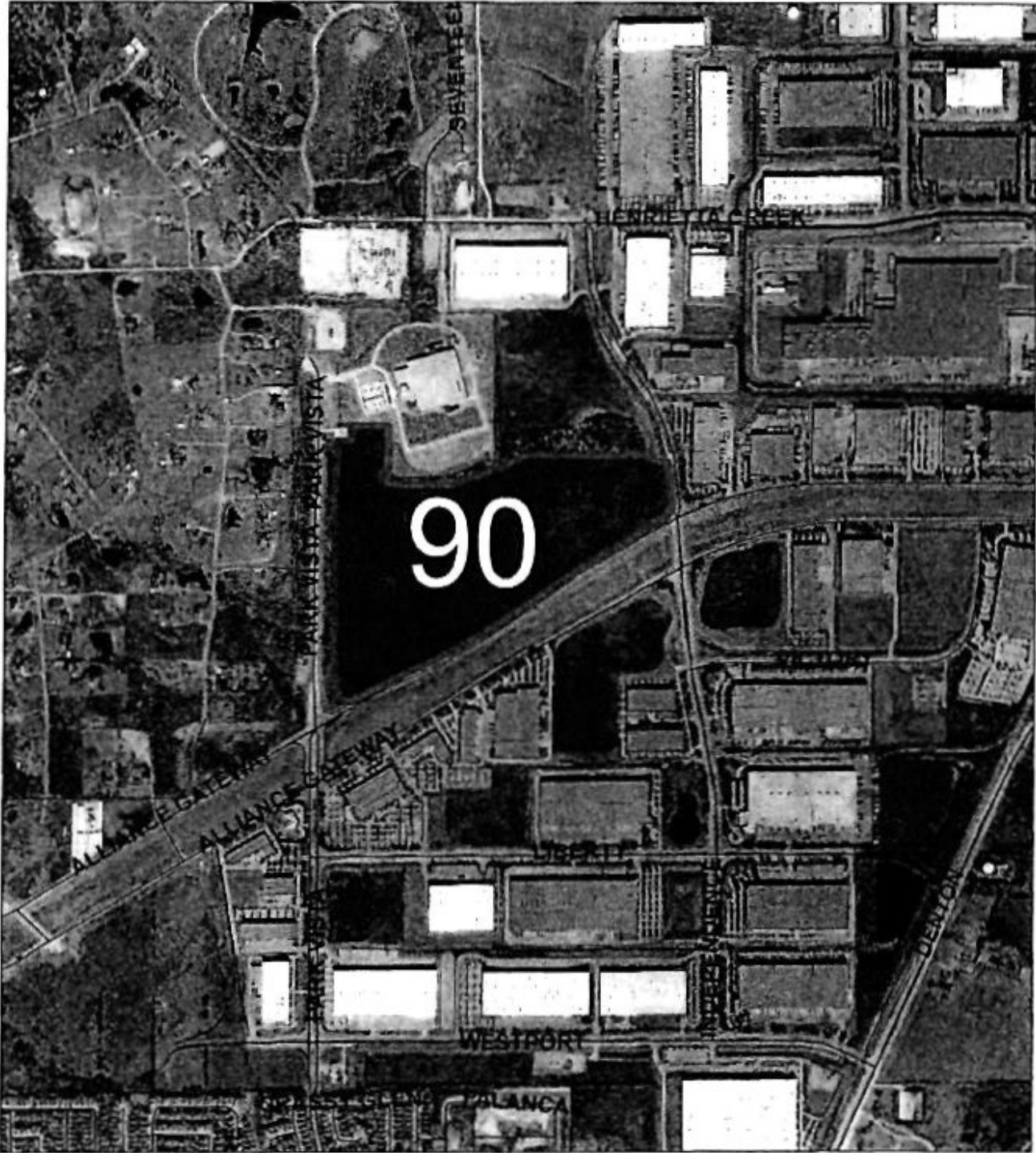
THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE $N 00^{\circ}01'18''E$, 115.00 feet to the Point of Beginning and containing 4,822,528 square feet or 110.71 acres of land more or less.

Tax Abatement Reinvestment Zone No. 90

Intersection of Park Vista Parkway and Alliance Gateway Freeway
Fort Worth, TX
"Exhibit A"



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City of Fort Worth, Texas

Mayor and Council Communication

DATE: 05/05/20

M&C FILE NUMBER: M&C 20-0284

LOG NAME: 17TIRZ90 RENEWAL

SUBJECT

Conduct Public Hearing and Adopt Ordinance Renewing Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for Property Located at the Northeast Corner of Alliance Gateway and Park Vista Boulevard owned by Winner, LLC for an Additional Five-Year Term (COUNCIL DISTRICT 7)

(PUBLIC HEARING - a. Report of City Staff: Robert Sturns; b. Citizen Presentations; c. Council Action: Close Public Hearing and Act on M&C)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing concerning the renewal of Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for property located at the northeast corner of Alliance Gateway and Park Vista Boulevard for an additional five-year term; and
2. Adopt the attached ordinance for the renewal of Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, pursuant to and in accordance with Chapter 312 of the Texas Tax Code.

DISCUSSION:

On May 19, 2015, the City Council adopted Ordinance No. 21757-05-2015, designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas (the Zone), and approved execution of a Tax Abatement Agreement with Winner LLC, (City Secretary Contract No. 46727). Under the Tax Abatement Agreement, the City agreed to abate 10 percent of the incremental ad valorem taxes on real and business personal property owned by Winner LLC, (Company) provided that Company expended at least \$250,000,000.00 on construction of and equipment for a Facebook data center located on property in the reinvestment zone.

The Tax Abatement Agreement also provides a mechanism for the Company to acquire additional land adjacent to land in the Zone in order to expand the project footprint. On October 16, 2016, the City Council adopted Ordinance No. 22473-10-2016, designating Tax Abatement Reinvestment Zone No. 90-A, City of Fort Worth, Texas, and approved amendment of the Tax Abatement Agreement with the Company (City Secretary Contract No. 46727) to include additional improvements on property it acquired for additional development at 14101 and 14217 Independence Parkway.

On March 26, 2019, the City Council adopted Ordinance No. 23620-03-2019, designating Tax Abatement Reinvestment Zone No. 99, City of Fort Worth, Texas, and authorized execution of another Tax Abatement Agreement with the Company (City Secretary Contract No. 52160) for the redevelopment of an existing data center located at 14100 Park Vista Boulevard.

Company now wishes to extend the term of Zone for an additional five-year term for future development opportunities. City staff supports such action by the City Council.

Under Chapter 312 of the Texas Tax Code (the Code), the maximum term of a reinvestment zone is five years, but the Code allows the City Council to renew the term of a zone for one or more additional terms of five years. A public hearing must be conducted regarding the creation or expansion of a reinvestment zone. The exact boundaries of the proposed zone are described in Exhibit A of the attached ordinance. Notice of this hearing was delivered to the governing body of each affected taxing unit and published in a newspaper of general circulation at least seven days prior to this hearing.

The area encompassing the Zone continues to meet the statutory criteria for designation as a reinvestment zone under Chapter 312 of the Texas Tax Code, in that the area is likely, as a result of the continued designation, to contribute to the expansion of the Company's major investment in the Zone that would be a benefit to the property and that would contribute to the economic development of the City. Further, current and potential future improvements in the Zone are feasible, practical and will continue to benefit to the land to be included in the Zone and to the City after the existing Tax Abatement Agreement to be amended, has expired.

Upon adoption of the attached ordinance, the term of the Zone will automatically be continued for five years beyond the current expiration date of May 18, 2020, and the Zone may be renewed for additional periods not to exceed five years each.

The Zone is located in COUNCIL DISTRICT 7.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations and execution of the agreement will have no material effect on the Fiscal Year 2020 budget. Future effects on revenues and expenditures will be included in the long-term financial forecast.

Submitted for City Manager's Office by: Jay Chapa 5804

Originating Business Unit Head: Robert Sturns 2663

Additional Information Contact: Robert Sturns 2663

EXHIBIT "D"
APPLICATION FOR TAX ABATEMENT



Tarrant County Application for Tax Abatement/Reinvestment Zone

I. APPLICANT INFORMATION

Applicant/Property Owner: Winner LLC, d/b/a Ernst LLC

Company/Project Name: Winner LLC d/b/a Ernst LLC

Mailing Address: 1 Hacker Way, Menlo Park, CA 94025

Telephone: 650-308-7600 **Fax:** N/A

Applicant's Representative for contact regarding abatement request:

Name and Title: Brad Davis, Economic Development Manager

Mailing Address: 1 Hacker Way, Menlo Park, CA 94025

Telephone: 650-308-7600 **Fax:** N/A **E-mail:** dced@fb.com

II. PROPERTY AND PROJECT DESCRIPTION

Address and legal description of property to be considered for Tax Abatement/Reinvestment Zone: 4500 Lake Way, Fort Worth, TX (new structure on existing land site); legal description: Alliance Gateway North Block 3 Lot 7R2 414K-3-7R2

Project Description: Winner LLC current owns and operates a data center on proposed site and would construct another data center building on its existing campus in Fort Worth. The facility under consideration would be located on the far north end of the campus and is estimated to be approximately 150,000 sq. ft. in size.

Description of activities, products, or services produced and/or provided at project location: Winner LLC would provide data hosting services to its parent company, Facebook. Facebook would have remote access to the content hosted in the data center.

Current Assessed Value: (Account # 42324937) **Real Property:** \$ 394,524,435 **Personal Property:** \$ 1,180,415,031
Estimated start date of construction/site improvements: Q1 2021

Projected date of occupancy/commencement of operations at project site: Q3 2022

Please indicate dates for phases if applicable: N/A

Location of existing company facilities: 4500 Lake Way, Fort Worth, TX 76177

Requested level of Tax Abatement: 60% Tarrant County, 40% JPS Health Network of eligible property for 10 years.

Explain why tax abatement is necessary for the success of this project. Include business pro-formas or other information to substantiate your request. The business demands from Winner LLC's parent company, Facebook, Inc. have increased over the past few years, resulting in additional storage and capacity needs. This capacity is critical to the operations of the company and the requested abatement would allow Winner to lower the significant capital and operational expenses associated with expanding in this particular region.

III. PROJECTED VALUE OF IMPROVEMENTS

Estimated Value of Real Property Improvements \$ 125,000,000

Estimated Value of Personal Property Improvements \$ 75,000,000

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

Yes No

If yes, describe requested infrastructure improvements: N/A

Detail any direct benefits to Tarrant County as a result of this project (i.e., inventory tax, etc.): The project would support hundreds of constructor workers on site daily. The activity on site will have a positive economic impact on the surrounding area. In addition to the above, Winner LLC is an active member of the community, which includes managing an annual community action grant program in addition to other charitable and community focused initiatives.

IV. EMPLOYMENT IMPACT AT PROJECT LOCATION

A. NEW EMPLOYMENT

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

Full-time TBD Part-Time TBD

Provide types of jobs created and average salary levels: The expansion will allow continued investment and growth at the Fort Worth data center. Although exact job numbers are not known at this time, it is expected that the expansion will allow for continued headcount growth at the site. The average wage paid to employees to be located at the project site is \$114,073.

Start date and annual payroll of new permanent positions (if positions to be phased in, provide figures for each phase year): Q3 2022, Payroll of new permanent positions are TBD.

Percentage of new jobs to be filled by Tarrant County residents: TBD

Number of employees transferring from other company locations: TBD

B. CONSTRUCTION RELATED EMPLOYMENTS

Projected number of construction related jobs: Hundreds of construction workers on-site daily.

Estimated total construction payroll: \$ TBD, construction payroll will be commensurate with the local market.

Commitment as to percentage of construction dollars to be spent with Tarrant County contractors or subcontractors: Our goal is to utilize as many local and MWBE vendors as possible, but at this time that percentage is unknown.

Commitment as to percentage & total dollars of construction contracts to be awarded to DBE: Our goal is to utilize as many local and MWBE vendors as possible, but at this time that percentage is unknown.

C. CURRENT COMPANY/PROJECT LOCATION EMPLOYMENT

Current Number of Employees: Full-time 96 Part-time 0

Average annual payroll: \$ 114,073 (Average Annual Salary)

Detail on workforce diversity – percentage breakdown of current employees by gender and ethnicity: **10%

consider this information confidential and decline to disclose. That said, we have a strong company-wide commitment to diversity.

Please see our Equal Opportunity and Affirmative Action Policy on our careers website at <https://www.facebook.com/careers/>

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: Individual: \$ 0 Family: \$ 289

Other employee benefits provided or offered: Life & AD&D Insurance, 401k, childcare reimbursement, wellness reimbursement, FSA plans, dental insurance, vision insurance, food, tax support, survivor benefits, baby gift, financial planning, estate planning, legal help, PTO, paid family leave, unlimited sick time, paid holidays, paid recharge sabbatical, paid bereavement leave, paid military leave, long and short term disability, paid parental leave.

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

Estimated amount of annual supply and services expenses: \$ 500,000

Detail any supply/services expenses that are sole source: TBD

Percentage of total supplier/services expenses committed to Tarrant County businesses: TBD

Percentage of total supplier and services expenses committed to DBE: Our goal is to utilize as many local and MWBE vendors as possible, but at this time that percentage is unknown.

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: *** Environmental Impacts of this project will be extremely minimal, see attached for more detail.*

Air Quality Water Quality Solid Waste Disposal Storm/Water Runoff

Floodplain/Wetlands Noise levels Other (specify) "[Response]"

Provide detail on existing and new fleet vehicles, specifying types of vehicles, quantities and fuel used (gasoline, diesel, LP gas, CNG, etc.): None.

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
- Descriptive list and value of real and personal property improvements
- Plat/Map of Project Location
- Project Time Schedule
- Owner's policy regarding use of disadvantaged Business Enterprises
- 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
- Tax Certificate showing property taxes paid for most recent year

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

Authorized Representative

Title

Bobby Hollis

Printed Name

May 28, 2020

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.

Letter Addressing Economic Qualifications and Additional Criteria for Abatement

Dear Sir/Madam:

On behalf of Winner LLC d/b/a Ernst LLC ("Winner"), this letter addresses the economic qualifications and additional criteria for abatement outlined in Section III (h) and (i) of the Tarrant County Tax Abatement Policy.

Section III (h):

- Winner has an existing data center in Tarrant County;
- If ultimately approved for Tarrant County, Winner is estimated to produce a minimum added value exceeding \$3 million in real and personal property as a result of the expansion project;
- If ultimately approved for Tarrant County, Winner reasonably expects to sustain existing employment levels;
- Winner must expand its existing data center footprint in order to meet growth demands from its parent company.

Section III (i):

- If ultimately approved for Tarrant County, Winner will use its best efforts to utilize Disadvantaged Business Enterprises ("DBE") and Tarrant County Businesses wherever possible and will make it a priority when evaluating potential construction and annual supply and service contracts.
- If ultimately approved for Tarrant County, environmental impacts are anticipated to be extremely minor, but may include the following:
 - Minor traffic increases around the site may have a small impact on air quality from the minimal traffic increase.
 - Onsite generators would have a small impact on air quality. This impact will be extremely minimal given that they will only run in the rare case of utility loss and short maintenance periods.
 - The data center would be run with 100% clean and renewable energy. This will have an extremely positive environmental impact.
 - Lastly, the proposed data center expects to meet or exceed all requirements for erosion control, storm water management and landscaping.
- Winner plans to continue to offer a health benefit plan to its full-time employees at a rate that is reasonable to the majority of its employees and allows access to the plan by the employees' dependents.

Thank you in advance for your cooperation and consideration of this tax abatement application. Should you or your staff have any questions or concerns, please do not hesitate to contact Brad Davis at dcjed@fb.com.

Respectfully submitted,

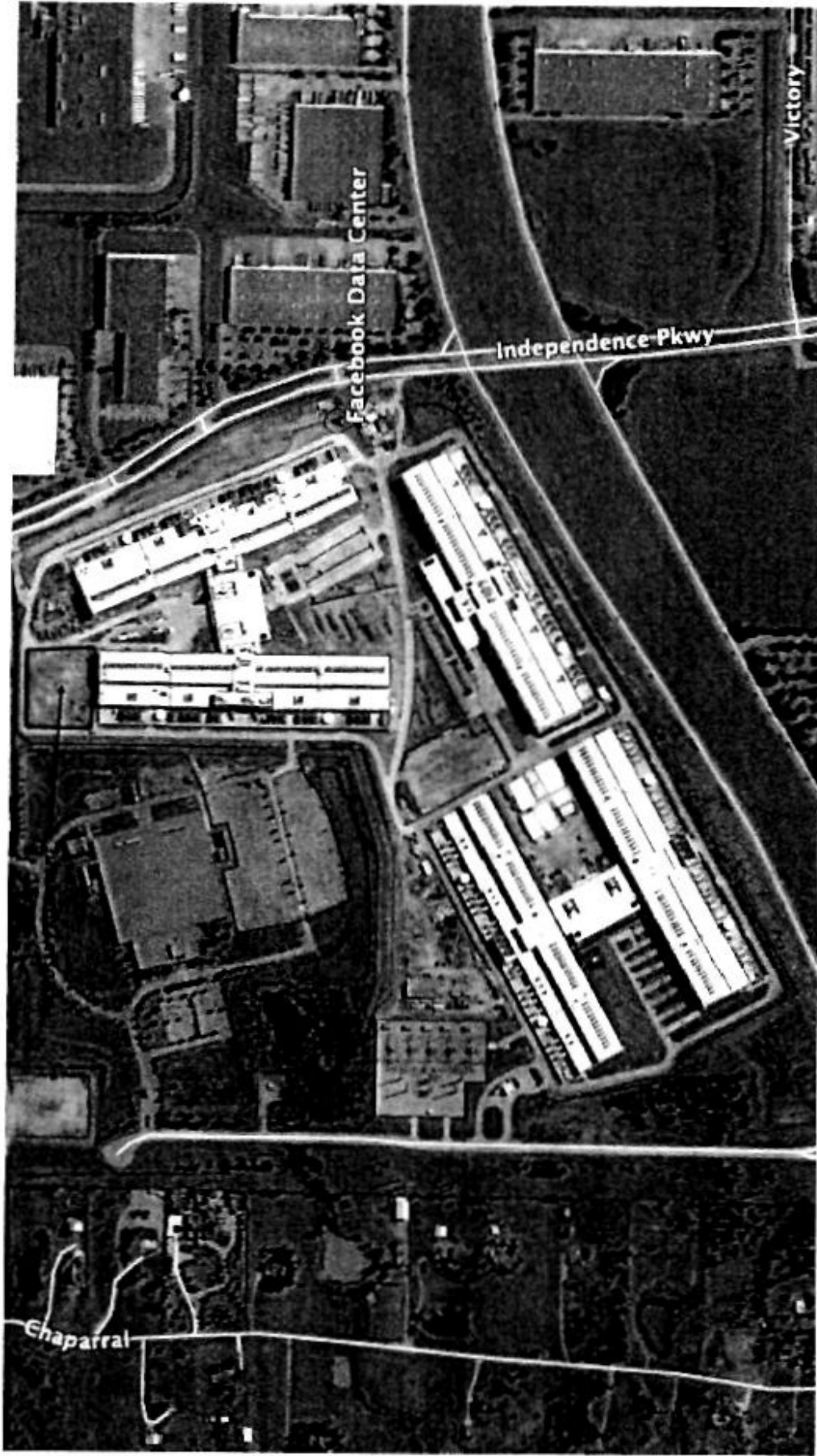
Winner LLC

Descriptive list and value of real and personal property improvements

Winner LLC current owns and operates a data center on the proposed site and would construct another data center building on its existing campus in Fort Worth. The facility under consideration would be located on the far north end of the campus and is estimated to be approximately 150,000 sq. ft. in size. In total, data center construction and equipping would involve a capital investment of at least \$200 million with an anticipated start date of Q1 2021 and completion date by Q3 2022. The proposed qualified investment would include:

- Estimated Value of Real Property Improvements: \$125,000,000
- Estimated Value of Personal Property Improvements: \$75,000,000
- Equipment purchased for use within the proposed data center may include but not be limited to:
 - Computer servers;
 - Chassis;
 - Storage heads;
 - Flash storage cards;
 - Network switches;
 - Routers;
 - Blades;
 - Racks; and
 - Miscellaneous server components.

Plat/Map of Project Location



Project Time Schedule

- **Anticipated State Date of Construction:** Q1 2021
- **Anticipated Completion Date:** Q3 2022

Owner's policy regarding use of disadvantaged business enterprises ("DBE")

Our goal is to utilize as many local and MWBE vendors as possible.

Owner's policy addressing regional air quality/non-attainment status and plan for participation in regional Ozone Action Program

Environmental impacts are anticipated to be extremely minor, but may include the following:

- Fresh air is used to cool the data center, resulting in no emissions of particulate matter from the cooling system.
- The site is adjacent to a busy highway so any minor traffic increases around the site will have a negligible impact on air quality.
- Emergency backup generators will be permitted through TCEQ, operated in accordance with state regulations, and will have a small impact on air quality due to infrequent use and emission control technology.
- As of 2020, Facebook's operations globally are supported by 100% renewable energy. Facebook has signed long-term agreements with over 700MW of new wind and solar projects in Texas which will all be online in 2020 and will generate more clean electricity than is consumed by the Fort Worth Data Center. This helps to mitigate emissions generated from Facebook's electricity consumption.
- The proposed data center will meet and/or exceed requirements for erosion control, storm water management and landscaping.

Tax certificate showing property taxes paid for the most recent tax year



**WENDY BURGESS
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: 05/19/2020
ACCOUNT: 00042324937

2019 TAX STATEMENT

IN GOD WE TRUST

V1.13

LEGAL: ALLIANCE GATEWAY NORTH
BLOCK 3 LOT FR2

e-STATEMENT



OWNER: WINNER LLC
PARCEL ADDRESS: 3004500 LIKE WAY
EXEMPTIONS: AB001

Visit our website for online credit card and eCheck payments
Pay by phone at 817-884-1110

LAND VALUE	IMPROVEMENT VAL	APPRAISED VAL				
16,365,010	378,159,425	394,524,435				
TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT	TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
FT WORTH CITY	394,524,435	0	394,524,435	0.747500	2949070.15	0.00
TARRANT COUNTY	394,524,435	226,895,655	167,628,780	0.234000	392251.35	0.00
REG WATER DIST	394,524,435	0	394,524,435	0.028700	113228.51	0.00
T C HOSPITAL	394,524,435	151,263,770	243,260,665	0.224429	545947.48	0.00
T C COLLEGE	394,524,435	0	394,524,435	0.130170	513552.46	0.00
TOTAL TAXES					4,514,049.95	0.00

TOTAL AMOUNT DUE INCLUDES PAYMENTS RECEIVED 0.00

IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED, AND YOU OCCUPY THE PROPERTY DESCRIBED IN THIS DOCUMENT AS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE PAYMENT OF THESE TAXES.

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

WINNER LLC
AB001

RETURN WITH PAYMENT

00042324937
00042324937

PAY THIS AMOUNT \$0.00
Delinquent after: 1/31/2020

00042324937 2019

81108474
81108474

IF PAID IN	AMOUNT DUE
JUN	0.00
JUL	0.00

WINNER LLC
1 HACKER WAY BLDG 10
MENLO PARK, CA 94025

Make checks payable to:
WENDY BURGESS, TAX-ASSESSOR-COLLECTOR
PO BOX 961018
FORT WORTH TX 76161-0018

00042324937 000000000 000000000 000000000 051920200000

EXHIBIT "E"
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 "F"
FORM OF CONSENT TO COLLATERAL ASSIGNMENT

**CONSENT TO ASSIGNMENT
FOR SECURITY PURPOSES OF
TAX ABATEMENT AGREEMENT
BETWEEN TARRANT COUNTY AND**

This CONSENT TO ASSIGNMENT FOR SECURITY PURPOSES OF TAX ABATEMENT AGREEMENT ("Consent") is entered into by and between the TARRANT COUNTY, TEXAS ("County"); _____ ("Owner"), a _____; and _____ ("Lender"), a _____.

RECITALS

The County, Owner and Lender hereby agree that the following statements are true and correct and constitute the basis upon which the parties have entered into this Consent:

A. The County and Owner previously entered into that certain Tax Abatement Agreement, dated as of _____, _____ (the "Agreement") pursuant to which the County agreed to abate a percentage of Owner's ad valorem real and personal property taxes in return for Owner's construction of _____, as more specifically outlined in the Agreement (the "Project Improvements"). The Agreement is a public document on file in the County's offices.

B. Section VIII of the Agreement allows Owner to assign its rights and obligations under the Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or Project Improvements without the approval of the Commissioners' Court, provided that Owner and the financial institution or other lender first execute a written agreement with the County governing the rights and obligations of the County, Owner, and the financial institution or other lender with respect to such security interest.

C. Owner wishes to obtain a loan from Lender in order to [*state reason for loan*] (the "Loan"). As security for the Loan, certain agreements between Owner and Lender governing the Loan and dated _____, including, but not limited to, that certain Loan Agreement and [*list other related documents*] (collectively, the "Loan Documents") require that Owner assign, transfer and convey to Lender all of Owner's rights, interest in and to the Agreement until such time as Owner has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender's security interest in the Agreement (the "Assignment").

D. The County is willing to consent to this Assignment specifically in accordance with the terms and conditions of this Consent.

AGREEMENT

1. The County, Owner and Lender hereby agree that the recitals set forth above are true and correct and form the basis upon which the County has entered into this Consent.

2. The County hereby consents to the Assignment at the request of Owner and Lender solely for the purpose of Lender's securing the Loan pursuant to and in accordance with the Loan Documents. Notwithstanding such consent, the County does not adopt, ratify or approve any of the particular provisions of the Loan Documents and, unless and to the extent specifically acknowledged by the County in this Consent, does not grant any right or privilege to Lender or any assignee or successor in interest thereto that is different from or more extensive than any right or privilege granted to Owner under the Agreement.

3. In the event that the County is required by the Agreement to provide any kind of written notice to Owner, including notice of breach or default by Owner, the County shall also provide a copy of such written notice to Lender, addressed to the following, or such other party or address as Lender designates in writing, by certified mail, postage prepaid, or by hand delivery:

or such other address(es) as Lender may advise County from time to time.

4. If Owner fails to cure any default under the Agreement, the County agrees that Lender, its agents or designees shall have an additional thirty (30) calendar days or such greater time as may specifically be provided under the Agreement to perform any of the obligations or requirements of Owner imposed by the Agreement and that the County will accept Lender's performance of the same as if Owner had performed such obligations or requirements; provided, however, that in the event such default cannot be cured within such time, Lender, its agents or designees, shall have such additional time as may be reasonably necessary if within such time period Lender has commenced and is diligently pursuing the remedies to cure such default, including, without limitation, such time as may be required for lender to gain possession of Owner's interest in the Owner property pursuant to the terms of the Loan Documents.

