



COMMISSIONERS COURT
COMMUNICATION

CO#
119739

SUBJECT: **APPROVAL OF TAX ABATEMENT - ARLINGTON COMMONS
REDEVELOPMENT PROJECT - PHASE 1A, ARLINGTON**

COMMISSIONERS COURT ACTION REQUESTED:

It is requested that the Commissioners Court consider approval of a request for tax abatement from Arlington Commons, LLC for the redevelopment and replacement of deteriorating apartment complexes along East Lamar Boulevard in