5. If at any time Lender wishes to exercise any foreclosure rights under the Loan Documents, before taking any foreclosure action Lender shall first provide written notice to the County of such intent (a "Notice"). Lender shall copy Owner on the Notice and deliver such Notice to Owner by both first class and certified mail return receipt concurrent with its transmittal of the Notice to the County and represent in the Notice that it has done so. Notwithstanding anything to the contrary herein, unless Lender enters into a written agreement with the County to assume and be bound by all covenants and obligations of Owner under the Agreement, Lender understands and agrees that the County shall not have any obligation to Lender under the Agreement. In addition, Lender understands and agrees that if Lender wishes

to sell all or any portion of the Land or Project Improvements to a third party following Lender's exercise of any foreclosure rights under the Loan Documents, the County shall not owe any obligation to such third party pursuant to the Agreement unless Lender and such third party comply with the procedure for assignment set forth in Section VIII of the Agreement, including the obligation of such third party to enter into a written agreement with the County to assume and be bound by all covenants and obligations of Owner under the Agreement.

6. In the event of any conflict between this Consent and the Agreement or any of the Loan Documents, this Consent shall control. In the event of any conflict between this Consent and any of the Loan Documents, this Consent shall control. In the event of any conflict between the Agreement and any of the Loan Documents, the Agreement shall control.

7. This Consent may not be amended or modified except by a written agreement executed by all of the parties hereto. Notwithstanding anything to the contrary in the Loan Documents, an amendment to any of the Loan Documents shall not constitute an amendment to this Consent or the Agreement.

8. Once Owner has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender's security interest in the Agreement and such security interest is released, Lender shall provide written notice to the County that Lender has released such security interest, in which case this Consent shall automatically terminate.

9. This Consent shall be construed in accordance with the laws of the State of Texas. Venue for any action arising under the provisions of this Consent shall lie in state courts located in Tarrant County, Texas or in the United States District Court for the Northern District of Texas, Fort Worth Division.

10. Capitalized terms used but not specifically defined in this Consent shall have the meanings ascribed to them in the Agreement.

11. This written instrument contains the entire understanding and agreement between the County, Owner and Lender as to the matters contained herein. Any prior or contemporaneous oral or written agreement concerning such matters is hereby declared null and void to the extent in conflict with this Consent.

12. This Consent shall be effective on the later date as of which all parties have executed it. This Consent may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. The failure of any party hereto to execute this Consent, or any counterpart hereof, shall not relieve the other signatories from their obligations from their obligations hereunder.

EXECUTED as of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT PAGE]

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.

WINNER LLC,
a Delaware limited liability 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 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.*

EXHIBIT "G"
FORM OF TAX ABATEMENT EVALUATION REPORT



Tarrant County Annual Tax Abatement Evaluation Report

Reporting Period: January 1, 2018 to December 31, 2018

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 WINNER LLC, FORT WORTH

WHEREAS, Winner LLC, duly authorized to do business in the State of Texas, and duly acting by and through their authorized officers, (hereafter referred to collectively as "Owner"), plans to construct and equip a Data Center on real property under its ownership, more particularly described in the Abatement Agreement attached hereto and incorporated herein by reference ("Real Property"), located in the City of Fort Worth; 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 Real Property and all improvements thereon are located in Reinvestment Zone No. 90 and 90A in the City of Fort Worth, being a reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended (the "Code"); and

WHEREAS, the City Council of the City of Fort Worth has approved and executed a tax abatement agreement as to certain improvements thereon; and

WHEREAS, the Tax Abatement Agreement (the "Agreement") between Tarrant County and Owner, provides for the construction and operation of a minimum 150,000 square foot Data Center facility and installation of certain improvements at an estimated investment of over \$200,000,000, to be completed and equipped on or before June 1, 2030; and

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

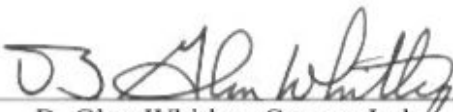
WHEREAS, the Commissioners Court has been requested by the Owner to take the steps required pursuant to the Code to permit tax abatement with respect to that portion of the Real Property and the improvements thereon which are subject to the taxing jurisdiction of the County, and has further requested 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; and according to the 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 Agreements substantially meet its guidelines and criteria; that the Agreements for the abatement of certain Tarrant County and Tarrant County Hospital District taxes be and are 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 Agreements 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 6th day of October, 2020, through Court Order No. 133917.


B. Glen Whitley, County Judge


Roy C. Brooks
Commissioner, Precinct 1


Devan Allen
Commissioner, Precinct 2


Gary Fickes
Commissioner, Precinct 3

Present via virtual meeting
J.D. Johnson
Commissioner, Precinct 4

THE STATE OF TEXAS §

Tax Abatement Agreement
Subsequent Facility E

COUNTY OF TARRANT §

This Agreement is executed by and between **WINNER LLC**, a Delaware limited liability company (hereafter referred to as “**Owner**”), 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, in accordance with law, has adopted a Policy Statement for Tax Abatement, herein contained as **Exhibit “E”**, which constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the County; and
- WHEREAS, the Land (as hereafter defined) and the Eligible Property (as hereafter defined) are located in Reinvestment Zone No. 90 in the City of Fort Worth, Texas, established by Ordinance No. 21757-05-2015 adopted on May 19, 2015 and renewed by Ordinance No. 24199-05-2020 adopted May 5, 2020, and Reinvestment Zone No. 90A in the City of Fort Worth, Texas, established by Ordinance No. 22473-10-2016 adopted on October 18, 2016, being a commercial-industrial reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended (Reinvestment Zone No. 90 and Reinvestment Zone No. 90A are sometimes referred to collectively herein as the “Zone”); and
- WHEREAS, the City Council of the City of Fort Worth, Texas (“City”) has approved and authorized the execution and delivery of a Tax Abatement Agreement abating certain property taxes on the Land, substantially in the form attached hereto as **Exhibit “B”**; and
- WHEREAS, Owner submitted an application for tax abatement to the County concerning contemplated improvements to the Land (the “Application for Tax Abatement”), attached hereto and incorporated herein as **Exhibit “D”**; and
- WHEREAS, Owner owns approximately 150 acres of land at the northeast corner of Alliance Gateway and Park Vista Boulevard, said land being located entirely within the Zone and more specifically defined in Section I.P. Owner has constructed and operates or will operate five Data Center facilities on the Land: the Initial Facility, Subsequent Facility A, Subsequent Facility B, Subsequent Facility C, and Subsequent Facility D (each as hereinafter defined and collectively, the “Existing Facilities”), each representing an investment of more than \$250,000,000 in real and business personal property investments; and

WHEREAS, Owner intends to construct and operate an additional Data Center facility on the Land, referred to herein as Subsequent Facility E, providing an additional investment of more than \$200,000,000 in real and business personal property investments; and

WHEREAS, the Commissioners Court finds that the contemplated use of the Land, the Eligible Property and the terms of this Agreement are consistent with encouraging development of the Zone in accordance with the purposes for its creation and are in compliance with the Policy Statement and other applicable law;

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

I.
Definitions

- A. "Abatement Term" has the meaning ascribed to it in Section IV.D.
- B. "Added Market Value" is defined as the market value of Eligible Property on the Land above the Base Year Value.
- C. "Affiliate" means all entities, incorporated or otherwise, under common control with, controlled by or controlling Owner. For purposes of this definition, "control" means fifty percent (50%) or more of the ownership determined by either value or vote.
- D. "Base Year Value" is defined as the tax year 2020 taxable value of real and personal property located on the Land in Reinvestment Zone No. 90 and Reinvestment Zone No. 90A on January 1, 2020, as finally determined by the Tarrant Appraisal District.
- E. "City's Zoning Ordinance" means the Zoning Ordinance of the City, being Ordinance No. 13896, as amended, codified as Appendix "A" of the Code of The City of Fort Worth (1986).
- F. "Completion Date" means the date as of which a temporary or permanent certificate of occupancy has been issued by the City for Subsequent Facility E.
- G. "Completion Deadline" means June 1, 2030, subject to all extensions of time allowed by this Agreement.
- H. "Construction Costs" are defined as the aggregate of the following costs expended or caused to be expended by Owner for the Real Property Improvements: actual site development and construction costs, general contractor and subcontractor fees, and the costs of supplies, materials and construction labor; engineering fees; and architectural and design fees; zoning fees; building permit fees; sewer basin fees; water and sewer tap fees; water, wastewater and thoroughfare impact fees; other costs and fees customarily incidental to construction of a commercial project; and insurance and taxes directly related to the construction of the Real Property Improvements. Construction Costs specifically excludes any costs associated with the acquisition of the Land.

- I. "Data Center" means real and personal property consisting of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment, used primarily to provide, as a service to persons other than the company operating the data center, data and transaction processing services, outsource information technology services and computer equipment colocation services, or, used primarily to provide, to a single user, including the user's affiliates, customers, lessees, vendors and other persons authorized by the user, data and transaction processing services.
- J. "DBE Companies" are defined as companies who are a Disadvantaged 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 amended.
 - 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 J(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 J(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 J(i) above.
- K. "Effective Date" has the meaning ascribed to it in Section IV.D.
- L. "Eligible Property" is defined as Real Property Improvements and Personal Property Improvements made for construction and operation of Subsequent Facility E as generally described in **Exhibit "C"**, constructed, delivered to, installed or placed on the Land after January 1, 2020 and throughout the Abatement Term, as set forth in this Agreement.
- M. "Existing Facilities" has the meaning ascribed to that term in the Recitals.

- N. "Initial Facility" means the first building that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- O. "Job" means a job provided to one (1) individual by Owner or an Affiliate on the Land for (i) forty (40) hours per week or (ii) less than forty (40) hours per week if such other measurement is used to define full-time employment by Owner or an Affiliate in accordance with its then-current personnel policies and regulations. For example, if Owner or an Affiliate has a company-wide policy that considers full-time employment to be thirty-five (35) hours per week, a job on the Land provided by Owner or an Affiliate for at least thirty-five (35) hours per week shall be considered a Job for purposes of this Agreement. Outsourced or independent contractor positions shall not be included in this definition.
- P. "Land" means that certain parcel of land located within Tarrant County, Texas and more particularly described in **Exhibit "A"** attached hereto and hereby made a part of this Agreement for all purposes, plus any additional land within the Zone acquired by Owner subsequent to the Effective Date for incorporation into the Eligible Property and otherwise allowable under Chapter 312 of the Texas Tax Code.
- Q. "Personal Property Commitment" has the meaning ascribed to it in Section III.B.
- R. "Personal Property Improvements" are defined as tangible personal property (except inventory or supplies) delivered to, installed or located on the Land for Subsequent Facility E after the Effective Date of this Agreement.
- S. "Real Property Improvements" are defined as improvements to the Land, and for purposes of this Agreement shall include structures or fixtures erected or affixed to the Land for Subsequent Facility E after the Effective Date of this Agreement.
- T. "Real Property Improvement Commitment" has the meaning ascribed to it in Section III.C.
- U. "Reinvestment Zone No. 90" is defined as the real property located in the City and described by City of Fort Worth Ordinance Nos. 21757-05-2015 and 24199-05-2020 (substantially in the form included within **Exhibit "B"**).
- V. "Reinvestment Zone No. 90A" is defined as the real property located in the City and described by City of Fort Worth Ordinance No. 22473-10-2016 (substantially in the form included within **Exhibit "B"**).
- W. "Subsequent Facility A" means the second facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- X. "Subsequent Facility B" means the third facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially

finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.

- Y. "Subsequent Facility C" means the fourth facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- Z. "Subsequent Facility D" means the fifth facility that has been constructed and completed on the Land consisting of at least 250,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- AA. "Subsequent Facility E" means the sixth facility to be constructed and completed on the Land consisting of at least 150,000 square feet of shell space and at least partially finished out with the equipment and supporting building systems and improvements necessary for Owner's intended use, as generally depicted in **Exhibit "C"**.
- BB. "Supply and Service Expenditures" are defined as those local discretionary expenditures made by Owner directly for the operation and maintenance of Land and any improvements thereon, excluding utility service costs.
- CC. "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.
- DD. "Term" has the meaning ascribed to it in Section IV.D.

II. General Provisions

- A. The Land and Eligible Property are not an improvement project financed by tax increment bonds.
- B. Neither the Land 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. Owner shall cause the Completion Date to occur by the Completion Deadline in accordance with this Agreement.

- B. Owner shall install or otherwise locate on the Land by the Completion Deadline Personal Property Improvements at a cumulative actual cost of not less than Seventy-Five Million Dollars (\$75,000,000) (“Personal Property Commitment”).
- C. Owner shall expend or cause the expenditure by the Completion Deadline of at least One Hundred Twenty-Five Million (\$125,000,000) in Construction Costs for Real Property Improvements (“Real Property Improvement Commitment”).
- D. Owner intends to expend or cause the expenditure by the Completion Deadline of at least fifteen percent (15%) of all Construction Costs for Real Property Improvements with DBE Companies.
- E. Owner intends to expend or cause the expenditure by the Completion Deadline of at least twenty-five percent (25%) of all Construction Costs for Real Property Improvements with Tarrant County Companies.
- F. Owner will provide for employment of a least thirty (30) Jobs on the Land throughout the Abatement Term. These Jobs are cumulative and include Jobs created for the Existing Facilities.
- G. Owner shall operate and maintain, or cause to be operated and maintained, the Eligible Property on the Land for the duration of this Agreement after the Completion Date.

**IV.
Abatement Allowed**

- A. As set forth in this section, the tax abatement allowed herein shall be for Tarrant County and Tarrant County Hospital District ad valorem real and personal property taxes, relative to Added Market Value of the Eligible Property located on the Land, subject to the following terms and conditions.
- B. If the Improvement Conditions and Requirements set forth in Section III A., B., C., F., and G. herein are met, County agrees to exempt from taxation (i) sixty percent (60%) of the Added Market Value of the Eligible Property for Tarrant County taxes, and (ii) forty percent (40%) of the Added Market Value of the Eligible Property for Tarrant County Hospital District taxes, in accordance with the various requirements established by the terms of this Agreement. The Improvement Conditions and Requirements in Section III shall in no event be considered a covenant or requirement of Owner to perform for any reason other than to receive the abatement allowed by this Agreement.

1. Reduction to Abatement

a. Completion of Eligible Property Investment

Failure of Owner to make the Real Property Improvements and Personal Property Improvements at the minimum values as set forth in this Agreement by the Completion Deadline is a breach of this Agreement and shall result in the termination of this Agreement in accordance with Section VII.

b. Employment and Spending Deficiencies

In any year that the employment level does not meet the minimum Jobs requirement set forth in Section III.F., the County shall reduce the abatement percentage for that year as set forth below. Notwithstanding the foregoing, if Owner meets the minimum Jobs requirement in the following years, Owner shall be entitled to the full abatement for such years.

- i. If the actual number of Jobs falls below the minimum Jobs requirement of thirty (30) Jobs, the abatement percentage will be reduced by two percent (2%) for each one (1) Job deficiency, for that year.

(Example: A total of 28 Jobs would be a deficiency of 2 Jobs, which would provide for a 4% reduction in the abatement.)

- ii. If less than twenty-five percent (25%) of all Jobs are filled by Tarrant County residents, Owner will receive a five percent (5%) reduction. For purposes of ascertaining compliance with this provision, an employee is considered a Tarrant County resident if the employee resides in Tarrant County on the date of hire.

- C. Owner intends to use its best efforts to meet the goals with respect to DBE Companies and Tarrant County Companies set forth in Sections III.D. and III.E.; provided, however, the parties expressly agree that, because the construction of a Data Center involves highly specialized labor, a failure to attain the goals with respect to DBE Companies and/or Tarrant County Companies is not a condition precedent to receiving any abatement under this Agreement nor does such a failure constitute a breach of this Agreement.
- D. This Agreement shall take effect on the date which both the County and Owner have executed this Agreement (the "Effective Date") and, unless terminated earlier in accordance with its terms and conditions, shall expire simultaneously upon expiration of the Abatement Term, as defined below (the "Term"). The term during which Owner may receive an abatement shall commence on January 1 of the tax year following the year as of which the Completion Date has occurred and shall expire on December 31 of the tenth (10th) year thereafter (the "Abatement Term").

V.

Reports, Audits and Inspections

- A. Annual Certification and Reports - Pursuant to state law, Owner shall certify annually to taxing units that Owner is in compliance with the terms of the Agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the Agreement, as follows:
 - I. Certification - Owner shall complete and certify a Tax Abatement Evaluation Report substantially in the form attached hereto as **Exhibit "G"** 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 Agreement.

2. Eligible Property Reports - To the extent necessary to verify compliance with the terms of this Agreement or to otherwise administer the terms of this Agreement, but no more than once per calendar year, Owner shall make available to County, upon reasonable written request, the information in the Tax Abatement Evaluation Report applicable to all Eligible Property.
 3. Equipment Added, Replaced or Removed - Owner agrees to provide County, upon reasonable written request but no more than once per calendar year, a copy of its personal property tax return detailing any Eligible Property that has been added, replaced or removed from the Land.
 4. Report Upon Project Completion – Provided the Completion Date occurred by the Completion Deadline, within one-hundred eighty (180) days of completion of the Real Property Improvement Commitment and Personal Property Commitment, Owner shall provide County with a final Eligible Property Report that shall describe all Eligible Property for which Owner is granted tax abatement. The report may contemplate a reconciliation of the general ledger to the personal property rendition to satisfy this requirement.
 5. DBE and Tarrant County Companies Report - Owner shall complete and certify a DBE and Tarrant County Companies Report as provided for in the Tax Abatement Evaluation Report for each year of the tax abatement agreement, to be due annually not later than April 30. This report and certification shall include the total Construction Costs expended for the Real Property Improvements with DBE Companies and Tarrant County Companies, together with supporting invoices and other documents reasonably necessary to demonstrate that such amounts were actually paid.
 6. Failure to Submit Reports - If Owner fails to submit any report required by and in accordance with this Section V.A., the County shall provide written notice to Owner. If Owner fails to provide any such report within thirty (30) calendar days following receipt of such written notice, the County will provide a second written notice to Owner. If Owner fails to provide any such report within five (5) business days following receipt of this second written notice, the County will have the right to terminate this Agreement immediately by providing written notice to Owner.
- B. Right to Audit Books and Records - Provided at least ten (10) calendar days' notice is given and to the extent necessary to verify compliance with the terms of this Agreement or to otherwise administer the terms of this Agreement, but no more than once per calendar year, the County will have the right throughout the Term to audit the financial and business records of Owner that relate solely to the Real Property Improvements and Personal Property Improvements and are necessary to evaluate compliance with this Agreement or with the commitments set forth in this Agreement, including, but not limited to documents and invoices related to the construction of the Real Property Improvements and the purchase of Personal Property Improvements. Owner must make all such records described in this Section V.B. available to the County at Owner's offices in the County or at another location in the County acceptable to both parties and shall otherwise cooperate fully or cause full cooperation with the County during any audit. Further, Owner may require that all individuals reviewing the financial and business

records of Owner, an Affiliate or another party must first sign a reasonable confidentiality agreement under which they agree to not discuss or publicize information contained in such records except as necessary for them to complete an audit of such records in accordance with this Agreement.

- C. Inspection - At any time during Owner's normal business hours throughout the Term and following at least ten (10) calendar days' prior written notice to Owner, the County will have the right to inspect and evaluate the Land, and Owner will provide reasonable access to the same, in order for the County to monitor or verify compliance with the terms and conditions of this Agreement. Owner will reasonably cooperate with the County during any such inspection and evaluation. Notwithstanding the foregoing, Owner shall have the right to require that any representative of the County be escorted by a representative or security personnel of Owner during any such inspection and evaluation, and Owner shall be able to exercise its sole, reasonable discretion in scheduling a requested inspection so as not to interfere with its ongoing business operations on the Land. Further, Owner may require that all individuals inspecting the Land or Eligible Property must first sign a reasonable confidentiality agreement under which they agree to not discuss or publicize information revealed in such inspection except as necessary for them to complete such inspection in accordance with this Agreement.

VI. Use of Land

The Land is intended to be used as a Data Center as that term is defined in the City's Zoning Ordinance as of the Completion Date and as defined in Section I.I. herein. After the Completion Deadline, the Land must be used for a lawful use related to the support and/or operation of Owner's commercial, business, retail, or industrial uses. The Land at all times shall be used in a manner that is consistent with the City's Zoning Ordinance and consistent with the general purpose of encouraging development within the Zone. Both parties acknowledge that the use of the Land as described in this Section VI is consistent with such purposes.

VII. Breach

- A. The following conditions shall constitute a breach of this Agreement:
1. Owner terminates the use of the Land in accordance with Section VI at any time during the Abatement Term; or
 2. Owner fails to meet the Abatement Conditions and Requirements as specified in Section III, A., B., C. or G.
 3. Violations of City Code, State or Federal Law - If (i) any written citation is issued to Owner due to the occurrence of a material violation of a material provision of an applicable City ordinance on the Land or on or within any improvements thereon and such citation is not paid or the recipient of such citation does not properly follow the legal procedures for protest and/or contest of any such citation; (ii) the County is notified by a governmental agency or unit with appropriate jurisdiction that Owner is in material violation of any material state or federal law, rule or regulation

on account of any portion of the Land owned by Owner, or on account of improvements owned or operated by Owner or any operations therein on the Land, and Owner does not take affirmative action to resolve, mitigate or protest and/or contest such violation under proper legal procedures.

4. Failure to Pay County Taxes - A breach shall occur under this Agreement if Owner allows its ad valorem taxes on the Land or Eligible Property owed to the County to become delinquent and Owner does not either pay or cause such taxes to be paid or properly follow the legal procedures for protest and/or contest of any such taxes. In this event, the County shall notify Owner in writing and Owner shall have the opportunity to cure such default in accordance with Section VII.B. If the default has not been fully cured by such time, the County shall have the right to terminate this Agreement immediately by providing written notice to Owner and shall have all other rights and remedies that may be available to it under the law or in equity necessary to collect such delinquent taxes. Additionally, County shall have the right to recapture taxes which otherwise would have been paid to County without the benefit of the Agreement for the year that Owner's taxes were delinquent. Either payment of such taxes or initiation of and ongoing engagement in legal proceedings for protest and/or contest of such taxes shall constitute a full cure pursuant to Section VII.B.
- B. Notice of Breach - In the event that County makes a reasonable determination that Owner has breached this Agreement, County shall give Owner written notice of such default. Owner has sixty (60) days following receipt of said written notice to reasonably cure such breach, or this Agreement may be terminated by County, and partial recapture of abated taxes may occur in accordance with Section VII.C. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail to Owner at its address provided in Section IX of this Agreement. It shall be the duty of County to determine whether to request partial recapture and payment of abated taxes and to demand payment of such.
- C. Recapture - Should Owner commit a breach of this Agreement according to items A.1. or A.2. of this Section VII and fail to cure as provided in Section VII.B., County may terminate this Agreement and recapture taxes abated for the years during which the cause for termination occurs. 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. 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. A breach under any sections of this Agreement other than Section VII.A.1., Section VII.A.2., Section VII.A.4., or Section XXI, shall not trigger a right to any recapture of taxes by County.
- 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 Land and Eligible Property described herein.

VIII.

Effect of Sale , Lease or Assignment of Property

A. Affiliate – Upon written notice to the County, Owner may assign, transfer or otherwise convey any of its rights or obligations under this Agreement to any entity which is an Affiliate of Owner, without the consent of the County, in which case the benefits and obligations under this Agreement shall apply to the property and premises owned by such assignee.

B. Collateral Assignment - Owner may assign its rights and obligations under this Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or Eligible Property thereon with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld or delayed, provided that Owner and the financial institution or other lender first execute a written agreement with the County in substantially the same form as that attached hereto as **Exhibit "F"**, together with such other terms and conditions as may be agreed by the County, Owner and the financial institution or other lender with respect to such security interest (a "Consent to Collateral Assignment Agreement").

B. Sale/Leaseback - So long as Owner or an Affiliate of Owner remains the ground lessee or the substantial equivalent of the ground lessee, Owner may, with the written consent of the Commissioners Court, which shall not be unreasonably withheld or delayed, transfer fee simple title to the Land to a third party and continue to exercise its rights and obligations under this Agreement, including but not limited to the abatement, so long as the third party owner and Owner or its Affiliate first execute a written agreement with the County under which both the third party owner of the Land and Owner or its Affiliate, jointly or severally as may be appropriate under the circumstances, agree to be bound by all covenants and obligations of Owner under this Agreement.

C. Other Assignments - Except as otherwise provided in this Section VIII, the abatement granted by this Agreement shall not be assignable to any new owner or new lessee of all or a portion of the Land or Eligible Property unless such assignment is approved in writing by the County, which consent shall not be unreasonably withheld or delayed, conditioned on (i) findings, which shall likewise not be unreasonably withheld or delayed, that the assignee or successor is financially capable of meeting the terms and conditions of this Agreement and (ii) execution by the proposed assignee or successor of a written agreement with the County under which the proposed assignee or successor agrees to assume and be bound by all covenants and obligations of Owner under this Agreement. Any such attempted assignment without the Commissioners Court's prior consent shall constitute grounds for termination of this Agreement following ten (10) calendar days of receipt of written notice from the County to Owner and failure to cure in accordance with Section VII.B. Any lawful assignee or successor in interest of Owner of all rights under this Agreement shall be deemed "Owner" for all purposes under this Agreement.

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, hand delivery, or by professional delivery service providing confirmation of receipt:

Owner:	Winner LLC 1 Hacker Way Menlo Park, CA 94025 Attention: Data Center Counsel
with a copy to:	Winstead PC 2728 N. Harwood Street Suite 500 Dallas, TX 75201 Attention: Paul N. Wageman
County:	Tarrant County County Administrator's Office 100 E. Weatherford Fort Worth, Texas 76196 Attention: County Administrator

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; Conflicting Law

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. If any law is enacted after the Effective Date that prohibits either party from materially performing its duties and obligations under this Agreement, the parties agree to meet and confer in good faith for a period of no less than thirty (30) and no more than ninety (90) days to seek to effectuate an amendment to this Agreement that preserves, to the extent reasonably possible, the original intentions of the parties under this Agreement, with the understanding that this Agreement cannot be amended without the approval of the Commissioners Court.

XII.
Estoppel Certificate

Upon written request by Owner to the County, as reasonably necessary to Owner, the County will provide Owner with a certificate stating, as of the date of the certificate, (i) whether

this Agreement is in full force and effect and, if Owner is in breach of this Agreement, the nature of the breach; (ii) a statement as to whether this Agreement has been amended and, if so, the identity of each amendment; and (iii) any other factual matters reasonably requested that relate to this Agreement.

XIII.
Owner's Standing

Owner, 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 Owner 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.
Independent Contractor

It is expressly understood and agreed that Owner shall operate as an independent contractor in each and every respect hereunder and not as an agent, representative or employee of the County. Owner 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. Owner acknowledges that the doctrine of *respondeat superior* will not apply as between the County and Owner, its officers, agents, servants, employees, contractors, subcontractors, licensees, and invitees. Owner further agrees that nothing in this Agreement will be construed as the creation of a partnership or joint enterprise between the County and Owner.

XVI.
Indemnification

It is understood and agreed between the parties that the Owner, in performing its obligations hereunder, is acting independently, and County assumes no responsibility or liability to third parties in connection therewith, and Owner 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 Owner 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 Owner from any such responsibility or liability.

XVII.
Confidential Information

The County acknowledges that some information it receives from Owner under this Agreement may be considered confidential. Owner understands and agrees that the County is subject to the Texas Public Information Act, Chapter 552, Texas Government Code. The parties

agree to comply with the terms and conditions of that certain Single Party Non-Disclosure Agreement between the County and Owner dated effective as of August 24, 2018 that is on file in with the County to the extent that it relates to the rights, obligations, documents and/or information related to this Agreement and as allowed by Chapter 312 of the Texas Tax Code. By this reference, the above-described Non-Disclosure Agreement is made coterminous with the term of this Agreement.

XVIII.

Mutual Assistance; Dispute Resolution

The County and Owner will do all things reasonably necessary or appropriate to carry out the objectives, terms and provisions of this Agreement and to aid and assist each other in carrying out such objectives, terms and provisions, including without limitation, the County facilitating approval of permits, documents, and other instruments as may be reasonably necessary in carrying out such objectives. In case of any disputes arising under this Agreement, the County and Owner agree to attempt to resolve such disputes through good faith negotiations between authorized representatives of both parties. If necessary, both parties agree to submit a dispute to a non-binding mediation. If a dispute cannot be resolved through non-binding mediation, either party may pursue any available legal remedies in any court of competent jurisdiction that satisfies the requirements of Section XIV, or, if both parties mutually agree, the dispute may be submitted to binding arbitration. In the event of binding arbitration, the arbitrators will be chosen from a panel of arbitrators with substantive knowledge relative to the subject matter of the dispute. The arbitrators will apply the laws specified in this Agreement to the merits of any dispute or claim. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The arbitrators may grant permanent injunctions or other relief in such dispute or claim.

XIX.

No Third Party Rights

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

XX.

Force Majeure

It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, strike, inclement weather, governmental restrictions, shortages or unavailability of labor or materials, unreasonable delays by the City (based on the then-current workload of the city department(s) responsible for undertaking the activity in question) in issuing any permits, consents, or certificates of occupancy or conducting any inspections of or with respect to the Land or Eligible Property, incidence of disease or other illness that reaches outbreak, epidemic, or pandemic proportions or other similar causes affecting the general area in which the Eligible Property is located, or other circumstances which are reasonably beyond the control of the party

obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement and the Completion Deadline shall be extended for a period of time equal to the period such party was delayed. Notwithstanding anything to the contrary herein, it is specifically understood and agreed that any failure to obtain adequate financing necessary to meet the Real Property Improvement Commitment or the Personal Property Commitment shall not be deemed to be an event of force majeure and that this Section XX shall not operate to extend the Completion Deadline in such an event.

XXI.
Knowing Employment of Undocumented Workers

Owner 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. Owner hereby certifies that Owner, and any branches, divisions, or departments of Owner, 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 Owner, or any branch, division, or department of Owner, 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 Owner, Owner 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 Owner hereunder, if any, plus Simple Interest at a rate of four percent (4%) per annum. Owner shall not be considered in violation of this section for any actions of a subsidiary, Affiliate, franchisee of Owner or a person or entity with whom Owner contracts.

XXII.
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.

XXIII.
Signatories

This Agreement is effective and binding on those parties that have duly signed below. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

XXIV.
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.

XXV.
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.

XXVI.
Binding Agreement

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.

XXVII.
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.

XXVIII.
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.

[Signatures appear on the following page.]

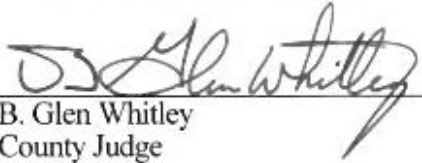
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the last date written below.

WINNER LLC,
a Delaware limited liability company:

By: _____
Name:
Title:

Date: _____

TARRANT COUNTY, TEXAS

By: 
B. Glen Whitley
County Judge

Date: October 6, 2020

ATTEST:


Deputy County Clerk

APPROVED AS TO FORM*:


Asst. Criminal District Attorney

**By law, the 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*

HE STATE OF TEXAS §

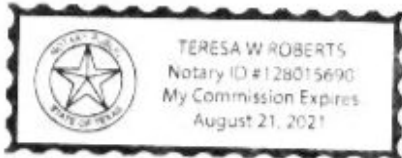
Tarrant County, Texas

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 6th day of October, 2020.



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 LAND

DESCRIPTION OF 110.71 ACRES

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to AIL Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S 89°56'01"E, 368.25 feet;

THENCE S 00°04'42"W, 540.00

feet; **THENCE** S 89°55'36"E,

602.74 feet; **THENCE** N 71°51'00"E,

445.20 feet; **THENCE** N 62°28'25"E,

296.66 feet;

THENCE N 90°00'00"E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of 41°14'47", having a radius of 95.00 feet, the long chord which bears S 69°22'37"E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of 38°19'47", having a radius of 141.00 feet, the long chord which bears S 67°55'07"E, 92.58 feet;

THENCE S 87°05'00"E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of 05°55'58", having a radius of 1940.00 feet, the long chord which bears S 08°09'47"E, 200.79 feet;

THENCE S 05°15'42"E, 237.77 feet;

THENCE S 33°52'08"W, 95.68 feet to the beginning of a curve to the left;
THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of 02°29'57", having a radius of 3294.04 feet, the long chord which bears S 61°40'59"W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of 04°46'16", having a radius of 11479.16 feet, the long chord which bears S 58°08'59"W, 955.62 feet;

THENCE S 55°45'15"W, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of 09°18'33", having a radius of 7619.44 feet, the long chord which bears S 60°24'08"W, 1236.61 feet;

THENCE S 65°04'38"W, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of 05°51'36", having a radius of 3839.72 feet, the long chord which bears S 62°07'36"W, 392.54 feet;

THENCE S 59°11'47"W, 152.11

feet; **THENCE** S 89°11'47"W, 80.00

feet; **THENCE** N 36°10'14"W,

86.37 feet;

THENCE N 00°04'17"W, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of 12°38'40", having a radius of 760.00 feet, the long chord which bears N 06°10'12"W, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of 12°33'05", having a radius of 740.00 feet, the long chord which bears N 06°12'59"W, 161.78 feet;

THENCE N 00°03'31"E, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE $N 00^{\circ}01'18''E$, 115.00 feet to the **Point of Beginning** and containing 4,822,528 square feet or 110.71 acres of land more or less.

DESCRIPTION OF ADDITIONAL 39.407 ACRES

BEING A TRACT OF LAND SITUATED IN THE F. CUELLA SURVEY, ABSTRACT NUMBER 267, TARRANT COUNTY, TEXAS AND BEING ALL OF LOT 5R AND 6, BLOCK 3, ALLIANCE GATEWAY NORTH, AN ADDITION TO THE CITY OF FORT WORTH AS RECORDED IN INSTRUMENT NUMBER D215150766, COUNTY RECORDS. TARRANT COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 5/8 INCH IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID LOT 5R, BLOCK 3, THE SOUTHEAST CORNER OF LOT 1, BLOCK 3, ALLIANCE GATEWAY NORTH ADDITION, AN ADDITION TO THE CITY OF FORT WORTH RECORDED IN CABINET X, SLIDE 753, IN THE WEST LINE OF THAT TRACT OF LAND DESCRIBED IN A DEDICATION DEED (KNOWN AS INDEPENDENCE PARKWAY) TO THE CITY OF FORT WORTH, RECORDED IN VOLUME 13944, PAGE 528 OF COUNTY RECORDS, TARRANT COUNTY, TEXAS AND BEING THE BEGINNING OF A CURVE TO THE LEFT;

THENCE WITH SAID CURVE TO THE LEFT AND THE WEST RIGHT-OF-WAY LINE OF SAID INDEPENDENCE PARKWAY, AN ARC DISTANCE OF 673.39 FEET, THROUGH A CENTRAL ANGLE OF $119^{\circ}46'46''$, HAVING A RADIUS OF 2060.00 FEET, THE LONG CHORD WHICH BEARS $S 25^{\circ}49'55''E$, 670.40 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE $S 35^{\circ}11'48''E$, 166.77 FEET, WITH SAID RIGHT-OF-WAY LINE, TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND AT THE BEGINNING OF A CURVE TO THE RIGHT;

THENCE CONTINUING WITH SAID WEST RIGHT-OF-WAY LINE AND SAID CURVE TO THE RIGHT, AN ARC DISTANCE OF 814.90 FEET, THROUGH A CENTRAL ANGLE OF $24^{\circ}04'02''$, HAVING A RADIUS OF 1940.00 FEET, THE LONG CHORD WHICH BEARS $S 23^{\circ}09'47''E$, 808.92 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE $N 87^{\circ}05'00''W$, 103.97 FEET DEPARTING SAID RIGHT-OF-WAY LINE TO A 5/8" INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND THE AT NORTHEAST CORNER OF LOT 7, BLOCK 3 OF AFOREMENTIONED ALLIANCE GATEWAY NORTH AT THE BEGINNING OF A CURVE TO THE RIGHT BEING;

THENCE CONTINUING WITH SAID NORTH LINE AND SAID CURVE TO THE LEFT, AN ARC DISTANCE OF 68.39 FEET, THROUGH A CENTRAL ANGLE OF $41^{\circ}14'47''$, HAVING A RADIUS OF 95.00 FEET, THE LONG CHORD WHICH BEARS $N 69^{\circ}22'37''W$, 66.92 FEET TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE N 90°00'00"W, 155.55 FEET WITH SAID NORTH LINE TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND;

THENCE S 62°28'25"W, 296.66 FEET WITH SAID NORTH LINE TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND AT THE SOUTHEAST CORNER OF LOT 4R, BLOCK 3, ALLIANCE GATEWAY NORTH, AN ADDITION TO THE CITY OF FORT WORTH AS RECORDED IN INSTRUMENT NUMBER 0209069793, SAID COUNTY RECORDS;

THENCE N 00°19'15"W, 1483.52 FEET WITH THE EAST LINE OF SAID LOT 4R TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON" FOUND IN THE SOUTH LINE OF THE AFOREMENTIONED LOT 1, BLOCK 3, ALLIANCE GATEWAY NORTH ADDITION;

THENCE N 89°38'27"E, 637.87 FEET WITH THE SOUTH LINE OF SAID LOT 1 TO A 5/8 INCH IRON ROD WITH PLASTIC CAP STAMPED "PELTON " FOUND;

THENCE N 73°33'03"E, 244.92 FEET CONTINUING WITH SAID LOT 1 TO THE POINT OF BEGINNING AND CONTAINING 1,716,584 SQUARE FEET OR 39.407 ACRES OF LAND MORE OR LESS.

EXHIBIT "B"

**CITY OF FORT WORTH TAX ABATEMENT AGREEMENT
AND APPLICABLE ORDINANCES**

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 WINNER LLC, a Delaware limited liability company (“Company”).

RECITALS

A. On May 20, 2014, the City Council adopted Resolution No. 4322-05-2014, 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 May 19, 2015 the City Council adopted Ordinance No. 21757-05-2015 (the “Ordinance”) establishing Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas (the “Zone”).

D. Company owns approximately 110 acres of Land in the City located at the northeast corner of Alliance Gateway and Park Vista Boulevard. The Land is located entirely within the Zone. Contingent upon receipt of the tax abatement herein, Company intends to construct and operate an approximately 250,000 square foot data center on the Land, with potential expansions and build-outs that could involve an aggregate investment of more than \$250,000,000.00 in real and business personal property investments.

E. On April 15, 2015 Company submitted an application for tax abatement to the City concerning Company’s plans for the development (the “Application”), 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

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purposes for creation of the Zone, and are in compliance with the Policy, the Ordinance and other applicable laws, ordinances, rules and regulations.

G. The provisions of this Agreement, and the proposed use of the Land and nature and minimum capital investment required for the Project Improvements, as defined in Section 2, satisfy the eligibility criteria for commercial/industrial tax abatement pursuant to Section 4.3 of the Policy.

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.

I. The Abatement granted under this Agreement is in conjunction with a broader economic development incentive program governed by that certain Economic Development Program Agreement between the City and Company on file in the City Secretary's Office as City Secretary Contract No. 46728 (the "EDPA") to be executed substantially simultaneously with this Agreement.

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 ten percent (10%) of the City's incremental ad valorem real property taxes on the Land and all improvements located on the Land, based on the increase in values of the Land and all improvements located on the Land for the 2018 tax year over their values for the 2015 tax year (which is the year in which the parties entered into this Agreement); and (ii) the abatement of ten percent (10%) of the City's ad valorem taxes on New Taxable Tangible Personal Property, based on the taxable assessed value of the New Taxable Tangible Personal Property.

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.

Application has the meaning ascribed to it in Recital E.

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

Code has the meaning ascribed to it in Recital B.

Completion Date means the date as of which a temporary or permanent certificate of occupancy for at least 100,000 square feet of space within the Project Improvements has been issued.

Completion Deadline means December 31, 2017, subject to extension on account of force majeure, as provided in Section 22.

Comprehensive Plan means the City's 2015 Comprehensive Plan, adopted pursuant to Ordinance No. 21693-03-2015, adopted by the City Council on March 17, 2015.

Consent to Collateral Assignment Agreement has the meaning ascribed to it in Section 11.2.

Construction Costs means the aggregate of the following costs expended or caused to be expended by Company for the Project Improvements: actual site development and construction costs, general contractor and subcontractor fees, and the costs of supplies, materials and construction labor; engineering fees; and architectural and design fees; zoning fees; building permit fees; sewer basin fees; water and sewer tap fees; water, wastewater and thoroughfare impact fees; other costs and fees customarily incidental to construction of a commercial project; and insurance and taxes directly related to the construction of the Project Improvements. Construction Costs specifically excludes any costs associated with the acquisition or lease of the Land.

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

EDPA has the meaning ascribed to it in Recital I.

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

Employment Goal has the meaning ascribed to it in Section 4.3.

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.

Full-time Job means a job on the Land provided by Company or an Affiliate to one individual for (i) forty (40) hours per week or (ii) less than forty (40) hours per week if such other measurement is used to define full-time employment by Company or an Affiliate in accordance with its then-current personnel policies and regulations. For example, if Company or an Affiliate has a company-wide policy that considers full-time employment to be thirty-five (35) hours per week, a job on the Land provided by Company or an Affiliate for at least thirty-five (35) hours per week shall be considered a full-time job for purposes of this Agreement.

Land means the real property described on Exhibit "A" which is attached hereto and incorporated herein by reference for all purposes under this Agreement, plus any additional land within a half-mile radius of the real property boundaries referenced on Exhibit "A" that is acquired by Company subsequent to the Effective Date for incorporation into the Project Improvements and otherwise allowable under Chapter 312 of the Texas Tax Code.

Mortgagee means the holder of a mortgage on the Land.

New Taxable Tangible Personal Property means any personal property that (i) is subject to ad valorem taxation and is rendered for that purpose to Tarrant Appraisal District or another appraisal district having jurisdiction over the Land; (ii) is located on the Land; (iii) is owned or leased by Company or an Affiliate; and (iv) was not located in the City prior to the Effective Date of this Agreement.

Ordinance has the meaning ascribed to it in Recital C.

Personal Property Commitment has the meaning ascribed to it in Section 4.2.

Personal Property Report has the meaning ascribed to it in Section 4.4.2.

Policy has the meaning ascribed to it in Recital A.

Project Completion Report has the meaning ascribed to it in Section 4.4.1.

Project Improvements means improvements constructed or caused to be constructed on the Land by Company after the Effective Date of this Agreement.

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

Server means any computer data processing, storage, or other transmission equipment and any equipment at any time substituted for and performing the same or similar functions. "Server" does not include the software installed on any computer or data processing equipment.

Term has the meaning ascribed to it in Section 3.

Zone has the meaning ascribed to it in Recital C.

3. **TERM.**

This Agreement will take effect on the date of execution of this Agreement by both the City and Company (the "**Effective Date**") and, unless terminated earlier in accordance with its terms and conditions, will expire on December 31, 2018 (the "**Term**").

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

4.1. **Real Property Improvements and Uses.**

The Completion Date must occur on or before the Completion Deadline, and Company must expend or cause the expenditure by the Completion Deadline of at least One Hundred Twenty-five Million Dollars (\$125,000,000.00) in Construction Costs for the Project Improvements; provided, however, that if the Personal Property Commitment outlined in Section 4.2 is exceeded and if Company submits a written request to the City on or before submission of the Personal Property Report, the Director may reduce this One Hundred Twenty-five Million Dollar (\$125,000,000.00) minimum cost requirement by the same percentage by which the Personal Property Commitment was exceeded, but such reduction may not exceed twenty-five percent (25%), regardless of the percentage by which the Personal Property Commitment was exceeded, and with the understanding that any such reduction must be specified in writing and reflected in the Certificate of Completion issued pursuant to Section 5 (the "**Real Property Improvement Commitment**"). The Project Improvements are intended to be used as a "data center" as that term is defined in the City's Zoning Ordinance. After the Completion Deadline, the Project Improvements must be used for a lawful use related to the support and/or operation of Company's commercial, business, retail, or industrial uses and may not be used in conjunction with any use(s) that the City Council has determined cause or would cause materially adverse effects on the stability of the immediate neighborhood. Dollars counted as Construction Cost expenditures for purposes of measuring attainment of the Real Property Improvement Commitment under the EDPA will also be counted for purposes of measuring attainment of the Real Property Improvement Commitment under this Agreement.

4.2. Installation of Personal Property on Land.

By the Completion Deadline, Company intends to install or otherwise locate on the Land (including within the Project Improvements), or cause to be installed or otherwise located on the Land, New Taxable Tangible Personal Property having an aggregate actual cost of at least One Hundred Twenty-five Million Dollars (\$125,000,000.00); provided, however, that if the Real Property Improvement Commitment is exceeded and if Company submits a written request to the City on or before submission of the Project Completion Report, the Director may reduce this One Hundred Twenty-five Million Dollar (\$125,000,000.00) minimum cost requirement by the same percentage in which the Real Property Improvement Commitment was exceeded, but such reduction may not exceed twenty-five percent (25%), regardless of the percentage by which the Real Property Improvement Commitment was exceeded, with the understanding that any such reduction must be specified in writing and reflected in the Certificate of Completion issued pursuant to Section 5 (the "**Personal Property Commitment**"). Dollars counted as expenditures for purposes of measuring attainment of the Personal Property Improvement Commitment under the EDPA will also be counted for purposes of measuring attainment of the Personal Property Commitment under this Agreement.

4.3. Employment Goal.

During 2018, Company will use commercially reasonable efforts to provide or cause to be provided at least forty (40) Full-time Jobs on the Land (the "**Employment Goal**"). Full-time Jobs counted for purposes of measuring attainment of the Employment Goal under the EDPA will also be counted for purposes of measuring attainment of the Employment Goal under this Agreement.

4.4. Reports and Filings.

4.4.1. Notice of Completion and Final Construction Report.

Provided that the Completion Date occurred on or before the Completion Deadline, on or before February 28 of the year following the year in which the Completion Deadline occurs, Company must provide a written report to the City, substantially in the form attached hereto as **Exhibit "C"**, that specifically outlines the total Construction Costs expended for the Project Improvements, as well as the total Construction Costs expended for the Project Improvements with Fort Worth Companies and Fort Worth Certified M/WBE Companies (as those terms are defined in the EDPA), together with supporting invoices and other documents reasonably necessary to demonstrate that such amounts were actually paid (the "**Project Completion Report**"). Provision of the Project Completion Report under the EDPA will also constitute provision of the Project Completion Report under this Agreement.

4.4.2. Personal Property Report.

On or before February 28 of the year following the year in which the Completion Deadline occurred, Company must provide a written report to the City, substantially in the form attached hereto as **Exhibit "D"**, that specifically outlines the New Taxable Tangible Personal Property that has been installed or otherwise located on the Land, the legal owner of such New Taxable Tangible Personal Property, and the amounts actually paid for such New Taxable Tangible Personal Property, together with supporting invoices and other documents reasonably necessary to demonstrate that such amounts were actually paid (the "**Personal Property Report**"). Provision of the Personal Property Report under the EDPA will also constitute provision of the Personal Property Report under this Agreement.

4.4.3. Employment Report.

On or before February 28 of the first full calendar year following the year in which the Completion Deadline occurred, Company must provide the City with a report, substantially in the form attached hereto as **Exhibit "E"**, that sets forth the total number of individuals who held Full-time Jobs on the Land as of December 1 (or such other date requested by Company and reasonably acceptable to the City) of the previous year, together with reasonable supporting documentation. If the Employment Goal was not met, Company must include an explanation as to why Company believes the Employment Goal was not met and the efforts that were utilized to meet the Employment Goal. As provided in Section 7.7 below, a failure to meet the Employment Goal does not constitute a default under this Agreement. Notwithstanding anything to the contrary herein, provision of the employment report under the EDPA will also constitute provision of the employment report provided hereunder.

4.5. Audits.

Provided at least ten (10) calendar days' notice is given and to the extent necessary to verify compliance with the terms of this Agreement or to otherwise administer the terms of this Agreement, but no more than once per calendar year, the City will have the right throughout the Term to audit the financial and business records of Company that relate solely to the Project Improvements and New Taxable Tangible Personal Property and are necessary to evaluate compliance with this Agreement or with the commitments set forth in this Agreement, including, but not limited to documents and invoices related to the construction of the Project Improvements and the purchase of New Taxable Tangible Personal Property. If documentation of any Construction Cost expenditures or costs of New Taxable Tangible Personal Property is contained in

financial and business records of Company that also contain unrelated matters, and the City cannot verify such expenditures or costs in any other documents of Company, such expenditures and costs will not be counted for purposes of this Agreement unless Company allows the City to audit those records; provided, however, that if Company allows the City to audit those records, Company may redact any unrelated matters that are non-essential to the audit of any Construction Cost expenditures or costs of New Taxable Tangible Personal Property. If Company seeks to have Construction Cost expenditures made by another party or costs of New Taxable Tangible Personal Property by an Affiliate counted for purposes of this Agreement, Company must make or cause to be made the financial and business records of that party that relate to the expenditures in question. Company must make all such records described in this Section 4.5 available to the City at Company's offices in the City or at another location in the City acceptable to both parties and shall otherwise cooperate fully or cause full cooperation with the City during any audit. Further, Company may require that all individuals reviewing the financial and business records of Company, an Affiliate or another party must first sign a reasonable confidentiality agreement under which they agree to not discuss or publicize information contained in those records except as necessary for them to complete an audit of such records in accordance with this Agreement.

4.6. Inspections of Land and Project Improvements.

At any time during Company's normal business hours throughout the Term and following at least ten (10) calendar days' prior written notice to Company, the City will have the right to inspect and evaluate the Land and the Project Improvements, and Company will provide reasonable access to the same, in order for the City to monitor or verify compliance with the terms and conditions of this Agreement. Company will reasonably cooperate 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 representative or security personnel of Company during any such inspection and evaluation, and Company shall be able to exercise its sole, reasonable discretion in scheduling a requested inspection so as not to interfere with its ongoing business operations on the Land.

4.7. Use of Land.

The Land must be used at all times during the Term of this Agreement for purposes connected with the business operations of Company, as described in the Recitals, and further described in Section 4.1, and otherwise in a manner that is consistent with the general purposes of encouraging development or redevelopment of the Zone.

5. **CERTIFICATE OF COMPLETION.**

Within ninety (90) calendar days following receipt by the City of the Project Completion Report and the Personal Property Report submitted by Company in accordance with Sections 4.4.1 and 4.4.2, and assessment by the City of the information contained therein, if the City is able to verify that the Completion Date occurred on or before the Completion Deadline, that at least One Hundred Twenty-five Million Dollars (\$125,000,000.00) in Construction Costs were expended for the Project Improvements by the Completion Deadline, and that New Taxable Tangible Personal Property having an actual cost of at least One Hundred Twenty-five Million Dollars (\$125,000,000.00) (or such lower amount if authorized by the Director in writing in accordance with Section 4.2) was installed or otherwise located on the Land (including within the Project Improvements) by the Completion Deadline, the Director will issue Company a certificate confirming that both the Real Property Improvement Commitment and the Personal Property Commitment have been met (the "**Certificate of Completion**"). The issuance of the Certificate of Completion by City shall not be unreasonably conditioned, withheld or delayed.

6. **TAX ABATEMENT.**

Subject to the terms and conditions of this Agreement, provided that both the Real Property Improvement Commitment, as outlined in Section 4.1, and the Personal Property Commitment, as outlined in Section 4.2, were met, as confirmed in the Certificate of Completion issued by the City in accordance with Section 5, subject to all extensions of time allowed by this Agreement, Company will be entitled to receive the Abatement for the 2018 tax year. Section 11.5 of the Policy, which provides for a cap on the maximum amount of any given tax abatement, does not apply to this Agreement.

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

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

If the Completion Date does not occur on or before the Completion Deadline, or if the Real Property Improvement Commitment, as set forth in Section 4.1, or the Personal Property Commitment, as set forth in Section 4.2, are not met by the Completion Deadline, the City shall have the right, as its sole remedy, to terminate this Agreement by providing written notice to Company without further obligation to Company hereunder.

7.2. Failure to Pay City Taxes.

An event of default shall occur under this Agreement if any City taxes owed on the Land or on business personal property located on the Land by Company or an Affiliate, or arising on account of Company's or an Affiliate's operations on the Land, become delinquent and Company or the Affiliate does not either pay such taxes or properly follow the legal procedures for protest and/or contest of any such taxes. In this event, the City shall notify Company in writing and Company shall have thirty (30) calendar days to cure such default. If the default has not been fully cured by such time, the City shall have the right to terminate this Agreement immediately by providing written notice to Company and shall have all other rights and remedies that may be available to it under the law or in equity necessary to collect such delinquent taxes. Either payment of such taxes or initiation of and ongoing engagement in legal proceedings for protest and/or contest of such taxes shall constitute a full cure pursuant to this Section 7.2.

7.3. Violations of City Code, State or Federal Law.

An event of default shall occur under this Agreement if any written citation is issued to Company or an Affiliate due to the occurrence of a material violation of a material provision of the City Code on the Land or on or within any improvements thereon (including, without limitation, any material violation of the City's Building or Fire Codes and any other material City Code violations related to the environmental condition of the Land; the environmental condition other land or waters which is attributable to operations on the Land; or to matters concerning the public health, safety or welfare) and such citation is not paid or the recipient of such citation does not properly follow the legal procedures for protest and/or contest of any such citation. An event of default shall occur under this Agreement if the City is notified by a governmental agency or unit with appropriate jurisdiction that Company or an Affiliate, or any successor in interest thereto; or an occupant or tenant with access to any portion of the Land owned or operated by Company or an Affiliate pursuant to the express or implied permission of Company or an Affiliate if action was not taken within thirty (30) days of actual knowledge by Company or an Affiliate to resolve, mitigate or protest and/or contest such violation under proper legal procedures; or the City is in material violation of any material state or federal law, rule or regulation on account of any portion of the Land owned or operated by Company or an Affiliate, or on account of improvements owned or operated by Company or an Affiliate or any operations therein on the Land (including, without limitation, any material violations related to the environmental condition of any portion of the Land owned or operated by Company or an Affiliate; the environmental condition of other land or waters which is attributable to operations on any portions of the Land owned or operated by Company or an Affiliate; or to matters concerning the public health, safety or welfare). Upon the occurrence of any default described by this Section 7.3, the City shall notify Company in writing and Company shall

have (i) thirty (30) calendar days to cure such default or (ii) if Company has diligently pursued cure of the default but such default is not reasonably curable within thirty (30) calendar days, then such amount of time as is reasonably necessary to cure such default. If the default has not been fully cured by such time, the City shall have the right to terminate this Agreement immediately by providing written notice to Company and shall have all other rights and remedies that may be available under the law or in equity.

7.4. Foreclosure.

Subject to any rights of a lender that is a party to a Consent to Collateral Assignment Agreement executed pursuant to and in accordance with Section 11, upon the occurrence of any of the following events, the City will have the right to terminate this Agreement immediately upon provision of written notice to Company: (i) the completion of an action to foreclose or otherwise enforce a lien, mortgage or deed of trust on the Land or improvements located on the Land; (ii) the involuntary conveyance to a third party of the Land or improvements located on the Land; (iii) execution by Company or an Affiliate of any assignment of the Land or improvements located on the Land or deed in lieu of foreclosure to the Land or improvements located on the Land; or (iv) the appointment of a trustee or receiver for the Land or improvements located on the Land.

7.5. Failure to Submit Reports.

If Company fails to submit any report required by and in accordance with Section 4.4, the City shall provide written notice to Company. If Company fails to provide any such report within thirty (30) calendar days following receipt of such written notice, the City will provide a second written notice to Company. If Company fails to provide any such report within five (5) business days following receipt of this second written notice, the City will have the right to terminate this Agreement immediately by providing written notice to Company.

7.6. Knowing Employment of Undocumented Workers.

Company acknowledges that 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), 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 the value of the Abatement received by Company hereunder, if any, plus Simple Interest at a rate of four percent (4%) per annum.

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 Program Grants paid pursuant to this Agreement. This rate of interest can be applied each year, but will only apply to the amount of the Abatement received hereunder and is not applied to interest calculated. For example, if the value of the Abatement received by Company hereunder is \$10,000 and it is required to be paid back with four percent (4%) interest five years later, the total amount would be $\$10,000 + [5 \times (\$10,000 \times 0.04)]$, which is \$12,000. This Section 7.6 does not apply to violations of any subsidiary or other Affiliate of Company, any franchisees of Company, or any 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. Failure to Meet Employment Goal.

If Company fails to meet the Employment Goal, such event will not constitute a default hereunder and will not cause the amount of the Abatement to which Company is entitled hereunder to be reduced.

7.8. General Breach.

Unless and to the extent stated elsewhere in this Agreement, a party will be in default under this Agreement if that party breaches any term or condition of this Agreement and such breach remains uncured after thirty (30) calendar days following receipt of written notice from the other party referencing this Agreement (or, if the party in breach 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-breaching party, will have the right to terminate this Agreement immediately by providing written notice to the other party as well as all other available rights and remedies under the law.

7.9. City's Sole Remedy in the Event of Breach.

Except as otherwise provided in this Agreement, the City's sole remedy in the event of Company's uncured breach of any condition or obligation under this Agreement will be the City's right to terminate this Agreement in accordance with its provisions. In addition, except as required by Section 7.6 and Section 7.11 of this Agreement, Company will not be required to repay any Abatement or property tax revenue lost as a result of this Agreement.

7.10. Termination of EDPA.

In the event that the EDPA is lawfully terminated in accordance with its terms and conditions prior to expiration of this Agreement, this Agreement will automatically terminate on the same date as the effective date of termination under the EDPA.

7.11. Damages for Failure to Obtain Certificate of Completion.

Company acknowledges and agrees that termination of this Agreement due to a 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 a failure to obtain the Certificate of Completion, as authorized by Section 312.205(a)(4) of the Code, Company must pay the City all taxes that were abated in accordance with this Agreement 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 failure by Company to obtain a the Certificate of Completion and that this Section 7.11 is intended to provide the City with compensation for actual damages 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 shall be due, owing and paid to the City within sixty (60) days following the effective date of termination of this Agreement by the City. In the event that all or any portion of this amount is not paid to the City within sixty (60) 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).

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 AND RELEASE.

COMPANY, AT NO COST TO THE CITY, AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS SERVANTS AND EMPLOYEES, 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 LAND, IMPROVEMENTS ON THE LAND, INCLUDING THE PROJECT IMPROVEMENTS, AND ANY OPERATIONS AND ACTIVITIES THEREON, OR OTHERWISE TO THE PERFORMANCE OF THIS AGREEMENT.

THE CITY HEREBY RELEASES AND AGREES TO HOLD HARMLESS COMPANY, ITS OFFICERS, AGENTS, AFFILIATES AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, ACTIONS, COSTS AND EXPENSES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THOSE FOR PROPERTY DAMAGE OR LOSS AND/OR PERSONAL INJURY, INCLUDING DEATH, THAT MAY RELATE TO, ARISE OUT OF OR BE OCCASIONED BY (i) THE CITY'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR (ii) ANY NEGLIGENT ACT OR OMISSION OR INTENTIONAL MISCONDUCT OF THE CITY, ITS OFFICERS, SERVANTS, AGENTS, ASSOCIATES, EMPLOYEES CONTRACTORS (OTHER THAN COMPANY) OR SUBCONTRACTORS, RELATED TO THE LAND, IMPROVEMENTS ON THE LAND, INCLUDING THE PROJECT IMPROVEMENTS, AND ANY OPERATIONS AND ACTIVITIES THEREON, OR OTHERWISE TO THE PERFORMANCE 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
1000 Throckmorton
Fort Worth, TX 76102

Company:

Winner, LLC
c/o Tommy Mann
Winstead, PC
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201

with copies to:

the City Attorney and
Economic Development Department
Director at the same address

11. **ASSIGNMENT AND SUCCESSORS.**

11.1. **Affiliates.**

Company may at any time assign, transfer or otherwise convey any of its rights or obligations under this Agreement to an Affiliate that is in good standing to do business in the State of Texas, as determined by the Texas Secretary of State, without the consent of the City Council so long as Company, the Affiliate and the City first execute an agreement under which the Affiliate (and, if applicable, the owner of the Land) agrees to assume and be bound by all covenants and obligations of Company under this Agreement. Notwithstanding the foregoing, if the Affiliate is not the owner of the Land, the Agreement must also be assigned to the owner of the Land in accordance with Section 11.4.

11.2. **Collateral Assignment.**

Company may assign its rights and obligations under this Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or improvements thereon without the consent of the City Council, provided that Company and the financial institution or other lender first execute a written agreement with the City in substantially the same form as that attached hereto as **Exhibit "F"**, together with such other terms and conditions as may be agreed by the City, Company and the financial institution or other lender with

respect to such security interest (a "Consent to Collateral Assignment Agreement").

11.3. Sale/Leaseback.

So long as Company or an Affiliate to which this Agreement has been assigned under Section 11.1 remains the ground lessee, or its substantial equivalent, Company may, with consent of the City Council in accordance with Section 11.4, which shall not be unreasonably withheld, transfer fee simple title to the Land to a third party and continue to exercise its rights and obligations under this Agreement, including but not limited to the Abatement, so long as the third party owner and Company or its Affiliate first execute a written agreement with the City under which both the third party owner of the Land and Company or its Affiliate, jointly or severally as may be appropriate under the circumstances, agree to be bound by all covenants and obligations of Company under this Agreement.

11.4. Other Assignment.

Except as otherwise provided by Sections 11.1 and 11.2, 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 consent of the City Council, which consent shall not be unreasonably withheld, conditioned on (i) the prior approval of the assignee or successor and a finding by the City Council that the proposed assignee or successor is financially capable of meeting the terms and conditions of this Agreement and (ii) 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 grounds for termination of this Agreement following ten (10) calendar days of receipt of written notice from the City to Company and failure to cure. 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. ESTOPPEL CERTIFICATE.

Upon written request by Company to the City, as reasonably necessary to Company, the City will provide Company with a certificate stating, as of the date of the certificate, (i) whether this Agreement is in full force and effect and, if Company is in breach of this Agreement, the nature of the breach; (ii) a statement as to whether this Agreement has been amended and, if so, the identity of each amendment; and (iii) any other factual matters reasonably requested that relate to this Agreement.

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

This Agreement will be subject to all applicable 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.

14. **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.

15. **ADDITIONAL PROVISIONS.**

15.1. **Future Land Uses and Zoning.**

The City acknowledges that Company's proposed land use is consistent with the current industrial zoning classification of the Land. Moreover, the current Comprehensive Plan provides that uses consistent with this zoning classification are the most appropriate for the Land. In the event that the City receives any request for a residential zoning classification within 250 feet of the Land, the City will use reasonable efforts to provide Company with written notice of such request.

15.2. **Expedited Permitting.**

During the Term, if requested by Company in writing, the City shall expedite the review and any response to the permits, approvals, maps, plans, inspections, applications and other administrative requests in connection with the Land and Project Improvements. The City shall use its best efforts to appoint an appropriate staff member with knowledge and experience in the relevant subject area for such permit or approval to organize and expedite such review.

16. **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.

17. 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.

18. SEVERABILITY; CONFLICTING LAW.

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. If any law is enacted after the Effective Date that prohibits either party from materially performing its duties and obligations under this Agreement, the parties agree to meet and confer in good faith for a period of no less than thirty (30) and no more than ninety (90) days to seek to effectuate an amendment to this Agreement that preserves, to the extent reasonably possible, the original intentions of the parties under this Agreement, with the understanding that this Agreement cannot be amended without the approval of the City Council, as specified in Section 25.

19. CONFIDENTIAL INFORMATION.

The City acknowledges that some information it receives from Company under this Agreement may be considered confidential. Company understands and agrees that the City is subject to the Texas Public Information Act, Chapter 552, Texas Government Code. The Parties agree to comply with the terms and conditions of that certain Single Party Non-Disclosure Agreement between the City and Company that is on file in the City Secretary's Office as City Secretary Contract No. 46664 to the extent that it relates to the rights, obligations, documents and/or information related to this Agreement.

20. MUTUAL ASSISTANCE; DISPUTE RESOLUTION.

The City and Company will do all things reasonably necessary or appropriate to carry out the objectives, terms and provisions of this Agreement and to aid and assist each other in carrying out such objectives, terms and provisions, including without limitation, the City facilitating approval of City permits, documents, and other instruments as may be reasonably necessary in carrying out such objectives. In case of any disputes arising under this Agreement, the City and Company agree to attempt to resolve such disputes through good faith negotiations between authorized representatives of both parties. If necessary, both parties agree to submit a dispute to a non-binding mediation. If a dispute cannot be resolved through non-binding mediation, either party may pursue any available legal remedies in any court of competent jurisdiction that satisfies the requirements of Section 17, or, if both parties mutually agree, the dispute

may be submitted to binding arbitration in accordance with procedures to which both parties agree.

21. 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.

22. FORCE MAJEURE.

It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, strike, inclement weather, shortages or unavailability of labor or materials, unreasonable delays by the City (based on the then-current workload of the City department(s) responsible for undertaking the activity in question) in issuing any permits, consents, or certificates of occupancy or conducting any inspections of or with respect to the Land and Project Improvements, or other circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement and the Completion Deadline shall be extended for a period of time equal to the period such party was delayed. Notwithstanding anything to the contrary herein, it is specifically understood and agreed that any failure to obtain adequate financing necessary to meet the Real Property Improvement Commitment or the Personal Property Commitment shall not be deemed to be an event of force majeure and that this Section 22 shall not operate to extend the Completion Deadline in such an event.

23. 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.

24. CAPTIONS.

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

25. **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.

26. **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.

27. **BONDHOLDER RIGHTS.**

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

28. **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 TWO (2) PAGES]

CITY OF FORT WORTH:

By: David Cooke
David Cooke
City Manager

Date: 6/9/2015



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-27303 5-19-15

STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared **David Cooke**, 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 9th day of June, 2015.

Linda M. Hirrlinger
Notary Public in and for
the State of Texas
Linda M. Hirrlinger
Notary's Printed Name



Winner LLC
a Delaware Limited Liability company

By: Delfina Eberly
Name: Delfina Eberly
Title: Vice President

Date: 6/10/15

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF San Mateo

On 6/10/15 before me,
Leah McGettigan, Notary personally appeared
Delfina Eberly, who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that he his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed this instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature: Leah McGettigan

(Seal)



EXHIBITS

- “A” – Description and Map Depicting the Land**
- “B” – Company’s Tax Abatement Application**
- “C” – Form of Project Completion Report**
- “D” – Form of Personal Property Report**
- “E” – Form of Employment Report**
- “F” – Form of Consent to Collateral Assignment**

EXHIBIT "A"
DESCRIPTION AND MAP DEPICTING THE LAND

**DESCRIPTION OF
110.71 ACRES**

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to AIL Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S 89°56'01"E, 368.25 feet;

THENCE S 00°04'42"W, 540.00 feet;

THENCE S 89°55'36"E, 602.74 feet;

THENCE N 71°51'00"E, 445.20 feet;

THENCE N 62°28'25"E, 296.66 feet;

THENCE N 90°00'00"E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of 41°14'47", having a radius of 95.00 feet, the long chord which bears S 69°22'37"E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of 38°19'47", having a radius of 141.00 feet, the long chord which bears S 67°55'07"E, 92.58 feet;

THENCE S 87°05'00"E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of 05°55'58", having a radius of 1940.00 feet, the long chord which bears S 08°09'47"E, 200.79 feet;

THENCE S 05°15'42"E, 237.77 feet;

THENCE S 33°52'08"W, 95.68 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of 02°29'57", having a radius of 3294.04 feet, the long chord which bears S 61°40'59"W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of $04^{\circ}46'16''$, having a radius of 11479.16 feet, the long chord which bears $S 58^{\circ}08'59''W$, 955.62 feet;

THENCE $S 55^{\circ}45'15''W$, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of $09^{\circ}18'33''$, having a radius of 7619.44 feet, the long chord which bears $S 60^{\circ}24'08''W$, 1236.61 feet;

THENCE $S 65^{\circ}04'38''W$, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of $05^{\circ}51'36''$, having a radius of 3839.72 feet, the long chord which bears $S 62^{\circ}07'36''W$, 392.54 feet;

THENCE $S 59^{\circ}11'47''W$, 152.11 feet;

THENCE $S 89^{\circ}11'47''W$, 80.00 feet;

THENCE $N 36^{\circ}10'14''W$, 86.37 feet;

THENCE $N 00^{\circ}04'17''W$, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of $12^{\circ}38'40''$, having a radius of 760.00 feet, the long chord which bears $N 06^{\circ}10'12''W$, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of $12^{\circ}33'05''$, having a radius of 740.00 feet, the long chord which bears $N 06^{\circ}12'59''W$, 161.78 feet;

THENCE $N 00^{\circ}03'31''E$, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE N 00°01'18"E, 115.00 feet to the **Point of Beginning** and containing 4,822,528 square feet or 110.71 acres of land more or less.

"Integral parts of this document"

1. Description – 3 Pages
2. Exhibit

"Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document" 22 TAC 663.18C

Todd A. Bridges, RPLS 4940

Date: 04.21.2015

EXHIBIT "B"
COMPANY'S TAX ABATEMENT APPLICATION

FORT WORTH



**Economic Development
Incentive Application**

Housing and Economic Development
Business Development Division
1150 South Freeway
Fort Worth, Texas 76104
(817) 212-2663

Incentive Application

1. COMPANY INFORMATION

Date: Apr 15, 2015

Company Name: Winner LLC DBA Ernst LLC

Company Address: c/o Winstead PC - 500 Winstead Building, 2728 N. Harwood Street

City: Dallas

State: TX

Zip: 75201

Contact Person: Tommy Mann

Title/Position: Attorney/Shareholder - Winstead PC

Telephone Number: 214.745.5724

Mobile Telephone Number: _____

Fax Number: 214.745.5390

E-Mail Address: tmann@winstead.com

Company Ownership (check one): Public Traded Stock Privately Held

Form of Business (choose one): Corporation Limited Liability Company - not an option on incentive application

How long has the company been in operation (Years)? 1

Describe the company's principal business (attach additional sheets as necessary):

Winner LLC is a special purpose entity whose sole and principal business will be the operation and maintenance of the proposed data center for its parent company. Winner LLC's parent company is a publicly traded, multi-national internet company headquartered outside of Texas.

2. PROJECT INFORMATION

For real estate projects, please include below the project concept, project benefits and how the project relates to existing community plans. A real estate project is one that involves the construction or renovation of real property that will be either for lease or for sale. 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 property owner/developer to be eligible to receive incentives and/or tax abatement for a project, the property owner/developer:

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

For business expansions projects, please include below services provided or products manufactured, major customers and locations, etc. For business expansion project involving the purchase and/or construction of real estate, please answer all that apply.

Type of Project (choose one): Commercial/Industrial

Describe the company's plans for expanding or locating in Fort Worth (attach additional sheets as necessary):

The proposed project would involve the purchase of approximately 150 acres of vacant land and the construction of a new data center. The data center would be specifically designed to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment used primarily to provide data center services to Winner LLC's parent and parent's affiliates.

Applicant has already obtained permits for all horizontal/infrastructural work for development and is prepared to submit full building permit drawings for a groundbreaking as early as June if an acceptable incentive agreement can be reached.

Describe the specific operations to be performed at the proposed Fort Worth facility (attach additional sheets as necessary):
Winner LLC would provide data hosting services to its parent company. Parent would have remote access to the content hosted in the Texas data center.

Area (Square Feet) Requirements:

(a) Office _____
(b) Manufacturing _____
(c) Warehouse _____
(d) Showroom/Retail _____
(e) Other 250,000 _____

Total Area (a+b+c+d+e): 250,000 _____ SF

**The proposed project would involve the construction of at least one data center building and as many as three on the proposed site. The provided building area is subject to change.*

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

Expansion

Relocation If relocation, where is the company currently located? New data center location

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

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

Will the facility be built or does the facility already exist? New Existing

If the company is occupying an existing facility, what is the address? N/A

If the company is constructing a new facility, what is the approximate location or address of the site? _____

NE corner of Alliance Gateway Freeway and Park Vista Blvd, Fort Worth.

If the company is constructing a new facility, what is the anticipated date for commencement of construction? Q3'2015

Anticipated date for company to move into the facility: Q3'2016

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

Replat

Rezoning *Technically not a rezone, just an amendment to the zoning ordinance.
Current Zoning: _____ Requested Zoning: _____

Variances If yes, please describe: _____

Downtown Design Review Board

Landmark Commission

Real Estate Development

1. Current Assessed Valuation of Land \$ \$15,784 Improvements \$ \$0

Total Size of Project: 250000 SF

Total Capital Investment: \$ 125,000,000

Hard Construction Costs: \$ 82,500,000

**The proposed project would involve the construction of at least one data center building and as many as three on the proposed site. The provided building area is subject to change.*

2. For mixed-use projects, please list square footage for each use: _____

Business Personal Property and Inventory

1. Business Personal Property

Total investment on equipment, machinery, furnishing, etc.: \$ 125,000,000 Lease Purchase

*Estimated taxable value of equipment, machinery, furnishing, etc.: \$ 93,750,000

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

2. Inventory and Supplies

Value of Inventory: \$ 0 Value of Supplies: \$ 0

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

3. EMPLOYMENT AND JOB CREATION

From Development

- 1. How many persons are currently employed? 0
- 2. What percent of current employees above are Fort Worth residents? 0 %
- 3. What percent of current employees above are Central City residents? 0 %
- 4. Please complete the following table for new jobs to be created from direct hire by applicant.

	First Year	By Fifth Year	By Tenth Year
Total jobs to be Created	5	40	40
Less Transfers*	0	0	0
Net Jobs	5	40	40
% of Net Jobs to be filled by Fort Worth Residents			
% of Net Jobs to be filled by Central City residents			

* If any employees will be transferring, please describe from where they will be transferring.

N/A

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

5. Does the company provide the following benefits: Retirement Health Dental Domestic Partner

6. Average wage paid to employees to be located at Fort Worth facility \$ 69,000

4. INCENTIVES REQUEST

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

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

What level of abatement will you request: Years? 10 Percentage? 100 %

5. LOCAL COMMITMENTS

During Construction

What percent of the construction costs described under Real Estate Development will be committed to:

Fort Worth businesses? TBD %

Fort Worth Certified Minority and Women Business Enterprises? TBD %

For Annual Supply and Service Needs

Regarding discretionary supply and service expenses (i.e. landscaping, office or manufacturing supplies, janitorial services, etc; no utilities):

- 1. What is the annual amount of discretionary supply and service expenses? \$ 1,000,000
- 2. What percentage will be committed to Fort Worth businesses? TBD %
- 3. What percentage will be committed to Fort Worth Certified Minority and Women Business Enterprises? TBD %

Provide company contact information for the purchasing representative if known.

TBD

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

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.) Describe any direct benefits to the City of Fort Worth as a result of this project.
- 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 description of the jobs to be created (technician, engineer, manager, etc.), tasks to be performed for each, and wage rate for each classification.
- i.) 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.
- j.) Attach a plan for the utilization of Fort Worth Certified M/WBE companies.
- k.) Attach a listing of the applicant's Board of Director's, if applicable.
- l.) Attach a copy of incorporation Papers noting all principals, partners, and agents and all Fort Worth properties owned by each.

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 Housing and Economic Development Department. Upon approval by City Council, the balance of \$3,000 can be credited towards required building permits, inspections fees, replating 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

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.

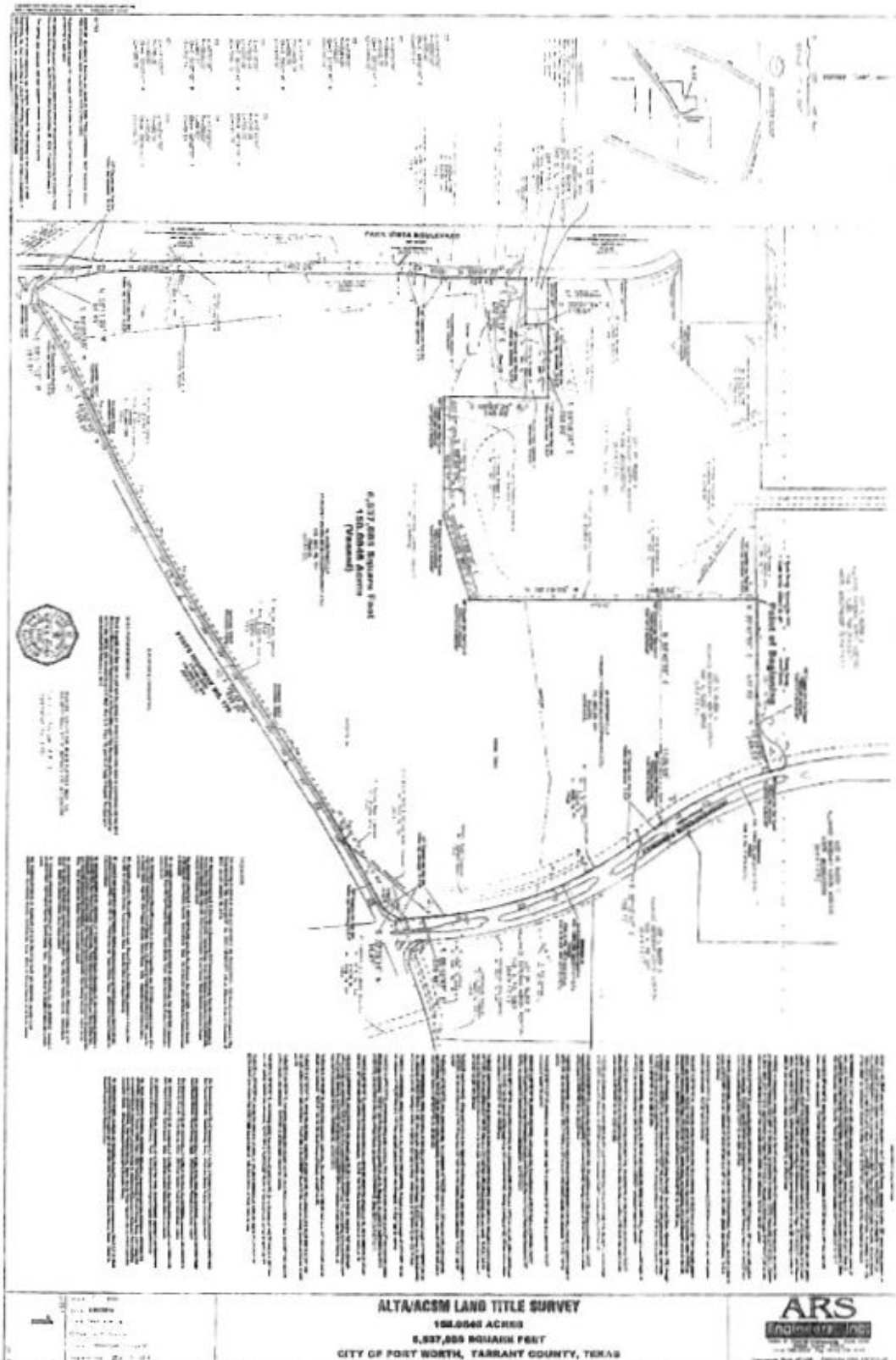
Printed Name: TOMMY MANN

Title: SHAREHOLDER, WINSTEAD PC

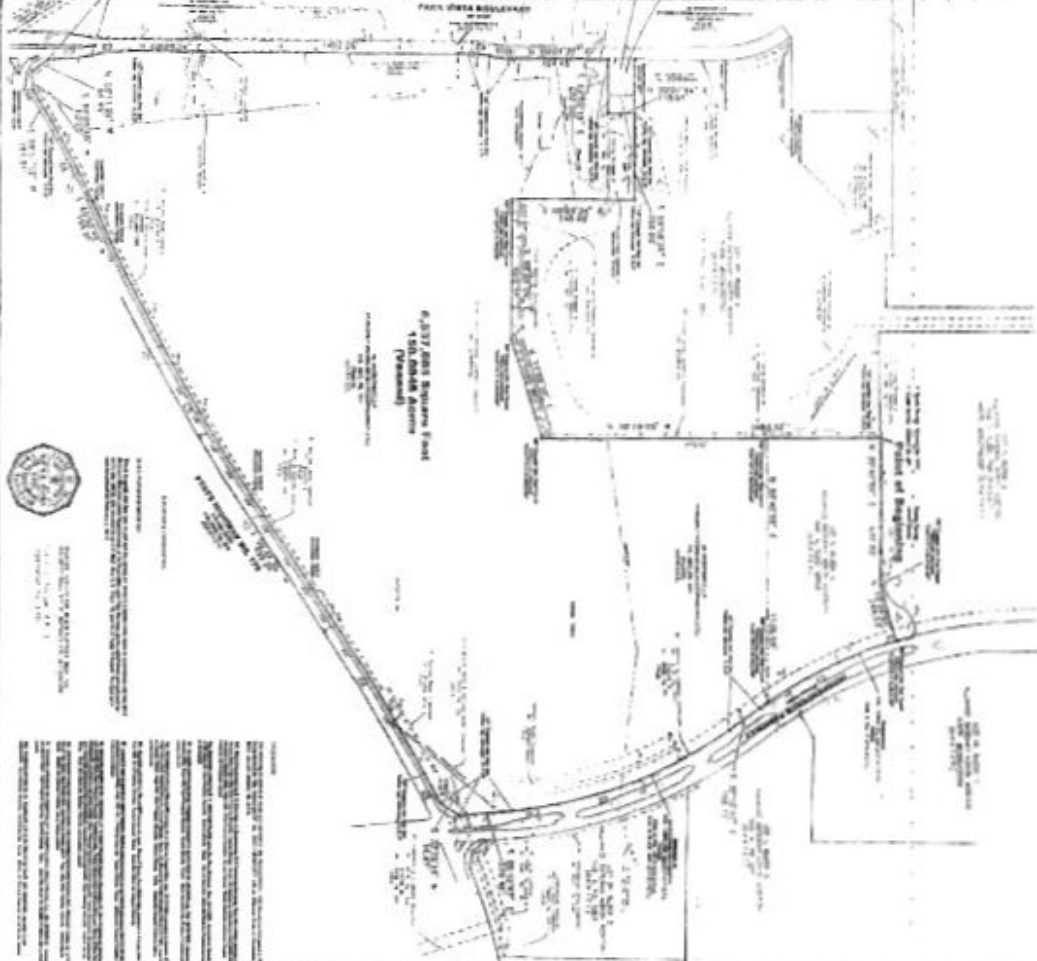
Signature: [Handwritten Signature]

Date: 4/20/15

Appendix A - Site Plan of the Project



This survey was made in accordance with the provisions of the Texas Surveying Act, Chapter 131, Texas Government Code, and the rules and regulations of the State Board of Surveying. The survey was conducted by the undersigned, a duly licensed Professional Engineer in the State of Texas, and the results are shown on this map. The survey was completed on the 15th day of August, 2010.



The following is a summary of the survey data and findings. The survey was conducted using modern surveying techniques, including GPS and total station measurements. The results show that the total area of the land is 6,337,003 square feet, or 158.0548 acres. The survey also identified several easements and encroachments on the property. The survey was completed on the 15th day of August, 2010.

Appendix B – Why incentives are necessary for the success of this project

The company is conducting a nationwide data center site selection effort. Our effort includes alternative locations in multiple jurisdictions outside of Texas. In completing our evaluation, many factors are considered, but we have an obligation to lower project related costs (both capital and operational). State and local taxes comprise a large piece of our ongoing operational expenses; therefore we need to be prudent in leveraging tax incentive programs when available. Competing states have the ability to offset state and local tax liability for twenty or more years.

Below are examples of states that have been successful in attracting large data center projects primarily based on their state and local tax incentives:

Oregon

- No sales and use tax in the state.
- Long-term Rural Enterprise Zones have the ability to abate up to 100% of new real and personal property tax value for 15-years. This includes all taxing districts.¹

Iowa

- The state offers a data center sales and use tax incentives that runs for the life of the data center (no sunset date).²
- No business personal property tax in the state.
- The High Quality Jobs Program grants local municipalities the ability to abate up to 100% of new real property tax value for up to 20-years. This includes all taxing districts.³

North Carolina

- The state offers a data center sales and use tax incentive that runs for the life of the data center (no sunset date).⁴
- Local governments have the ability to refund real and personal property taxes via annual incentive grants for up to 100% of the value added to the property. There are no statutory limitations on the term of these annual incentive grants.⁵

Based on the above, incentives are an important determining factor in locating this data center project in Fort Worth, TX.

¹ ORS 285C.400-285C.420, OAR 123-690-5200

² Iowa Code §423.3(95)a

³ Iowa Code §15.329

⁴ N.C. Gen. Stat. §105-164.13 (55), N.C. Gen. Stat. §105-164.3

⁵ N.C. Gen. Stat. §158-7.1

Appendix C – Description of environmental impacts associated with the project

Environmental impacts are anticipated to be extremely minor, but may include the following:

- Minor traffic increases around the site will have a small impact on air quality from the minimal traffic increase.
- Onsite generators will have a small impact on air quality. This impact will be extremely minimal given that they will only run in the rare case of utility loss and short maintenance periods.
- The data center will be run with 100% clean and renewable energy, which will offset 120 MW of additional brown power production. This will have an extremely positive environmental impact.
- Lastly, the proposed data center will meet or exceed all requirements for erosion control, storm water management and landscaping.

Appendix D - Infrastructure improvements that will be constructed as part of the project

All offsite city water and sewer infrastructure and public roads are already in place. Minor sewer line and transmission line extensions will be completed onsite.

Appendix E – Direct benefits to the City of Fort Worth as a result of this project

Data centers generate multiplier spending effects that benefit workers and business owners in other sections of the local and regional economy. The construction alone can generate hundreds of millions of dollars in economic impact beyond the amount directly spent by the company.

The most significant direct economic impact of a large data center project locating in Fort Worth is generated by capital investment. Large data centers can create a significant amount of construction employment for the period of construction, which is approximately two years. Upon completion, data centers tend to create 30-50 full-time jobs, with relatively high salaries, to support their ongoing operations.

CBRE has studied the potential economic impact of a new data center development on a typical Texas community.⁶ For an average small data center of 150,000 gross square feet and about \$390 million of total capital investment, the total economic impact is estimated at nearly \$500 million over 10 years. An average large data center of 460,000 gross square feet and \$1.3 billion of total capital investment would have a total economic impact of about \$1.7 billion over the same period. The table below provides their detailed conclusions:

Figure 1: CBRE Estimates of the Impact of Data Centers

	Direct Impact	Total Impact ¹
Small Data Center		
Construction Jobs	794	1,430
Direct Jobs	16	46
Total Payroll	\$53,800,000	\$95,592,000
Potential Retail Sales	\$74,427,200	\$89,364,000
Economic Activity	\$374,164,000	\$499,032,000
Large Data Center		
Construction Jobs	2,941	5,366
Direct Jobs	64	184
Total Payroll	\$203,100,000	\$361,476,000
Potential Retail Sales	\$276,808,800	\$333,356,000
Economic Activity	\$1,244,656,000	\$1,716,928,000

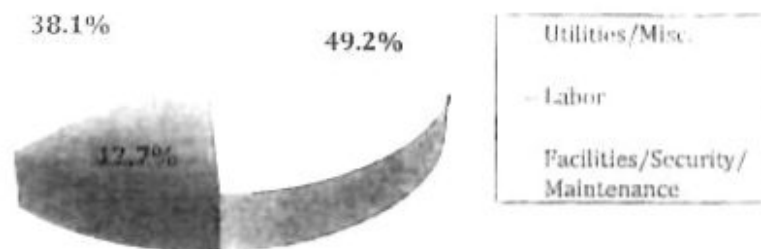
¹ Includes direct impacts as well as indirect and induced. Indirect includes suppliers supplying the materials. Induced includes jobs created from the spending of wages of the direct and indirect employees on goods and services.

The construction costs associated with the proposed project are estimated to be \$250 million, which are estimated to be spent over a two-year period. Initial equipping of the Project is projected to cost an additional \$250 million, coming in two tranches of \$125 million in the second and fifth year of the project (and

⁶ CBRE has the world's only fully integrated data center real estate team, offering strategy, acquisition, and disposition representation, project management and facilities management from a single provider. See <http://www.cbre.com/press/00-27/cbrcenter-solutions.aspx?Page/News/00-27/cbrcenter-solutions>

presumably at three year increments going forward). However, at this point, the vendors of this equipment are not located in Texas, and so this investment is not included in the economic impact calculations. Once the Project moves to the operations phase, annual spending will total just over \$43 million in year four, (including the cost of electricity & other utilities, labor, and contract security and maintenance). The share of each is presented in Figure 2, with the underlying figures used as inputs into the impact model.

Figure 2: Project Operational Spending by Major Category (2013)



Economic Impact Methodology

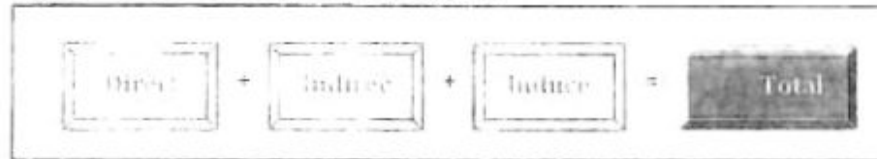
Input-output analysis includes three types of expenditure effects: direct, indirect, and induced. Direct effects are production changes associated with the immediate effects or final demand changes. The purchase of contract security by a data center is an example of a direct effect.

Indirect effects are production changes in backward-linked industries caused by the changing input needs of directly affected industries - typically, additional purchases to produce additional output. In order to provide security services, a contracted firm will need to hire workers, as well as provide them with whatever technology and/or equipment is necessary to do their jobs. These downstream purchases affect other local merchants and workers.

Induced effects are the changes in regional household spending patterns caused by changes in household income generated from the direct and indirect effects. The workers at the data center and security firm see increased compensation from their efforts, for example, as do the establishments that provide the necessary materials or other services to the designer and/or the producers. Induced effects capture the way in which this increased income is in turn spent in the local economy.

Once the ripple effects have been calculated, the results can be expressed in a number of ways. Three of the most common are "Output," equivalent to sales or receipts; "Earnings," which represents the compensation to employees and proprietors; and "Employment," which refers to permanent, full-time jobs that have been created in the local economy. The interdependence between different sectors of the economy is reflected in the concept of a "multiplier." An output multiplier, for example, divides the total (direct, indirect and induced) effects by the direct effect.

Figure 3: The Flow of Economic Impacts



A multi-million-dollar building effort

A large data center project is estimated to cost approximately \$250 million to build, with annual operations spending that will total just over \$43 million (including the cost of electricity, labor, other utilities, and contract security and maintenance). Per the discussion above, this data is used as inputs into local models of the regional economy; when the multiplier effects are included, the translation is a total injection of \$610.7 million in economic activity, total compensation of \$199.6 million, and 4,643 total jobs associated with the construction phase of the project. On the operations side, \$43.1 million in annual spending translates into of \$75.2 million in economic activity each year, total compensation of \$15.4 million, and 250 permanent total jobs. Summary results are in Table 1; Tables 2 and 3 provide a detailed breakdown of the impact by industry for Construction and Operations.

Table 1: Total Economic Impact of the Project by Phase (\$2013)

Industry	Output/Receipts	Earnings/Payroll	Employment
Total Construction-Related	\$610,700,000	\$199,625,000	4,643
Annual Operations-Related	\$75,156,766	\$15,371,613	250

Source: TXP

Table 2: Total Construction Economic Impact of the Project by Industry (\$2013)

Industry	Output/Receipts	Earnings/Payroll	Employment
Agriculture, etc.	\$575,000	\$100,000	5
Mining	\$2,550,000	\$550,000	9
Utilities	\$5,400,000	\$1,050,000	10
Construction	\$252,575,000	\$95,625,000	1,977

Manufacturing	\$68,950,000	\$13,875,000	270
Wholesale Trade	\$21,000,000	\$6,725,000	94
Retail Trade	\$33,825,000	\$11,700,000	427
Transportation/Warehouse	\$15,900,000	\$5,425,000	121
Information	\$18,775,000	\$4,250,000	68
Finance & Insurance	\$35,850,000	\$10,550,000	256
Real Estate	\$46,950,000	\$4,175,000	227
Prof./Technical Services	\$32,875,000	\$15,575,000	241
Management of Companies	\$7,750,000	\$3,125,000	44
Admin./Waste Services	\$12,450,000	\$5,450,000	211
Educational Services	\$2,825,000	\$1,125,000	41
Healthcare & Social	\$22,875,000	\$10,825,000	248
Arts, Entertainment, etc.	\$2,625,000	\$1,025,000	50
Accommodation	\$3,275,000	\$1,000,000	37
Food Services, etc.	\$9,400,000	\$3,000,000	167
Other Services	\$14,275,000	\$4,225,000	107
Households	N.A.	\$250,000	34
Total Annual	\$610,700,000	\$199,625,000	1,643

Source: TXP

Table 3: Annual Operations Economic Impact of the Project by Industry (\$2013)

Industry	Output Receipts	Earnings Payroll	Employment
Agriculture, etc.	\$23,425	\$3,909	0
Mining	\$756,491	\$153,846	2
Utilities	\$5,462,017	\$1,071,700	10
Construction	\$305,879	\$115,219	2
Manufacturing	\$1,805,901	\$328,083	7
Wholesale Trade	\$890,191	\$284,751	4
Retail Trade	\$1,627,293	\$563,502	21
Transportation/Warehouse	\$979,258	\$317,267	6
Information	\$44,312,165	\$5,747,102	45
Finance & Insurance	\$2,544,595	\$745,028	18
Real estate	\$3,383,629	\$287,578	16
Prof./Technical Services	\$7,721,474	\$3,604,991	50
Management of Companies	\$447,673	\$180,560	3
Admin./Waste services	\$789,315	\$360,329	15
Educational Services	\$214,355	\$86,230	3
Healthcare & Social	\$1,732,455	\$818,506	18
Arts, Entertainment, etc.	\$207,915	\$79,987	4
Accommodation	\$286,984	\$88,384	3
Food services, etc.	\$786,058	\$251,863	14

Other services	\$879,693	\$262,610	7
Households	N.A.	\$20,168	3
Total Annual	\$25,158,766	\$15,371,613	250

Source: TXP

The Impact of A Cluster Beyond an Individual Facility

Beyond the impact of an individual facility or facilities, it is generally accepted that there are economic benefits associated with agglomeration, or clustering within an industry that render the sum greater than the parts. In particular, there are three broad benefit categories associated with clustering. First, a cluster allows for a more efficient sharing of local infrastructure and facilities, a variety of intermediate input suppliers, or a pool of workers with similar skills. Second, a cluster also allows for a better matching between employers and employees, buyers and suppliers, or business partners. Finally, a well-developed cluster can also facilitate learning, for instance by promoting the development and widespread adoption of new technologies and business practices. In the case of data centers, the infrastructure created (especially related to power and telecommunications) can also become a competitive advantage to the attraction and/or development of new products, services, and industries. This is especially true given the focus on green energy, in this case wind, as the aggregate demand from a data center cluster would greatly enhance wind's scale, creating a range of associated consumer benefits.

Appendix F - Legal description or surveyor's certified metes and bounds description

BEING a 150.0946 acre tract of land situated in the F. Cozelle Survey, Abstract Number 287, same being portions of tracts 12 and 13 of those certain tracts of land conveyed to AIL INVESTMENT, L.P. (FORMERLY KNOWN AS HILLWOOD/FREEDWAY, LTD.) as recorded in Volume 9577, Page 1011, Official Public Records, Tarrant County, Texas (O.P.R.T.C.T.), and all of Lot 5, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth as recorded in Cabinet A, Slides 12608, O.P.R.T.C.T., and being further described as follows:

BEGINNING at a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the northwest corner of said Lot 5, Block 3, ALLIANCE GATEWAY NORTH ADDITION, same being in the south line of Lot 1, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth as recorded in Cabinet X, Slide 753, Plat Records, Denton County, Texas (P.R.D.C.T.) and Instrument Number 0207181295 O.P.R.T.C.T. ;

THENCE N 89°40'55" E, along the south line of said Lot 1, for a distance of 537.82 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for corner;

THENCE N 73°29'07" E, continuing along said south line, for a distance of 244.53 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for the northeast corner of said Lot 5, same being in the west line of Independence Parkway (120' width at this point), as recorded in Cabinet 5, Page 17, P.R.D.C.T. and Volume 13944, Page 528 O.P.R.T.C.T., further being the beginning of a non-tangent curve to the left, having a radius of 2060.00 feet and a chord which bears S 26°50'54" E, for 670.41 feet;

THENCE southeasterly, along said curve to the left and said west line of Independence Parkway and the west line of Independence Parkway (120' width at this point), as recorded in Volume 12571, Page 222, O.P.R.T.C.T., Cabinet 5, Slide 1581, O.P.R.T.C.T. and Cabinet N, Page 185, P.R.D.C.T., through a central angle of 18°43'47"; for an arc distance of 873.40 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 35°12'47" E, continuing along said west line, for a distance of 186.77 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the right, having a radius of 1940.00 feet and a chord which bears S 20°12'47" E, for 1004.22 feet;

THENCE southeasterly, along said curve to the right and said west line of Independence Parkway, through a central angle of 30°00'00"; for an arc distance of 1015.78 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 05°12'47" E, continuing along said west line, for a distance of 236.46 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 33°39'18" W, continuing along said west line, for a distance of 96.97 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner in the north line of State Highway No. 170 (variable width ROW) as recorded in Volume 9862, Page 707, O.P.R.T.C.T., same being the beginning of a non-tangent curve to the left, having a radius of 3294.04 feet and a chord which bears S 61°46'48" W, for 143.26 feet;

THENCE southwesterly, along said curve to the left and along the north line of said State Highway No. 170, through a central angle of 02°29'31", for an arc distance of 143.27 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the left, having a radius of 11479.18 feet and a chord which bears S 58°07'46" W, for 956.50 feet;

THENCE southwesterly, along said curve to the left and continuing along said north line, through a central angle of 04°49'32"; for an arc distance of 956.78 feet to an aluminum TxDOT monument found for corner;

THENCE S 55°44'30" W, continuing along said north line, for a distance of 458.24 feet to an aluminum TxDOT monument found for corner at the beginning of a curve to the right, having a radius of 7819.44 feet and a chord which bears S 80°23'40" W, for 1235.12 feet;

THENCE southwesterly, along said curve to the right and continuing along said north line, through a central angle of 09°18'20"; for an arc distance of 1237.48 feet to an aluminum TxDOT monument found for corner;

THENCE S 65°02'49" W, continuing along said north line, for a distance of 195.26 feet to a concrete TxDOT monument found for corner at the beginning of a curve to the left, having a radius of 3339.72 feet and a chord which bears S 82°07'00" W, for 382.54 feet;

THENCE southwesterly, along said curve to the left and continuing along said north line, through a central angle of 05°51'38"; for an arc distance of 382.71 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE S 59°11'12" W, continuing along said north line, for a distance of 151.91 feet to a concrete TxDOT monument found for corner;

THENCE S 88°06'16" W, continuing along said north line, for a distance of 80.00 feet to a concrete TxDOT monument found for corner at the intersection of said north line with the east line of Park Vista Boulevard (60' ROW), as recorded in Instrument Number 0208240791, O.P.R.T.C.T.;

THENCE N 36°11'26" W, along said east line, for a distance of 86.45 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the left, having a radius of 760.00 feet and a chord which bears N 05°23'00" W, for 188.08 feet;

THENCE northwesterly, along said curve to the left and continuing along said east line, through a central angle of 14°12'57", for an arc distance of 188.57 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a reverse curve to the right, having a radius of 740.00 feet and a chord which bears N 06°12'58" W, for 161.78 feet;

THENCE northwesterly, along said curve to the right and continuing along said east line, through a central angle of 12°33'04", for an arc distance of 162.10 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE N 00°03'34" E, along said east line, for a distance of 1482.86 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the right, having a radius of 430.00 feet and a chord which bears N 05°02'37" E, for 89.86 feet;

THENCE northeasterly, along said curve to the right and said east line, through a central angle of 11°58'07", for an arc distance of 89.82 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner at the beginning of a curve to the left, having a radius of 490.00 feet and a chord which bears N 08°00'44" E, for 102.70 feet;

THENCE northeasterly, along said curve to the left and said east line, through a central angle of 12°01'53", for an arc distance of 102.89 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for corner;

THENCE N 00°01'37" E, continuing along said east line, for a distance of 424.45 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the southwest corner of Lot 10, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth as recorded in Cabinet B, Side 3577, O.P.R.T.C.T.;

THENCE S 89°55'19" E, departing said east line and along the south line of said Lot 10, for a distance of 232.00 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the southeast corner of said Lot 10;

THENCE N 00°01'44" E, along the east line of said Lot 10, for a distance of 115.01 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the northeast corner of said Lot 10, same being in the northerly south line of Lot 4R, Block 3, ALLIANCE GATEWAY NORTH ADDITION, an addition to the City of Fort Worth, as recorded in Instrument Number D209089793, O.P.R.T.C.T.;

THENCE S 89°56'26" E, along said northerly south line, for a distance of 368.00 feet to a 1/2" iron rod with yellow plastic cap stamped, "A.R.S." set for the south inner-sill corner of said Lot 4R;

THENCE S 00°03'34" W, along the southerly west line of said Lot 4R, for a distance of 540.00 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for the most southerly southwest corner of said Lot 4R;

THENCE S 89°56'26" E, along the southerly line of said Lot 4R, for a distance of 602.74 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for corner;

THENCE N 71°50'10" E, continuing along the south line of said Lot 4R, for a distance of 445.20 feet to a 5/8" iron rod with yellow plastic cap stamped, "CARTER & BURGESS" found for the southeast corner of said Lot 4R;

THENCE N 00°19'05" W, along the east line of said Lot 4R, for a distance of 1483.52 feet to the POINT OF BEGINNING and containing 6,337,685 square feet or 150.0846 acres of land, more or less.

Appendix G - Most recent property tax statement from the appropriate appraisal district for all parcels involved in the project

Tarrant Appraisal District

Real Estate

42/420611

Account Number: 41045163
 Georeference: A 257-1491
 Property Location: 14149 INDEPENDENCE PKWY FORT WORTH 76177

Owner Information: AIL INVESTMENTS LP
 13600 HERITAGE PKWY STE 200
 FORT WORTH TX 76177-5398

Legal Description: CUBILLA FRANCISCO SURVEY
 140
 Abstract: 267 Tract: 1401

Taxing Jurisdictions: 026 CITY OF FORT WORTH
 220 TARRANT COUNTY
 011 NORTHWEST ISD
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total II
Market Value	\$67,017	\$0	\$67,017
Appraised Value I	\$329	\$0	\$329
Gross Building Area III			0
Net Leasable Area III			0
Land SqFt			134,034
Land Acres			3.077

1. The value of the property is based on the value of the land and improvements as of the date of valuation.
 2. The value of the property is based on the value of the land and improvements as of the date of valuation.
 3. The value of the property is based on the value of the land and improvements as of the date of valuation.

5-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$332	\$0	\$332	\$67,017	\$0	\$67,017
2012	\$332	\$0	\$332	\$67,017	\$0	\$67,017
2011	\$317	\$0	\$317	\$134,034	\$0	\$134,034
2010	\$317	\$0	\$317	\$134,034	\$0	\$134,034
2009	\$320	\$0	\$320	\$134,034	\$0	\$134,034

3013 Metric Feet

Printed Date: 06/11/2014

Exemptions: AGRICULTURAL 101 23.51

Property Data:

Appraisal Site: 00000760

Deed Date: 12/31/1997	Site Name: 4801 HWY 179
Deed Page: 0000000	
Deed Volume: 0000000	
Instrument: 0000000000000	Class: Vacant Land -Commercial
	# of Parcels: 1
State Code: 01 Qualified Open Space Land	
TAD Map: 2071-400	Primary Building:
MAPSCO: TAR-00%	Building Name:
Agent: RYAN LLC	Building Type:
	Year Built:

Tarrant Appraisal District

Real Estate

80129815

Account Number: 40778986
 Georeference: 1.282-1A
 Property Location: 14301 BUSHPONDCE PKWY, FORT WORTH, TX 76177

Owner Information: AL INVESTMENT LP
 13600 HERITAGE PKWY STE 200
 FORT WORTH TX 76177-4320

Legal Description: CUELLA, FRANCISCO SURVEY
 Lot:
 Abstract: 267 Tract: 1a

Taxing Jurisdictions: 026 CITY OF FORT WORTH
 220 TARRANT COUNTY
 911 NORTHWEST ISD
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total (1)
Market Value	\$202,728	\$0	\$202,728
Appraised Value (1)	\$996	\$0	\$996
Gross Building Area (1)			0
Net Leasable Area (1)			0
Land SqFt			405,456
Land Acres			9.308

5-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$1,005	\$0	\$1,005	\$202,728	\$0	\$202,728
2012	\$1,005	\$0	\$1,005	\$202,728	\$0	\$202,728
2011	\$959	\$0	\$959	\$304,092	\$0	\$304,092
2010	\$959	\$0	\$959	\$304,092	\$0	\$304,092
2009	\$962	\$0	\$962	\$405,456	\$0	\$405,456

2013 Notice Sent:

Protest Deadline:

Exemptions:

Property Data:

Appraisal Site: 80865677

Deed Date: 12/31/1997
 Deed Page: 0000000
 Deed Volume: 0000000
 Instrument: 0000000000000

Site Name: 4801 HWY 170

Class: Vacant Land -Commercial
 # of Parcels: 1

State Code: 01 Qualified Open Space Land

TAD Map: 2122-1A
 MAPSCO: TAR-009
 Agent:

Primary Building:
 Building Name:
 Building Type:
 Year Built:

Tarrant Appraisal District

Real Estate

8/12/2015

Account Number: 41410366
 Quotient: 418.13
 Property Location: 14217 INDEPENDENCE PKWY FORT WORTH, TX 76177

Owner Information: AIL INVESTMENT LP
 13600 HERITAGE PKWY STE 200
 FORT WORTH TX 76177-4320

Legal Description: ALLIANCE GATEWAY NORTH ADDN
 Block: 3 Lot: 5

Taxing Jurisdictions: 026 CITY OF FORT WORTH
 220 TARRANT COUNTY
 911 NORTHWEST ISD
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total II
Market Value	\$254,652	\$0	\$254,652
Appraised Value I	\$1,251	\$0	\$1,251
Gross Building Area III			0
Net Leasable Area III			0
Land SqFt			509,304
Land Acres			11.692

1. The certified value is based on the most recent available data and is subject to change. It is not a guarantee of value.
 2. Appraised values for the taxing jurisdictions are provided for informational purposes only.

5-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$1,263	\$0	\$1,263	\$254,652	\$0	\$254,652
2012	\$1,263	\$0	\$1,263	\$254,652	\$0	\$254,652
2011	\$1,204	\$0	\$1,204	\$509,304	\$0	\$509,304
2010	\$1,204	\$0	\$1,204	\$509,304	\$0	\$509,304
2009	\$1,216	\$0	\$1,216	\$509,304	\$0	\$509,304

2013 NetDue Sent:
 Protest Deadline:

Exemptions:

Property Data:

Appraisal Site: 00873414

Deed Date: 01/01/2008	Site Name: 14217 INDEPENDENCE PKWY
Deed Page: 000000	
Deed Volume: 000000	
Instrument: 00000030009000	Class: Vacant Land -Commercial
	# of Parcels: 1
State Code: U1 Qualified Open Space Land	
TAD Map: 2014 496	Primary Building:
MAPSCO: FAR-009	Building Name:
Agent: RYAN LLC	Building Type:
	Year Built:

Tarrant Appraisal District

Real Estate

#0120015

Account Number: 03805794
 Georeference: A48T-1C
 Property Location: 4901 ALLIANCE / GATEWAY FWY, FORT WORTH, 76177



Owner Information: AE INVESTMENT LP
 13600 HERITAGE PKWY STE 200
 FORT WORTH TX 76177-4320

↳ Prior Owners:

Legal Description: CUELLA, FRANCISCO SURVEY
 Lot:
 Abstract: 267 Tract: 1c
 1D & 1F

Taxing Jurisdictions: 026 CITY OF FORT WORTH
 120 TARRANT COUNTY
 911 NORTHWEST ISD
 223 REGIONAL WATER DISTRICT
 224 TARRANT COUNTY HOSPITAL
 225 TARRANT COUNTY COLLEGE

Certified Values for Tax Year 2014

	Land	Impr	2014 Total !!!
Market Value	\$2,468,700	\$0	\$2,468,700
Appraised Value 1	\$13,208	\$0	\$13,208
Gross Building Area !!!			0
Net Leasable Area !!!			0
Land SqFt			5,376,829
Land Acres			123.435

* Appraised Value is based on the most recent available data. Values are based on the most recent available data. Values are based on the most recent available data. Values are based on the most recent available data.

5-Year Value History

Tax Year	Appraised Land	Appraised Impr	Appraised Total	Market Land	Market Impr	Market Total
2013	\$13,331	\$0	\$13,331	\$2,468,700	\$0	\$2,468,700
2012	\$13,331	\$0	\$13,331	\$2,468,700	\$0	\$2,468,700
2011	\$12,714	\$0	\$12,714	\$2,468,700	\$0	\$2,468,700
2010	\$12,714	\$0	\$12,714	\$4,032,621	\$0	\$4,032,621
2009	\$14,088	\$0	\$14,088	\$4,425,609	\$0	\$4,425,609

2013 Notice Sent:

Printed Deadline:

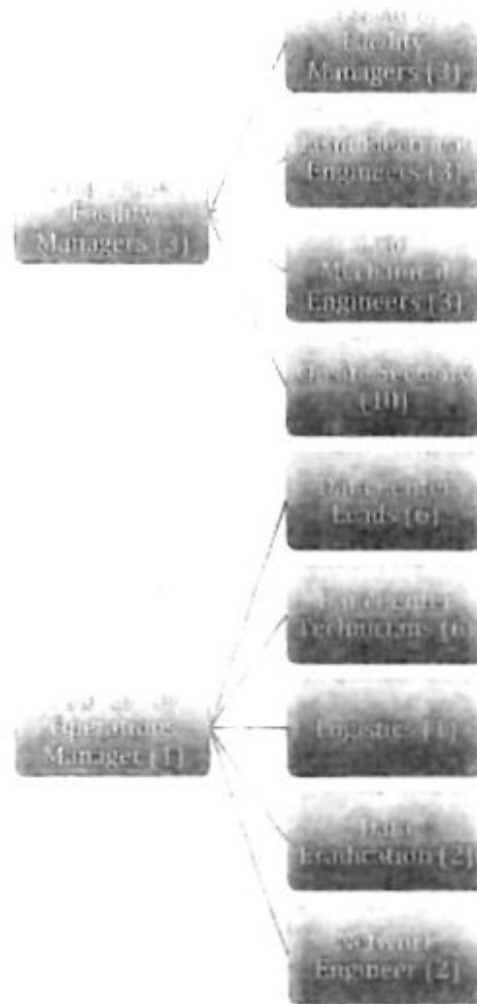
Exemptions: AGRICULTURAL ID1 23.51

Property Data:

Appraisal Site: #0270395

Deed Date: 11/31/1997	Site Name: 00270395
Deed Page: 0000000	
Deed Volume: 0000000	
Instrument: 0000000000000	Class: Vacant Land-Ag
	# of Parcels: 3
State Code: 01-Qualified Open Space Land	
	Primary Building:
TAD Map: 7372-176	Building Name:
MAPSCO: TAR-009	Building Type:
Agent: RYAN LLC	Year Built:

Appendix H - Description of the jobs to be created



The proposed project estimates creating approximately 40 full-time jobs onsite. These jobs may be a mix of company employees and third party contractors working at the data center. Each new job will have at least 1,820 annual hours of employment and would be paid at least 120 percent of the county average weekly wage. Above we've provided an estimate of data center positions to be filled.

Appendix I - Brief description of the employee benefit package offered

Employee benefits would include the following:

- Health insurance
 - 100% covered for employee only
 - Depending on the size of the employees family and choice of PPO, EPO or HMO insurance would cost anywhere from \$55.38 to \$145.00 per biweekly paycheck
- Dental insurance
- Vision insurance
- 401(k)
- Pre-tax flex spending accounts
- Life insurance
- Accidental death and dismemberment

Appendix J - Plan for utilization of Fort Worth Certified M/WBE companies

The following targeted procurement approach will be utilized to achieve goals:

- 1) Civil, structural, and architectural (CSA) scope
 - a. CSA plan will involve the following approaches:
 - i. Solicitation of M/WBE subcontractors in a primary sub role.
 - ii. Requirement of primary CSA subcontractors to provide 10% sub tier work to M/WBE firms.
 - iii. Breaking up larger CSA scopes into multiple small packages to attract M/WBE participation.
 - b. Example scopes of work:
 - i. Landscaping
 - ii. Flagging
 - iii. Truck, Hauling & Shipping
 - iv. Metal Stud Framing & Drywall
 - v. Glazing
 - vi. Painting
 - vii. Flooring
 - viii. Interior Finishes
 - ix. Interim/Final Clean
 - x. Construction Site Services
- 2) Mechanical, electrical and plumbing (MEP) scope
 - a. Require that primary mechanical and electrical subs issue 10% of contract work to M/WBE firms.
 - b. M/WBE firms must participate in specifically designated bid packages to ensure opportunities are presented and market competition is achieved.
 - c. General contractor to work with mechanical and electrical subs to develop specific sub tier bid scopes
 - d. Examples of scopes:
 - i. General contracting activities
 - ii. Piping insulation
 - iii. Trucking and shipping
 - iv. Other - TBD

Appendix K – Listing of Applicant’s Board of Directors

To be supplemented at a later date.

**Appendix I. - Incorporation papers noting all principals, partners, and agents
and all Fort Worth properties owned by each**

To be supplemented at a later date.

EXHIBIT "C"
FORM OF PROJECT COMPLETION REPORT

**CITY OF FORT WORTH - TAX ABATEMENT AGREEMENT
PROJECT COMPLETION REPORT**

Date: _____

Company: _____

Effective Date of Agreement: _____

Calendar Year	Total Construction Costs Spent with Fort Worth Companies	Total Construction Costs Spent with M/WBE Companies	Total Investment in Real Property Improvements	Total Investment in Personal Property Improvements	Total Annual Investment in Real and Personal Property
2015					\$ -
2016					\$ -
2017					\$ -
Total	\$ -	\$ -	\$ -	\$ -	\$ -

Notes:

- (1) Fort Worth Company means a business that has a principal office located within the corporate limits of the City that performs a commercially useful function and that provides the services for which Company is seeking credit under this Agreement. For purposes of this definition, a "principal" office does not mean its headquarters and can be one of multiple offices throughout the state of Texas and/or the United States of America maintained by such company.
- (2) Fort Worth 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); (ii) has a principal business office located within the corporate limits of the City; and (iii) from such principal business office performs a function or provides a service useful or necessary for construction of the Project for which Company is also seeking credit under this Agreement. For purposes of this definition, a "principal" office does not mean its headquarters and can be one of multiple offices throughout the state of Texas and/or the United States of America maintained by such company.
- (3) Project Completion Report to be accompanied by invoices and proof of payment necessary to properly document the above referenced totals.

EXHIBIT "D"

FORM OF PERSONAL PROPERTY REPORT

CITY OF FORT WORTH - TAX ABATEMENT AGREEMENT
PERSONAL PROPERTY REPORT

Date:	
Company:	
Effective Date of Agreement:	

Calendar Year	New Taxable Tangible Personal Property Installed or Otherwise Located on the Land
2015	
2016	
2017	
Total	\$ -

Notes:

(1) Personal Property Report to be accompanied by invoices and proof of payment necessary to properly document the above referenced totals.

EXHIBIT "E"
FORM OF EMPLOYMENT REPORT

CITY OF FORT WORTH - TAX ABATEMENT AGREEMENT
ANNUAL EMPLOYMENT REPORT

Date:
Company:
Effective Date of Agreement:

Number	Employer	Redacted Employee Number (last 3 digits)	Start Date	Full-Time (Yes/No)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
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25				
26				
27				
28				
29				
30				
31				
32				
33				
34				
35				
36				
37				
38				
39				
40				
Total	Total			5

EXHIBIT "F"

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

EXHIBIT "F"

Form of Consent to Collateral Assignment

CONSENT TO ASSIGNMENT
FOR SECURITY PURPOSES OF
TAX ABATEMENT AGREEMENT
BETWEEN CITY OF FORT WORTH AND

(CITY SECRETARY CONTRACT NO. _____)

This CONSENT TO ASSIGNMENT FOR SECURITY PURPOSES OF TAX ABATEMENT AGREEMENT ("**Consent**") is entered into by and between the CITY OF FORT WORTH ("**City**"), a home rule municipal corporation organized under the laws of the State of Texas; _____ ("**Company**"), a _____; and _____ ("**Lender**"), a _____.

RECITALS

The City, Company and Lender hereby agree that the following statements are true and correct and constitute the basis upon which the parties have entered into this Consent:

A. The City and Company previously entered into that certain Tax Abatement Agreement, dated as of _____, 2015 (the "**Agreement**") pursuant to which the City agreed to abate a percentage of Company's ad valorem real and personal property taxes in return for Company's construction of _____, as more specifically outlined in the Agreement (the "**Project Improvements**"). The Agreement is a public document on file in the City Secretary's Office as City Secretary Contract No _____.

B. Section 11 of the Agreement allows Company to assign its rights and obligations under the Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or Project Improvements without the approval of the City Council, provided that Company and the financial institution or other lender first execute a written agreement with the City governing the rights and obligations of the City, Company, and the financial institution or other lender with respect to such security interest.

C. Company wishes to obtain a loan from Lender in order to [state reason for loan] (the "**Loan**"). As security for the Loan, certain agreements between Company and Lender governing the Loan and dated _____, including, but not limited

to, that certain Loan Agreement and *[list other related documents]* (collectively, the “**Loan Documents**”) require that Company assign, transfer and convey to Lender all of Company’s rights, interest in and to the Agreement until such time as Company has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender’s security interest in the Agreement (the “**Assignment**”).

D. The City is willing to consent to this Assignment specifically in accordance with the terms and conditions of this Consent.

AGREEMENT

1. The City, Company and Lender hereby agree that the recitals set forth above are true and correct and form the basis upon which the City has entered into this Consent.

2. The City hereby consents to the Assignment at the request of Company and Lender solely for the purpose of Lender’s securing the Loan pursuant to and in accordance with the Loan Documents. Notwithstanding such consent, the City does not adopt, ratify or approve any of the particular provisions of the Loan Documents and, unless and to the extent specifically acknowledged by the City in this Consent, does not grant any right or privilege to Lender or any assignee or successor in interest thereto that is different from or more extensive than any right or privilege granted to Company under the Agreement.

3. In the event that the City is required by the Agreement to provide any kind of written notice to Company, including notice of breach or default by Company, the City shall also provide a copy of such written notice to Lender, addressed to the following, or such other party or address as Lender designates in writing, by certified mail, postage prepaid, or by hand delivery:

or such other address(es) as Lender may advise City from time to time.

4. If Company fails to cure any default under the Agreement, the City agrees that Lender, its agents or designees shall have an additional thirty (30) calendar days or such greater time as may specifically be provided under the Agreement to perform any of the obligations or requirements of Company imposed by the Agreement and that the City will accept Lender’s performance of the same as if Company had performed such obligations or requirements; provided, however, that in the event such default cannot be cured within such time, Lender, its agents or designees, shall have such additional time as may be reasonably necessary if within such time period Lender has commenced and is diligently

pursuing the remedies to cure such default, including, without limitation, such time as may be required for lender to gain possession of Company's interest in the Company property pursuant to the terms of the Loan Documents.

5. If at any time Lender wishes to exercise any foreclosure rights under the Loan Documents, before taking any foreclosure action Lender shall first provide written notice to the City of such intent (a "**Notice**"). Lender shall copy Company on the Notice and deliver such Notice to Company by both first class and certified mail return receipt concurrent with its transmittal of the Notice to the City and represent in the Notice that it has done so. Notwithstanding anything to the contrary herein, unless Lender enters into a written agreement with the City to assume and be bound by all covenants and obligations of Company under the Agreement, Lender understands and agrees that the City shall not have any obligation to Lender under the Agreement. In addition, Lender understands and agrees that if Lender wishes to sell all or any portion of the Land or Project Improvements to a third party following Lender's exercise of any foreclosure rights under the Loan Documents, the City shall not owe any obligation to such third party pursuant to the Agreement unless Lender and such third party comply with the procedure for assignment set forth in Section 11 of the Agreement, including the obligation of such third party to enter into a written agreement with the City to assume and be bound by all covenants and obligations of Company under the Agreement.

6. In the event of any conflict between this Consent and the Agreement or any of the Loan Documents, this Consent shall control. In the event of any conflict between this Consent and any of the Loan Documents, this Consent shall control. In the event of any conflict between the Agreement and any of the Loan Documents, the Agreement shall control.

7. This Consent may not be amended or modified except by a written agreement executed by all of the parties hereto. Notwithstanding anything to the contrary in the Loan Documents, an amendment to any of the Loan Documents shall not constitute an amendment to this Consent or the Agreement.

8. Once Company has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender's security interest in the Agreement and such security interest is released, Lender shall provide written notice to the City that Lender has released such security interest, in which case this Consent shall automatically terminate.

9. This Consent shall be construed in accordance with the laws of the State of Texas. Venue for any action arising under the provisions of this Consent shall lie in state courts located in Tarrant County, Texas or in the United States District Court for the Northern District of Texas, Fort Worth Division.

10. Capitalized terms used but not specifically defined in this Consent shall have the meanings ascribed to them in the Agreement.

11. This written instrument contains the entire understanding and agreement between the City, Company and Lender as to the matters contained herein. Any prior or contemporaneous oral or written agreement concerning such matters is hereby declared null and void to the extent in conflict with this Consent.

12. This Consent shall be effective on the later date as of which all parties have executed it. This Consent may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. The failure of any party hereto to execute this Consent, or any counterpart hereof, shall not relieve the other signatories from their obligations from their obligations hereunder.

EXECUTED as of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT PAGE]

CITY OF FORT WORTH:

**APPROVED AS TO FORM
AND LEGALITY:**

By: _____
Name:
Assistant City Manager

By: _____
Name:
Assistant City Attorney

Date: _____

M&C: none required

_____:

By: _____

Date: _____

STATE OF TEXAS §

COUNTY OF TARRANT §

**AMENDMENT NO. 1 TO
CITY SECRETARY CONTRACT NO. 46727**

**TAX ABATEMENT AGREEMENT BETWEEN
CITY OF FORT WORTH AND WINNER LLC**

This **AMENDMENT NO. 1 TO CITY SECRETARY CONTRACT NO. 46727** (“**Amendment**”) is entered into by and between the **CITY OF FORT WORTH** (the “**City**”), a home rule municipality organized under the laws of the State of Texas, and **WINNER LLC** (“**Company**”), a Delaware limited liability company.

The City and Company hereby agree that the following statements are true and correct and constitute the basis upon which the City and Company have entered into this Amendment:

A. The City and Company previously entered into that certain Tax Abatement Agreement on file in the City Secretary’s Office as City Secretary Contract No. 46727 (the “**Agreement**”). Under the Agreement, the City agreed to abate certain ad valorem real property taxes on improvements proposed to be constructed on certain property owned by Company at the northeast corner of Alliance Gateway and Park Vista Boulevard (such property identified in Exhibit “A” of the Agreement and defined as the “**Land**”) and certain ad valorem taxes on business personal property located on the Land in return for Company’s construction of at least a 250,000 square foot data center on the Land, with a minimum combined real and personal property investment of \$250,000,000.00, all as more specifically outlined in the Agreement.

B. The Land is defined in the Agreement to include additional land within a half-mile radius of the property described in Exhibit “A” of the Agreement that is acquired by Company after the Effective Date of the Agreement. As contemplated in the Agreement, Company has now acquired for this project that certain real property adjacent to the Land identified in Exhibit “A” of the Agreement. This additional property is described on Exhibit “A-1”, attached hereto and hereby made a part of this Amendment for all purposes (the “**Additional Adjacent Property**”). For the sake of clarity, the parties wish to amend the Agreement to more specifically define the “**Land**” as including the Additional Adjacent Property.

C. On October 18, 2016 the City Council adopted Ordinance No. 22473-10-2016 to expand Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas to include the Additional Adjacent Property, which Property is now designated as Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas.

D. This Amendment is authorized under § 312.208 of the Texas Tax Code because (i) the provisions of this Amendment could have been included in the original Agreement and (ii) this Amendment has been entered into following the same procedure in which the Agreement was approved and executed.

NOW, THEREFORE, the City and Company, for and in consideration of the terms and conditions set forth herein, do hereby contract, covenant and agree as follows:

1. Section 2 of the Agreement (Definitions) is hereby amended to change the definitions of the following terms, as follows:

Abatement means (i) the abatement of ten percent (10%) of the City's incremental ad valorem real property taxes on the Land and all improvements located on the Land, based on the increase in values of the Land and all improvements on the Land for the 2018 tax year over their values for (a) for that portion of the Land described in Exhibit "A", the 2015 tax year (which is the year in which the parties entered into this Agreement), and (b) for that portion of the Land described in Exhibit "A-1", the 2016 tax year (which is the year in which the Zone was expanded and that portion of the Land was thereby also designated as a reinvestment zone), and (ii) the abatement of ten percent (10%) of the City's ad valorem taxes on New Taxable Tangible Personal Property, based on the taxable assessed value of the New Taxable Tangible Personal Property.

Land means the real property described on **Exhibit "A"** and the real property described on **Exhibit "A-1"**. Both Exhibits are attached hereto and hereby made a part of this Agreement for all purposes.

Zone means that real property comprising Tax Abatement Reinvestment Zone No. 90, designated by the City Council under Ordinance No. 21757-05-2015, and that real property comprising Tax Abatement Reinvestment Zone No. 90A, designated by the City Council under Ordinance No. 22473-10-2016, which comprises all of the Land.

2. Capitalized terms used but not identified in this Amendment shall have the same meanings assigned to them in the Agreement.

3. Except as otherwise specifically amended in this Amendment, the Agreement shall remain in full force and effect.

4. This Amendment contains the final written expression of the City and Company with respect to the subject matter hereof. This Amendment may be executed in multiple counterparts, each of which shall be considered an original, but all of which shall constitute one instrument.

EXECUTED to be effective of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT PAGE]



CITY OF FORT WORTH:

ATTEST:

By: [Signature]
Jesus J. Chapa
Assistant City Manager

By: [Signature]
Name: Melny J. Kaysler
Title: City Secretary

Date: 11-30-16

Date: 12/15/16

APPROVED AS TO FORM AND LEGALITY:

By: [Signature]
Peter Vaky
Deputy City Attorney

M&C: G-18858 10-18-16

Form 1295 No. 2016-120005

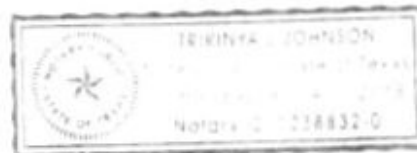
STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, on this day personally appeared **Jesus J. Chapa**, Assistant City Manager of the **CITY OF FORT WORTH**, a municipality 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 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 3rd day of November, 2016.

[Signature]
Notary Public in and for
the State of Texas
[Signature]
Notary's Printed Name



WINNER LLC,
a Delaware limited liability company:

By: [Signature]
Name: Rachel Peterson
Title: Authorized Representative

Date: Nov. 10, 2016

STATE OF CA §
COUNTY OF San Mateo §

BEFORE ME, the undersigned authority, on this day personally appeared Rachel Peterson, Authorized Rep of WINNER LLC, a Delaware limited liability company, 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 WINNER LLC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this
10 day of November, 2016.

[Signature]
Notary Public in and for
the State of CA

Leah McGettigan
Notary's Printed Name



EXHIBIT "A-1"

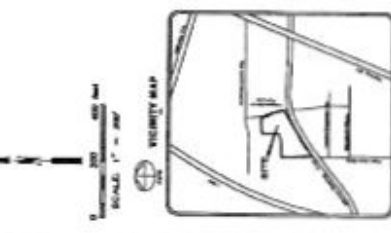
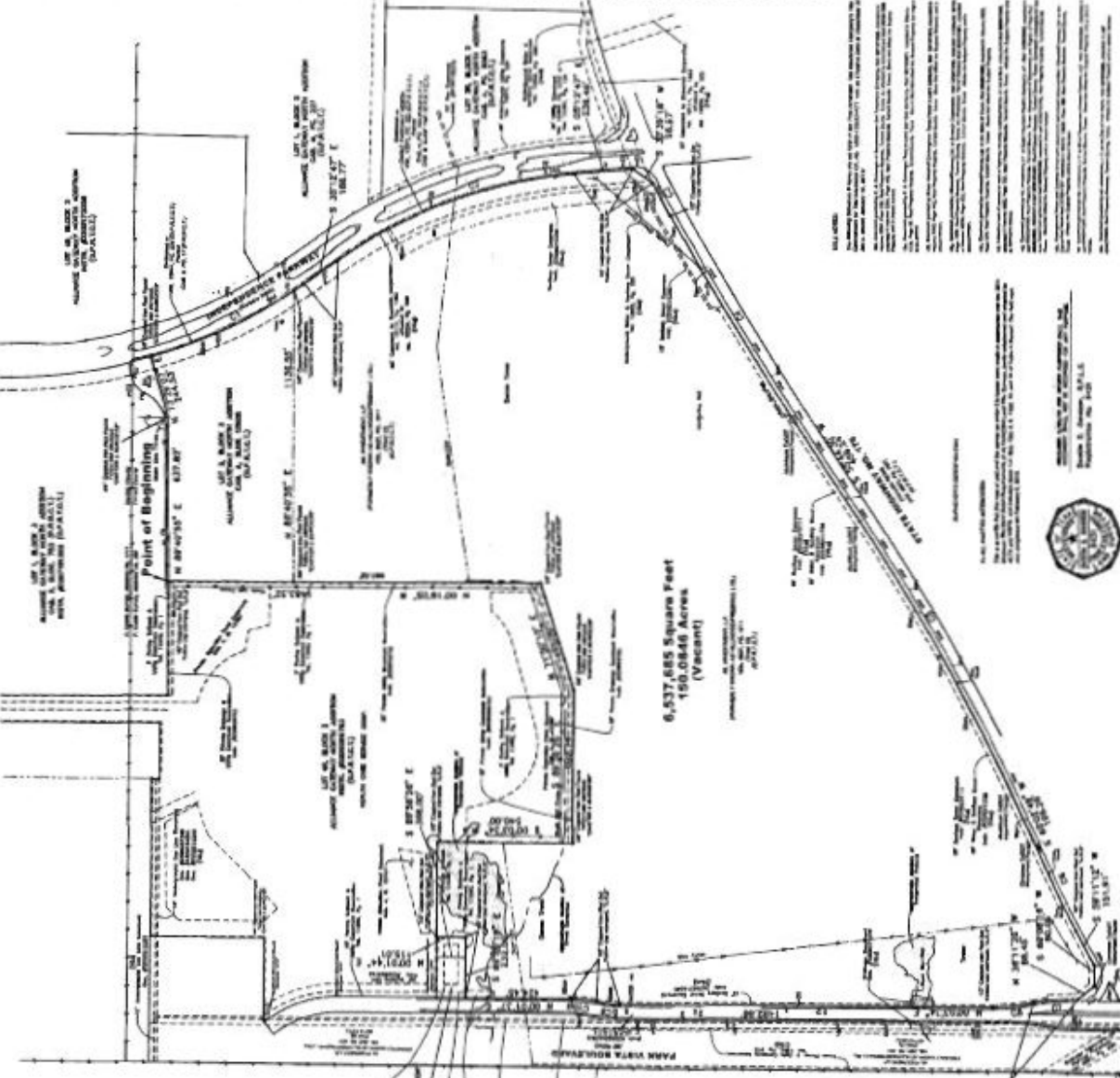
ADDITIONAL ADJACENT PROPERTY

Scale	1" = 200'
Date	10/15/08
Drawn	J. L. ...
Checked	J. L. ...
Project	...
Client	...

ALTAGSM LAND TITLE SURVEY
 150,048 ACRES
 6,537,685 SQUARE FEET
 CITY OF FORT WORTH, TARRANT COUNTY, TEXAS

ARS
ENGINEERS, INC.
 1000 ...
 FORT WORTH, TEXAS

THIS SURVEY WAS MADE FOR THE CITY OF FORT WORTH, TEXAS, BY THE ENGINEERS, INC., FORT WORTH, TEXAS, ON THE 15TH DAY OF OCTOBER, 2008. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACTS OF THE STATE OF TEXAS AND THE FEDERAL GOVERNMENT. THE SURVEY WAS MADE BY THE ENGINEERS, INC., FORT WORTH, TEXAS, AND THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACTS OF THE STATE OF TEXAS AND THE FEDERAL GOVERNMENT. THE SURVEY WAS MADE BY THE ENGINEERS, INC., FORT WORTH, TEXAS, AND THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACTS OF THE STATE OF TEXAS AND THE FEDERAL GOVERNMENT.



- 1. ...
- 2. ...
- 3. ...
- 4. ...
- 5. ...
- 6. ...
- 7. ...
- 8. ...
- 9. ...
- 10. ...
- 11. ...
- 12. ...
- 13. ...
- 14. ...
- 15. ...
- 16. ...
- 17. ...
- 18. ...
- 19. ...
- 20. ...

ORDINANCE NO. 21757-05-2015

AN ORDINANCE DESIGNATING A CERTAIN AREA IN THE CITY OF FORT WORTH AS "TAX ABATEMENT REINVESTMENT ZONE NUMBER NINETY, 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 May 20, 2014 of Resolution No. 4322-05-2014 (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, Winner, LLC ("**Company**") wishes to expend or cause to be expended at least \$125 million in real property improvements for the construction of a new data center located in the Zone, and Company intends to install new taxable tangible business personal property having a value of approximately \$125 million in such facility (collectively, the "**Improvements**"); and

WHEREAS, Company expects that this project will create at least 40 new jobs once the Improvements are completed; 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 May 12, 2015 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 May 4, 2015, 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 in excess of 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, City of Fort Worth, Texas." This project is eligible for commercial/industrial tax abatement pursuant to Section 4.3 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 of five (5) years or less.

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: May 19, 2015

APPROVED AS TO FORM AND LEGALITY:

By: Peter Vaky
Peter Vaky, Deputy City Attorney

Ronald P. Gonzales
Ronald P. Gonzales
Assistant City Secretary

M&C: G-18488

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

DESCRIPTION OF 110.71 ACRES

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to AIL Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S $89^{\circ}56'01''$ E, 368.25 feet; THENCE S $00^{\circ}04'42''$ W, 540.00 feet; THENCE S $89^{\circ}55'36''$ E, 602.74 feet; THENCE N $71^{\circ}51'00''$ E, 445.20 feet; THENCE N $62^{\circ}28'25''$ E, 296.66 feet;

THENCE N $90^{\circ}00'00''$ E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of $41^{\circ}14'47''$, having a radius of 95.00 feet, the long chord which bears S $69^{\circ}22'37''$ E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of $38^{\circ}19'47''$, having a radius of 141.00 feet, the long chord which bears S $67^{\circ}55'07''$ E, 92.58 feet;

THENCE S $87^{\circ}05'00''$ E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of $05^{\circ}55'58''$, having a radius of 1940.00 feet, the long chord which bears S $08^{\circ}09'47''$ E, 200.79 feet;

THENCE S $05^{\circ}15'42''$ E, 237.77 feet;

THENCE S $33^{\circ}52'08''$ W, 95.68 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of $02^{\circ}29'57''$, having a radius of 3294.04 feet, the long chord which bears S $61^{\circ}40'59''$ W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of $04^{\circ}46'16''$, having a radius of 11479.16 feet, the long chord which bears $S 58^{\circ}08'59''W$, 955.62 feet;

THENCE $S 55^{\circ}45'15''W$, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of $09^{\circ}18'33''$, having a radius of 7619.44 feet, the long chord which bears $S 60^{\circ}24'08''W$, 1236.61 feet;

THENCE $S 65^{\circ}04'38''W$, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of $05^{\circ}51'36''$, having a radius of 3839.72 feet, the long chord which bears $S 62^{\circ}07'36''W$, 392.54 feet;

THENCE $S 59^{\circ}11'47''W$, 152.11 feet; THENCE $S 89^{\circ}11'47''W$, 80.00 feet; THENCE $N 36^{\circ}10'14''W$, 86.37 feet;

THENCE $N 00^{\circ}04'17''W$, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of $12^{\circ}38'40''$, having a radius of 760.00 feet, the long chord which bears $N 06^{\circ}10'12''W$, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of $12^{\circ}33'05''$, having a radius of 740.00 feet, the long chord which bears $N 06^{\circ}12'59''W$, 161.78 feet;

THENCE $N 00^{\circ}03'31''E$, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE $N 00^{\circ}01'18''E$, 115.00 feet to the Point of Beginning and containing 4,822,528 square feet or 110.71 acres of land more or less.

Tax Abatement Reinvestment Zone No. 90

Intersection of Park Vista Parkway and Alliance Gateway Freeway

Fort Worth, TX

“Exhibit A”



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City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 5/19/2015 - Ordinance No. 21757-05-2015

DATE: Tuesday, May 19, 2015

REFERENCE NO.: G-18488

LOG NAME: 17ED TARIZ90

SUBJECT:

Conduct Public Hearing and Adopt Ordinance Designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for Property Located at the Northeast Corner of Alliance Gateway and Park Vista Boulevard for Construction of a Data Center Facility (COUNCIL DISTRICT 7)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing concerning the designation of Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for property located at the northeast corner of Alliance Gateway and Park Vista Boulevard; and
2. Adopt the attached ordinance designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, pursuant to and in accordance with Chapter 312 of the Texas Tax Code.

DISCUSSION:

The proposed Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, is for the property located at the northeast corner of Alliance Gateway and Park Vista Boulevard. Winner LLC, (Company) is considering the construction of a new Data Center facility at this site. The proposed project will result in at least \$250 million in real and business personal property investment (\$125 million for construction of the facility and \$125 million in business personal property that will be installed in the facility).

As required by Chapter 312 of the Texas Tax Code, a public hearing must be conducted regarding the creation of a Reinvestment Zone. The exact boundaries of the proposed zone are described in Exhibit A of the attached ordinance. Notice of this hearing was delivered to the governing body of each affected taxing unit and published in a newspaper of general circulation at least seven days prior to this hearing.

The area encompassing the proposed Zone meets the statutory criteria for designation as a Tax Abatement Reinvestment Zone, pursuant to Chapter 312 of the Texas Tax Code, in that the area is reasonably likely, as a result of the designation, to contribute to the retention or expansion of primary employment or to attract major investment in the Zone that would be a benefit to the property and that would contribute to the economic development of the City. Further, the improvements sought in the Zone are feasible, practical and would be a benefit to the land to be included in the Zone and to the City after any Tax Abatement Agreements, which may be entered into, have expired.

The term of the proposed Zone will be five years from the date of adoption of the attached ordinance and may be renewed for periods not to exceed five years each.

The proposed Zone is located in COUNCIL DISTRICT 7, Mapsco 9J.

FISCAL INFORMATION / CERTIFICATION:

The Financial Management Services Director certifies that this action will not increase the total appropriations of City funds.

FUND CENTERS:

TO Fund/Account/Centers

FROM Fund/Account/Centers

CERTIFICATIONS:

Submitted for City Manager's Office by:

David Cooke (6116)

Originating Department Head:

Jay Chapa (5804)

Additional Information Contact:

Robert Sturns (212-2663)

ORDINANCE NO. 22473-10-2016

AN ORDINANCE DESIGNATING A CERTAIN AREA IN THE CITY OF FORT WORTH AS “TAX ABATEMENT REINVESTMENT ZONE NUMBER 90A, 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 June 28, 2016 of Resolution No. 4647-06-2016 (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 real property located at 14101 and 14217 Independence Parkway in the City, as more specifically depicted in Exhibit “A” of this Ordinance (the “**Zone**”), through the creation of a reinvestment zone for purposes of granting a tax abatement, as authorized by and in accordance with Chapter 312 of the Code; and

WHEREAS, Winner, LLC (“**Company**”) wishes to construct a new Facebook data center or centers on property in the Zone, with a minimum expenditure of at least \$250 million in real and business property improvements (collectively, the “**Improvements**”); and

WHEREAS, the Zone is adjacent to that real property designated as Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas (the “**Initial Zone**”); and

WHEREAS, the City previously granted Company a tax abatement on property and improvements located in the Initial Zone in return for Company’s construction of a data center on such property, with a minimum expenditure of at least \$250 million in real and business property improvements, as set forth in that certain Tax Abatement Agreement on file in the City Secretary’s Office as City Secretary Contract No. 46727; and

WHEREAS, Company expects that the overall project in the Zone and the Initial Zone will create at least 40 new jobs; and

WHEREAS, the Improvements planned for the Zone will complement that portion of the project constructed in the Initial Zone; and

WHEREAS, on October 18, 2016 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 October 9, 2016, 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 in excess of 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 herein and depicted in the map attached hereto as **Exhibit "A"** and made a part of this Ordinance for all purposes as a reinvestment zone for purposes of granting a commercial-industrial 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 90A, City of Fort Worth, Texas." This project is eligible for commercial/industrial tax abatement pursuant to Section 4.1 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 of five (5) years or less.

Section 4.

SEVERABILITY.

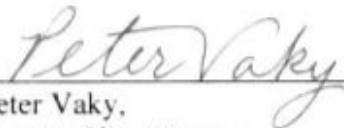
That if any portion, section or part of a section of this Ordinance is subsequently declared invalid, inoperative or void for any reason by a court of competent jurisdiction, the remaining portions, sections or parts of sections of this Ordinance shall be and remain in full force and effect and shall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

Section 5.

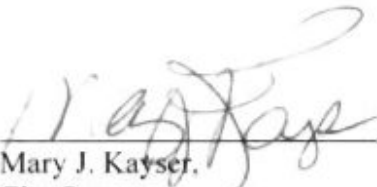
IMMEDIATE EFFECT.

That this Ordinance shall take effect upon its adoption.

APPROVED AS TO FORM AND LEGALITY:



Peter Vaky,
Deputy City Attorney



Mary J. Kayser,
City Secretary

M&C: G-18858

ADOPTED AND EFFECTIVE: October 18, 2016

EXHIBIT "A"

MAP DEPICTING ZONE

Tax Abatement Reinvestment Zone No. 90A

14217 Independence Parkway & 14101 Independence Parkway
Fort Worth, TX, 76177

"Exhibit A-1"

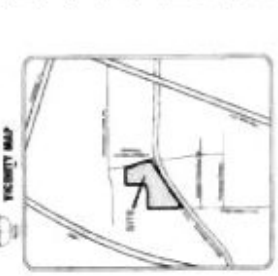
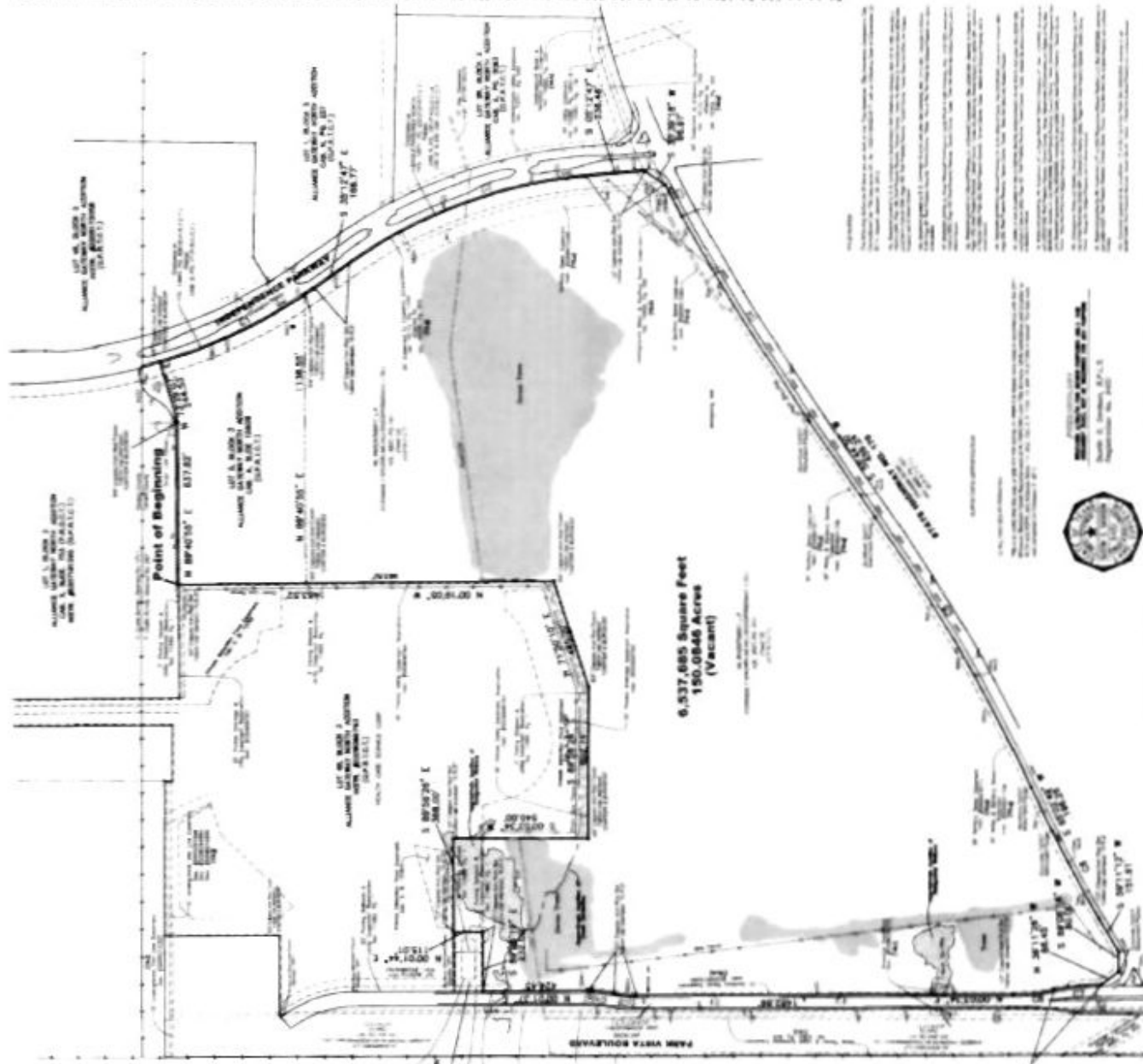


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NOTICE TO CONTRACTORS: This survey was prepared for the purpose of showing the location and extent of the proposed improvements and the location of the proposed easements. It is not intended to show the location of any existing easements or other interests in the land. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.

NOTICE TO ADJACENT PROPERTY OWNERS: This survey was prepared for the purpose of showing the location and extent of the proposed improvements and the location of the proposed easements. It is not intended to show the location of any existing easements or other interests in the land. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.

NOTICE TO THE PUBLIC: This survey was prepared for the purpose of showing the location and extent of the proposed improvements and the location of the proposed easements. It is not intended to show the location of any existing easements or other interests in the land. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.



- 1. ALTA/CSM EASEMENT FOR UTILITY
- 2. ALTA/CSM EASEMENT FOR TRAVEL
- 3. ALTA/CSM EASEMENT FOR TRAVEL
- 4. ALTA/CSM EASEMENT FOR TRAVEL
- 5. ALTA/CSM EASEMENT FOR TRAVEL
- 6. ALTA/CSM EASEMENT FOR TRAVEL
- 7. ALTA/CSM EASEMENT FOR TRAVEL
- 8. ALTA/CSM EASEMENT FOR TRAVEL
- 9. ALTA/CSM EASEMENT FOR TRAVEL
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- 12. ALTA/CSM EASEMENT FOR TRAVEL
- 13. ALTA/CSM EASEMENT FOR TRAVEL
- 14. ALTA/CSM EASEMENT FOR TRAVEL
- 15. ALTA/CSM EASEMENT FOR TRAVEL
- 16. ALTA/CSM EASEMENT FOR TRAVEL
- 17. ALTA/CSM EASEMENT FOR TRAVEL
- 18. ALTA/CSM EASEMENT FOR TRAVEL
- 19. ALTA/CSM EASEMENT FOR TRAVEL
- 20. ALTA/CSM EASEMENT FOR TRAVEL

PROPOSED IMPROVEMENTS: The proposed improvements include a driveway, easements, and other features as shown on this survey. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.

EXISTING EASEMENTS: The existing easements are shown on this survey. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.

PROPOSED EASEMENTS: The proposed easements are shown on this survey. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.

NOTICE TO CONTRACTORS: This survey was prepared for the purpose of showing the location and extent of the proposed improvements and the location of the proposed easements. It is not intended to show the location of any existing easements or other interests in the land. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.

NOTICE TO ADJACENT PROPERTY OWNERS: This survey was prepared for the purpose of showing the location and extent of the proposed improvements and the location of the proposed easements. It is not intended to show the location of any existing easements or other interests in the land. The contractor is responsible for verifying the location and extent of any existing easements or other interests in the land before construction begins.

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 10/18/2016 - Ordinance No. 22473-10-2016

DATE: Tuesday, October 18, 2016

REFERENCE NO.: G-18858

LOG NAME: 17ED TARIZ90-A

SUBJECT:

Conduct a Public Hearing and Adopt Ordinance Designating Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas, for Property Located at 14217 and 14101 Independence Parkway and Amend Tax Abatement Agreement, City Secretary Contract No. 46727, to Include Such Additional Property (COUNCIL DISTRICT 7)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing concerning the designation of Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas, for property located at 14217 and 14101 Independence Parkway;
 2. Adopt the attached ordinance for the designation of Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas, pursuant to and in accordance with Chapter 312 of the Texas Tax Code; and
 3. Amend Tax Abatement Agreement with Winner, LLC, City Secretary Contract No. 46727, to reflect that the property subject to abatement under the Agreement includes the property located in Tax Abatement Reinvestment Zone No. 90A, City of Fort Worth, Texas.
-

DISCUSSION:

On May 19, 2015 the City Council adopted Ordinance No. 21757-05-2015, designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, and approved execution of a Tax Abatement Agreement with Winner LLC (City Secretary Contract No. 46727). Under the Tax Abatement Agreement, the City has agreed to abate 10 percent of the incremental ad valorem taxes on real and business personal property owned by Winner LLC (Company) provided that Company expended at least \$250,000,000.00 on construction and equipment of a Facebook data center located on property in the reinvestment zone.

The Tax Abatement Agreement also provides a mechanism for Company to acquire additional land adjacent to the site in order to expand the project footprint. Company has announced that it wishes to construct additional data center improvements on property it has since acquired at 14101 and 14217 Independence Parkway. This land is adjacent to the current reinvestment zone. In order for this property to be covered under the Tax Abatement Agreement, as allowed under the Agreement, the City Council must also designate this property as a reinvestment zone.

As required by Chapter 312 of the Texas Tax Code, a public hearing must be conducted regarding the creation or expansion of a Reinvestment Zone. The exact boundaries of the proposed zone are described in Exhibit A of the attached ordinance. Notice of this hearing was delivered to the governing body of each affected taxing unit and published in a newspaper of general circulation at least seven days prior to this hearing.

The area encompassing the proposed Zone meets the statutory criteria for designation as a Tax Abatement Reinvestment Zone, pursuant to Chapter 312 of the Texas Tax Code, in that the area is likely, as a result of the designation, to contribute to the expansion of the Company's major investment in the Zone that would be a benefit to the property and that would contribute to the economic development of the City. Further, the improvements sought in the Zone are feasible, practical and would be a benefit to the land to be included in the Zone and to the City after the existing Tax Abatement Agreement to be amended, has expired.

The term of the proposed Zone will be five years from the date of adoption of the attached ordinance and may be renewed for periods not to exceed five years each.

The property included in the City of Fort Worth Reinvestment Zone No. 90 consists of a 110 acre tract, with an established base year of 2015. The 40-acre tract of land to be included in the expanded City of Fort Worth Reinvestment Zone No. 90A, will establish base year of 2016 for improvements that occur within this zone. Staff recommends the expansion of Reinvestment Zone No. 90A and amending City Secretary Contract No. 46727 to establish dual base years in the Tax Abatement Agreement.

The proposed Zone is located in COUNCIL DISTRICT 7, Mapsco 9J.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of this Agreement will have no material effect on the Fiscal Year 2017 budget. While no current year impact is anticipated from this action, any effect on expenditures and revenues will be budgeted in future fiscal years and will be included in the long-term financial forecast.

FUND IDENTIFIERS (FIDs):

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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FROM

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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CERTIFICATIONS:

Submitted for City Manager's Office by: Jay Chapa (5804)
Originating Department Head: Robert Sturns (212-2663)
Additional Information Contact: Ossana Hermosillo (212-2665)

ORDINANCE NO. 24199-05-2020

AN ORDINANCE RENEWING TAX ABATEMENT REINVESTMENT ZONE NUMBER NINETY, CITY OF FORT WORTH, TEXAS; PROVIDING THE EFFECTIVE AND EXPIRATION DATES FOR THE ZONE, AS RENEWED, AND A MECHANISM FOR ADDITIONAL RENEWALS OF THE ZONE; AND CONTAINING OTHER MATTERS RELATED TO THE ZONE.

WHEREAS, on May 19, 2015 the City Council adopted Ordinance No. 21757-05-2015 designating Tax Abatement Reinvestment Zone Number Ninety, City of Fort Worth, Texas, a reinvestment zone created pursuant to and in accordance with the Property Redevelopment and Tax Abatement Act, codified in Chapter 312 of the Texas Tax Code (the "**Zone**"); and

WHEREAS, the Zone encompasses the area in the City more specifically described in Exhibit "A" of this Ordinance; and

WHEREAS, the Zone has been utilized as a valuable and successful economic development tool for the City, enabling an investment by Winner, LLC of over \$300 million in the Zone to date for operation of multiple data centers on behalf of Facebook, Inc., as reflected in two Tax Abatement Agreements between the City and Winner, LLC (City Secretary Contract No. 46727, as amended, and City Secretary Contract No. 52160), as supported by an Economic Development Program Agreement (City Secretary Contract No 46728); and

WHEREAS, pursuant to Section 3 of Ordinance No. 21757-05-2015, the term of the Zone commenced May 19, 2015 and will expire May 18, 2020, unless renewed by the

City Council for one or more subsequent terms of five (5) years or less, as authorized by Section 312.203 of the Texas Tax Code; and

WHEREAS, in order to encourage additional significant investment and job creation in the Zone, the City Council wishes to renew the Zone for an additional term of five (5) years beyond its original expiration date; and

WHEREAS, on May 5, 2020 the City Council held a public hearing regarding renewal of the Zone, received information concerning development in the Zone during the initial term of 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**"); and

WHEREAS, notice of the Public Hearing was published in a newspaper of general circulation in the City on April 27th, 2020, and 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 located in the Zone; and

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 renewal 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 renewal 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.
- 1.2. The improvements constructed to date in the Zone, as more specifically outlined in the Public Hearing, have provided significant benefit to the Zone as well as the City, and will continue to do so for a period in excess of ten (10) years from the initial effective date of the Zone, and additional similar investment in the future will likewise benefit the Zone and the City.
- 1.3. As a result of renewal of the Zone, the area within the Zone is reasonably likely to contribute to the continued 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.

RENEWAL OF ZONE.

That the Zone is hereby renewed effective May 19, 2020 and shall expire five (5) years thereafter. The Zone may additionally be renewed by the City Council for one or more subsequent terms of five (5) years or less.

Section 3.

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 4.

IMMEDIATE EFFECT.

That this Ordinance shall take effect upon its adoption.

ADOPTED AND EFFECTIVE: May 5, 2020

APPROVED AS TO FORM AND LEGALITY:

By: Peter Vaky
By: Peter Vaky (May 27, 2020 17:21 CDT)

Peter Vaky
Deputy City Attorney

Mary J. Kayser

Mary J. Kayser
City Secretary



M&C:20-0284

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

EXHIBIT "A"

BOUNDARY DESCRIPTION OF ZONE

DESCRIPTION OF 110.71 ACRES

BEING a tract of land situated in the F. Cuella Survey, Abstract Number 267, Tarrant County, Texas and being a portion of two tracts of land describe by deed to AIL Investment, L.P., recorded in Volume 13588, Page 195 (Tracts 12 and 13), County Records, Tarrant County, Texas, being more particularly described by metes and bounds as follows:

BEGINNING at the northeast corner of Lot 10, Block 3, Alliance Gateway North, an addition to the City of Fort Worth recorded in Instrument Number D208290670, in the south line of Lot 4R, Block 3 Alliance Gateway North, and addition to the City of Fort Worth recorded in Instrument Number D209069793, both of said County Records;

THENCE S 89°56'01"E, 368.25 feet; THENCE S 00°04'42"W, 540.00 feet; THENCE S 89°55'36"E, 602.74 feet; THENCE N 71°51'00"E, 445.20 feet; THENCE N 62°28'25"E, 296.66 feet;

THENCE N 90°00'00"E, 1055.55 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 68.39 feet, through a central angle of 41°14'47", having a radius of 95.00 feet, the long chord which bears S 69°22'37"E, 66.92 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 94.33 feet, through a central angle of 38°19'47", having a radius of 141.00 feet, the long chord which bears S 67°55'07"E, 92.58 feet;

THENCE S 87°05'00"E, 103.97 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 200.88 feet, through a central angle of 05°55'58", having a radius of 1940.00 feet, the long chord which bears S 08°09'47"E, 200.79 feet;

THENCE S 05°15'42"E, 237.77 feet;

THENCE S 33°52'08"W, 95.68 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 143.68 feet, through a central angle of 02°29'57", having a radius of 3294.04 feet, the long chord which bears S 61°40'59"W, 143.67 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 955.90 feet, through a central angle of $04^{\circ}46'16''$, having a radius of 11479.16 feet, the long chord which bears $S 58^{\circ}08'59''W$, 955.62 feet;

THENCE $S 55^{\circ}45'15''W$, 459.78 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 1237.97 feet, through a central angle of $09^{\circ}18'33''$, having a radius of 7619.44 feet, the long chord which bears $S 60^{\circ}24'08''W$, 1236.61 feet;

THENCE $S 65^{\circ}04'38''W$, 195.64 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 392.71 feet, through a central angle of $05^{\circ}51'36''$, having a radius of 3839.72 feet, the long chord which bears $S 62^{\circ}07'36''W$, 392.54 feet;

THENCE $S 59^{\circ}11'47''W$, 152.11 feet; THENCE $S 89^{\circ}11'47''W$, 80.00 feet; THENCE $N 36^{\circ}10'14''W$, 86.37 feet;
THENCE $N 00^{\circ}04'17''W$, 20.00 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 167.72 feet, through a central angle of $12^{\circ}38'40''$, having a radius of 760.00 feet, the long chord which bears $N 06^{\circ}10'12''W$, 167.38 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 162.11 feet, through a central angle of $12^{\circ}33'05''$, having a radius of 740.00 feet, the long chord which bears $N 06^{\circ}12'59''W$, 161.78 feet;

THENCE $N 00^{\circ}03'31''E$, 1482.86 feet to the beginning of a curve to the right;

THENCE with said curve to the right, an arc distance of 89.82 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 430.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 89.66 feet to the beginning of a curve to the left;

THENCE with said curve to the left, an arc distance of 102.36 feet, through a central angle of $11^{\circ}58'07''$, having a radius of 490.00 feet, the long chord which bears $N 06^{\circ}02'35''E$, 102.17 feet;

THENCE $N 00^{\circ}01'34''E$, 425.60 feet;

THENCE $S 89^{\circ}56'45''E$, 232.00 feet;

THENCE $N 00^{\circ}01'18''E$, 115.00 feet to the Point of Beginning and containing 4,822,528 square feet or 110.71 acres of land more or less.

Tax Abatement Reinvestment Zone No. 90

Intersection of Park Vista Parkway and Alliance Gateway Freeway

Fort Worth, TX

“Exhibit A”



Copyright 2015 City of Fort Worth. Unauthorized reproduction is a violation of applicable laws. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The City of Fort Worth assumes no responsibility for the accuracy of said data.

City of Fort Worth, Texas

Mayor and Council Communication

DATE: 05/05/20

M&C FILE NUMBER: M&C 20-0284

LOG NAME: 17TIRZ90 RENEWAL

SUBJECT

Conduct Public Hearing and Adopt Ordinance Renewing Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for Property Located at the Northeast Corner of Alliance Gateway and Park Vista Boulevard owned by Winner, LLC for an Additional Five-Year Term (COUNCIL DISTRICT 7)

(PUBLIC HEARING - a. Report of City Staff: Robert Sturns; b. Citizen Presentations; c. Council Action: Close Public Hearing and Act on M&C)

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing concerning the renewal of Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, for property located at the northeast corner of Alliance Gateway and Park Vista Boulevard for an additional five-year term; and
2. Adopt the attached ordinance for the renewal of Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas, pursuant to and in accordance with Chapter 312 of the Texas Tax Code.

DISCUSSION:

On May 19, 2015, the City Council adopted Ordinance No. 21757-05-2015, designating Tax Abatement Reinvestment Zone No. 90, City of Fort Worth, Texas (the Zone), and approved execution of a Tax Abatement Agreement with Winner LLC, (City Secretary Contract No. 46727). Under the Tax Abatement Agreement, the City agreed to abate 10 percent of the incremental ad valorem taxes on real and business personal property owned by Winner LLC, (Company) provided that Company expended at least \$250,000,000.00 on construction of and equipment for a Facebook data center located on property in the reinvestment zone.

The Tax Abatement Agreement also provides a mechanism for the Company to acquire additional land adjacent to land in the Zone in order to expand the project footprint. On October 16, 2016, the City Council adopted Ordinance No. 22473-10-2016, designating Tax Abatement Reinvestment Zone No. 90-A, City of Fort Worth, Texas, and approved amendment of the Tax Abatement Agreement with the Company (City Secretary Contract No. 46727) to include additional improvements on property it acquired for additional development at 14101 and 14217 Independence Parkway.

On March 26, 2019, the City Council adopted Ordinance No. 23620-03-2019, designating Tax Abatement Reinvestment Zone No. 99, City of Fort Worth, Texas, and authorized execution of another Tax Abatement Agreement with the Company (City Secretary Contract No. 52160) for the redevelopment of an existing data center located at 14100 Park Vista Boulevard.

Company now wishes to extend the term of Zone for an additional five-year term for future development opportunities. City staff supports such action by the City Council.

Under Chapter 312 of the Texas Tax Code (the Code), the maximum term of a reinvestment zone is five years, but the Code allows the City Council to renew the term of a zone for one or more additional terms of five years. A public hearing must be conducted regarding the creation or expansion of a reinvestment zone. The exact boundaries of the proposed zone are described in Exhibit A of the attached ordinance. Notice of this hearing was delivered to the governing body of each affected taxing unit and published in a newspaper of general circulation at least seven days prior to this hearing.

The area encompassing the Zone continues to meet the statutory criteria for designation as a reinvestment zone under Chapter 312 of the Texas Tax Code, in that the area is likely, as a result of the continued designation, to contribute to the expansion of the Company's major investment in the Zone that would be a benefit to the property and that would contribute to the economic development of the City. Further, current and potential future improvements in the Zone are feasible, practical and will continue to benefit to the land to be included in the Zone and to the City after the existing Tax Abatement Agreement to be amended, has expired.

Upon adoption of the attached ordinance, the term of the Zone will automatically be continued for five years beyond the current expiration date of May 18, 2020, and the Zone may be renewed for additional periods not to exceed five years each.

The Zone is located in COUNCIL DISTRICT 7.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of these recommendations and execution of the agreement will have no material effect on the Fiscal Year 2020 budget. Future effects on revenues and expenditures will be included in the long-term financial forecast.

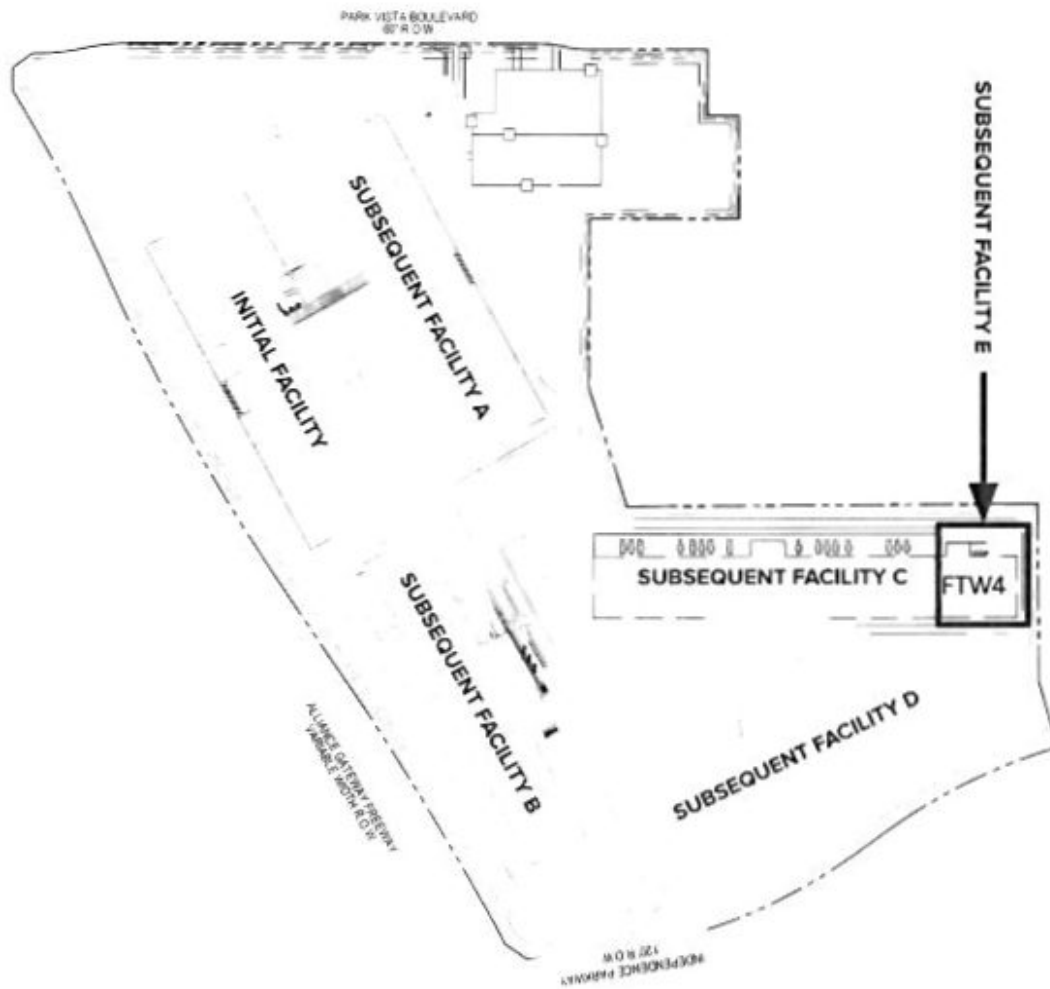
Submitted for City Manager's Office by: Jay Chapa 5804

Originating Business Unit Head: Robert Sturns 2663

Additional Information Contact: Robert Sturns 2663

EXHIBIT "C"

**DESCRIPTION AND DEPICTION OF
ELIGIBLE PROPERTY IMPROVEMENTS**



Description and Depiction of Eligible Improvements

- Construction of a new data center.
 - The proposed data center would be specifically designed to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment, (which would include an uninterruptible power source and generator backup power) used primarily to provide data center services to applicant's parent company and parent's affiliates.
 - The proposed data center would have a complete fire alarm system, which would include sprinklers and fire smoke dampers. There would be physical security that would restrict access to the data center in addition to video surveillance, and electronic system to monitor the site.
 - The proposed data center would be approximately 150,000 square feet in area.
- Equipment purchased for use within the proposed data center would include but not be limited to:
 - Computer servers;
 - Chassis;
 - Storage heads;
 - Flash storage cards;
 - Network switches;
 - Routers;
 - Blades;
 - Racks; and
 - Miscellaneous server components.

EXHIBIT "D"
APPLICATION FOR TAX ABATEMENT



Tarrant County

Application for Tax Abatement/Reinvestment Zone

I. APPLICANT INFORMATION

Applicant/Property Owner: Winner LLC d/b/a Ernst LLC

Company/Project Name: Winner LLC d/b/a Ernst LLC

Mailing Address: 1 Hacker Way, Menlo Park, CA 94025

Telephone: 650-308-7600 **Fax:** N/A

Applicant's Representative for contact regarding abatement request:

Name and Title: Brad Davis, Economic Development Manager

Mailing Address: 1 Hacker Way, Menlo Park, CA 94025

Telephone: 650-308-7600 **Fax:** N/A **E-mail:** dccd@fb.com

II. PROPERTY AND PROJECT DESCRIPTION

Address and legal description of property to be considered for Tax Abatement/Reinvestment Zone: 4500 Lake Way, Fort Worth, TX (new structure on existing land site), legal description: Alliance Gateway North Block 3 Lot 7R2 414K-3-7R2

Project Description: Winner LLC current owns and operates a data center on proposed site and would construct another data center building on its existing campus in Fort Worth. The facility under consideration would be located on the far north end of the campus and is estimated to be approximately 150,000 sq. ft. in size.

Description of activities, products, or services produced and/or provided at project location: Winner LLC would provide data hosting services to its parent company, Facebook. Facebook would have remote access to the content hosted in the data center.

Current Assessed Value: (Account # 42324937) **Real Property:** \$ 394,524,435 **Personal Property:** \$ 1,180,415,031
Estimated start date of construction/site improvements: Q1 2021

Projected date of occupancy/commencement of operations at project site: Q3 2022

Please indicate dates for phases if applicable: N/A

Location of existing company facilities: 4500 Lake Way, Fort Worth, TX 76177

Requested level of Tax Abatement: 60% Tarrant County, 40% JPS Health Network of **eligible property for 10 years.**

Explain why tax abatement is necessary for the success of this project. Include business pro-formas or other information to substantiate your request. The business demands from Winner LLC's parent company, Facebook, Inc. have increased over the past few years, resulting in additional storage and capacity needs. This capacity is critical to the operations of the company and the requested abatement would allow Winner to lower the significant capital and operational expenses associated with expanding in this particular region.

III. PROJECTED VALUE OF IMPROVEMENTS

Estimated Value of Real Property Improvements \$ 125,000,000

Estimated Value of Personal Property Improvements \$ 75,000,000

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

Yes No

If yes, describe requested infrastructure improvements: N/A

Detail any direct benefits to Tarrant County as a result of this project (i.e., inventory tax, etc.): The project would support hundreds of constructor workers on site daily. The activity on site will have a positive economic impact on the surrounding area. In addition to the above, Winner LLC is an active member of the community, which includes managing an annual community action grant program in addition to other charitable and community focused initiatives.

IV. EMPLOYMENT IMPACT AT PROJECT LOCATION

A. NEW EMPLOYMENT

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

Full-time TBD Part-Time TBD

Provide types of jobs created and average salary levels: The expansion will allow continued investment and growth at the Fort Worth data center. Although exact job numbers are not known at this time, it is expected that the expansion will allow for continued headcount growth at the site. The average wage paid to employees to be located at the project site is \$114,073.

Start date and annual payroll of new permanent positions (if positions to be phased in, provide figures for each phase year): Q3 2022, Payroll of new permanent positions are TBD.

Percentage of new jobs to be filled by Tarrant County residents: TBD

Number of employees transferring from other company locations: TBD

B. CONSTRUCTION RELATED EMPLOYMENTS

Projected number of construction related jobs: Hundreds of construction workers on-site daily.

Estimated total construction payroll: \$ TBD, construction payroll will be commensurate with the local market.

Commitment as to percentage of construction dollars to be spent with Tarrant County contractors or subcontractors: Our goal is to utilize as many local and MWBE vendors as possible, but at this time that percentage is unknown.

Commitment as to percentage & total dollars of construction contracts to be awarded to DBE: Our goal is to utilize as many local and MWBE vendors as possible, but at this time that percentage is unknown.

C. CURRENT COMPANY/PROJECT LOCATION EMPLOYMENT

Current Number of Employees: Full-time 96 Part-time 0

Average annual payroll: \$ 114,073 (Average Annual Salary)

Detail on workforce diversity – percentage breakdown of current employees by gender and ethnicity: **W2

consider this information confidential and decline to disclose. That said, we have a strong company-wide commitment to diversity.

Please see our Equal Opportunity and Affirmative Action Policy on our careers website at <https://www.facebook.com/careers/>.

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: Individual: \$ 0 Family: \$ 289

Other employee benefits provided or offered: Life & AD&D Insurance, 401k, childcare reimbursement, wellness reimbursement, FSA plans, dental insurance, vision insurance, food, tax support, survivor benefits, baby gift, financial planning, estate planning, legal help, PTO, paid family leave, unlimited sick time, paid holidays, paid recharge sabbatical, paid bereavement leave, paid military leave, long and short term disability, paid parental leave.

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

Estimated amount of annual supply and services expenses: \$ 500,000

Detail any supply/services expenses that are sole source: TBD

Percentage of total supplier/services expenses committed to Tarrant County businesses: TBD

Percentage of total supplier and services expenses committed to DBE: Our goal is to utilize as many local and MWBE vendors as possible, but at this time that percentage is unknown.

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: *** Environmental Impacts of this project will be extremely minimal, see attached for more detail.*

Air Quality Water Quality Solid Waste Disposal Storm/Water Runoff
Floodplain/Wetlands Noise levels Other (specify) "[Response]"

Provide detail on existing and new fleet vehicles, specifying types of vehicles, quantities and fuel used (gasoline, diesel, LP gas, CNG, etc.): None.

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
- Descriptive list and value of real and personal property improvements
- Plat/Map of Project Location
- Project Time Schedule
- Owner's policy regarding use of disadvantaged Business Enterprises
- 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
- Tax Certificate showing property taxes paid for most recent year

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

Authorized Representative

Title

Bobby Hollis

Printed Name

May 28, 2020

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.

Letter Addressing Economic Qualifications and Additional Criteria for Abatement

Dear Sir/Madam:

On behalf of Winner LLC d/b/a Ernst LLC ("Winner"), this letter addresses the economic qualifications and additional criteria for abatement outlined in Section III (h) and (i) of the Tarrant County Tax Abatement Policy.

Section III (h):

- Winner has an existing data center in Tarrant County;
- If ultimately approved for Tarrant County, Winner is estimated to produce a minimum added value exceeding \$3 million in real and personal property as a result of the expansion project;
- If ultimately approved for Tarrant County, Winner reasonably expects to sustain existing employment levels;
- Winner must expand its existing data center footprint in order to meet growth demands from its parent company.

Section III (i):

- If ultimately approved for Tarrant County, Winner will use its best efforts to utilize Disadvantaged Business Enterprises ("DBE") and Tarrant County Businesses wherever possible and will make it a priority when evaluating potential construction and annual supply and service contracts.
- If ultimately approved for Tarrant County, environmental impacts are anticipated to be extremely minor, but may include the following:
 - Minor traffic increases around the site may have a small impact on air quality from the minimal traffic increase.
 - Onsite generators would have a small impact on air quality. This impact will be extremely minimal given that they will only run in the rare case of utility loss and short maintenance periods.
 - The data center would be run with 100% clean and renewable energy. This will have an extremely positive environmental impact.
 - Lastly, the proposed data center expects to meet or exceed all requirements for erosion control, storm water management and landscaping.
- Winner plans to continue to offer a health benefit plan to its full-time employees at a rate that is reasonable to the majority of its employees and allows access to the plan by the employees' dependents.

Thank you in advance for your cooperation and consideration of this tax abatement application. Should you or your staff have any questions or concerns, please do not hesitate to contact Brad Davis at dced@fb.com.

Respectfully submitted,

Winner LLC

Descriptive list and value of real and personal property improvements

Winner LLC current owns and operates a data center on the proposed site and would construct another data center building on its existing campus in Fort Worth. The facility under consideration would be located on the far north end of the campus and is estimated to be approximately 150,000 sq. ft. in size. In total, data center construction and equipping would involve a capital investment of at least \$200 million with an anticipated start date of Q1 2021 and completion date by Q3 2022. The proposed qualified investment would include:

- Estimated Value of Real Property Improvements: \$125,000,000
- Estimated Value of Personal Property Improvements: \$75,000,000
- Equipment purchased for use within the proposed data center may include but not be limited to:
 - Computer servers;
 - Chassis;
 - Storage heads;
 - Flash storage cards;
 - Network switches;
 - Routers;
 - Blades;
 - Racks; and
 - Miscellaneous server components.

Plat/Map of Project Location



Project Time Schedule

- **Anticipated State Date of Construction:** Q1 2021
- **Anticipated Completion Date:** Q3 2022

Owner's policy regarding use of disadvantaged business enterprises ("DBE")

Our goal is to utilize as many local and MWBE vendors as possible.

Owner's policy addressing regional air quality/non-attainment status and plan for participation in regional Ozone Action Program

Environmental impacts are anticipated to be extremely minor, but may include the following:

- Fresh air is used to cool the data center, resulting in no emissions of particulate matter from the cooling system.
- The site is adjacent to a busy highway so any minor traffic increases around the site will have a negligible impact on air quality.
- Emergency backup generators will be permitted through TCEQ, operated in accordance with state regulations, and will have a small impact on air quality due to infrequent use and emission control technology.
- As of 2020, Facebook's operations globally are supported by 100% renewable energy. Facebook has signed long-term agreements with over 700MW of new wind and solar projects in Texas which will all be online in 2020 and will generate more clean electricity than is consumed by the Fort Worth Data Center. This helps to mitigate emissions generated from Facebook's electricity consumption.
- The proposed data center will meet and/or exceed requirements for erosion control, storm water management and landscaping.

Tax certificate showing property taxes paid for the most recent tax year



WENDY BURGESS
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: 05/19/2020

2019 TAX STATEMENT

IN GOD WE TRUST

V1 13

ACCOUNT: 00042324937

LEGAL: ALLIANCE GATEWAY NORTH
 BLOCK 3 LOT TR2

e-STATEMENT



Visit our website for online credit card and eCheck payments
 Pay by phone at 817-884-1110

OWNER: WINNER LLC
 PARCEL ADDRESS: 300400 LINK WAY
 EXEMPTIONS: AB001

LAND VALUE	IMPROVEMENT VAL	APPRAISED VAL				
16,365.010	378,159.425	394,524.435				
TAXING ENTITIES	APPRAISED VALUE	EXEMPTION AMOUNT	TAXABLE VALUE	TAX RATE PER \$100	BASE TAX	TAXES DUE CURRENTLY
FT WORTH CITY	394,524.435	0	394,524.435	0.747500	2949070.15	0.00
TARRANT COUNTY	394,524.435	226,895.655	167,628.780	0.234000	392251.35	0.00
REG WATER DIST	394,524.435	0	394,524.435	0.028700	113228.51	0.00
T C HOSPITAL	394,524.435	151,263.770	243,260.665	0.224429	545947.48	0.00
T C COLLEGE	394,524.435	0	394,524.435	0.130170	513552.46	0.00
TOTAL TAXES					4,514,049.95	0.00

TOTAL AMOUNT DUE INCLUDES PAYMENTS RECEIVED 0.00

IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED, AND YOU OCCUPY THE PROPERTY DESCRIBED IN THIS DOCUMENT AS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE PAYMENT OF THESE TAXES.

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

WINNER LLC
 AB001

RETURN WITH PAYMENT

00042324937
 00042324937

PAY THIS AMOUNT
\$0.00
 Delinquent after 1/31/2020

00042324937 2019

81108474
 81108474

IF PAID IN	AMOUNT DUE
JUN	0.00
JUL	0.00

WINNER LLC
 1 HACKER WAY BLDG 10
 MENLO PARK, CA 94025

Make checks payable to:
 WENDY BURGESS, TAX-ASSESSOR-COLLECTOR
 PO BOX 961018
 FORT WORTH TX 76161-0018

00042324937 000000000 000000000 000000000 051920200000

EXHIBIT "E"

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 (c), 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 "F"

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

**CONSENT TO ASSIGNMENT
FOR SECURITY PURPOSES OF
TAX ABATEMENT AGREEMENT
BETWEEN TARRANT COUNTY AND**

This **CONSENT TO ASSIGNMENT FOR SECURITY PURPOSES OF TAX ABATEMENT AGREEMENT** ("**Consent**") is entered into by and between the **TARRANT COUNTY, TEXAS** ("**County**"); _____ ("**Owner**"), a _____; and _____ ("**Lender**"), a _____.

RECITALS

The County, Owner and Lender hereby agree that the following statements are true and correct and constitute the basis upon which the parties have entered into this Consent:

A. The County and Owner previously entered into that certain Tax Abatement Agreement, dated as of _____, _____ (the "**Agreement**") pursuant to which the County agreed to abate a percentage of Owner's ad valorem real and personal property taxes in return for Owner's construction of _____, as more specifically outlined in the Agreement (the "**Project Improvements**"). The Agreement is a public document on file in the County's offices.

B. Section VIII of the Agreement allows Owner to assign its rights and obligations under the Agreement to a financial institution or other lender for purposes of granting a security interest in the Land and/or Project Improvements without the approval of the Commissioners' Court, provided that Owner and the financial institution or other lender first execute a written agreement with the County governing the rights and obligations of the County, Owner, and the financial institution or other lender with respect to such security interest.

C. Owner wishes to obtain a loan from Lender in order to [*state reason for loan*] (the "**Loan**"). As security for the Loan, certain agreements between Owner and Lender governing the Loan and dated _____, including, but not limited to, that certain Loan Agreement and [*list other related documents*] (collectively, the "**Loan Documents**") require that Owner assign, transfer and convey to Lender all of Owner's rights, interest in and to the Agreement until such time as Owner has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender's security interest in the Agreement (the "**Assignment**").

D. The County is willing to consent to this Assignment specifically in accordance with the terms and conditions of this Consent.

AGREEMENT

1. The County, Owner and Lender hereby agree that the recitals set forth above are true and correct and form the basis upon which the County has entered into this Consent.
2. The County hereby consents to the Assignment at the request of Owner and Lender solely for the purpose of Lender's securing the Loan pursuant to and in accordance with the Loan Documents. Notwithstanding such consent, the County does not adopt, ratify or approve any of the particular provisions of the Loan Documents and, unless and to the extent specifically acknowledged by the County in this Consent, does not grant any right or privilege to Lender or any assignee or successor in interest thereto that is different from or more extensive than any right or privilege granted to Owner under the Agreement.
3. In the event that the County is required by the Agreement to provide any kind of written notice to Owner, including notice of breach or default by Owner, the County shall also provide a copy of such written notice to Lender, addressed to the following, or such other party or address as Lender designates in writing, by certified mail, postage prepaid, or by hand delivery:

or such other address(es) as Lender may advise County from time to time.

4. If Owner fails to cure any default under the Agreement, the County agrees that Lender, its agents or designees shall have an additional thirty (30) calendar days or such greater time as may specifically be provided under the Agreement to perform any of the obligations or requirements of Owner imposed by the Agreement and that the County will accept Lender's performance of the same as if Owner had performed such obligations or requirements; provided, however, that in the event such default cannot be cured within such time, Lender, its agents or designees, shall have such additional time as may be reasonably necessary if within such time period Lender has commenced and is diligently pursuing the remedies to cure such default, including, without limitation, such time as may be required for lender to gain possession of Owner's interest in the Owner property pursuant to the terms of the Loan Documents.
5. If at any time Lender wishes to exercise any foreclosure rights under the Loan Documents, before taking any foreclosure action Lender shall first provide written notice to the County of such intent (a "Notice"). Lender shall copy Owner on the Notice and deliver such Notice to Owner by both first class and certified mail return receipt concurrent with its transmittal of the Notice to the County and represent in the Notice that it has done so. Notwithstanding anything to the contrary herein, unless Lender enters into a written agreement with the County to assume and be bound by all covenants and obligations of Owner under the Agreement, Lender understands and agrees that the County shall not have any obligation to Lender under the Agreement. In addition, Lender understands and agrees that if Lender wishes

to sell all or any portion of the Land or Project Improvements to a third party following Lender's exercise of any foreclosure rights under the Loan Documents, the County shall not owe any obligation to such third party pursuant to the Agreement unless Lender and such third party comply with the procedure for assignment set forth in Section VIII of the Agreement, including the obligation of such third party to enter into a written agreement with the County to assume and be bound by all covenants and obligations of Owner under the Agreement.

6. In the event of any conflict between this Consent and the Agreement or any of the Loan Documents, this Consent shall control. In the event of any conflict between this Consent and any of the Loan Documents, this Consent shall control. In the event of any conflict between the Agreement and any of the Loan Documents, the Agreement shall control.

7. This Consent may not be amended or modified except by a written agreement executed by all of the parties hereto. Notwithstanding anything to the contrary in the Loan Documents, an amendment to any of the Loan Documents shall not constitute an amendment to this Consent or the Agreement.

8. Once Owner has fully satisfied all duties and obligations set forth in the Loan Documents that are necessary to discharge Lender's security interest in the Agreement and such security interest is released, Lender shall provide written notice to the County that Lender has released such security interest, in which case this Consent shall automatically terminate.

9. This Consent shall be construed in accordance with the laws of the State of Texas. Venue for any action arising under the provisions of this Consent shall lie in state courts located in Tarrant County, Texas or in the United States District Court for the Northern District of Texas, Fort Worth Division.

10. Capitalized terms used but not specifically defined in this Consent shall have the meanings ascribed to them in the Agreement.

11. This written instrument contains the entire understanding and agreement between the County, Owner and Lender as to the matters contained herein. Any prior or contemporaneous oral or written agreement concerning such matters is hereby declared null and void to the extent in conflict with this Consent.

12. This Consent shall be effective on the later date as of which all parties have executed it. This Consent may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. The failure of any party hereto to execute this Consent, or any counterpart hereof, shall not relieve the other signatories from their obligations from their obligations hereunder.

EXECUTED as of the last date indicated below:

[SIGNATURES IMMEDIATELY FOLLOW ON NEXT PAGE]

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.

WINNER LLC,
a Delaware limited liability 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 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.*

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.

WINNER LLC,
a Delaware limited liability company:

By: _____
Name:
Title:

Date: _____

TARRANT County, TEXAS

By: B. Glen Whitley
B. Glen Whitley
County Judge

Date: October 6, 2020

ATTEST:

Zoni Otehlung
Deputy County Clerk

APPROVED AS TO FORM*:

[Signature]
Asst. Criminal District Attorney

**By law, the 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.*

EXHIBIT "G"

FORM OF TAX ABATEMENT EVALUATION REPORT



Tarrant County Annual Tax Abatement Evaluation Report

Reporting Period: January 1, 2018 to December 31, 2018

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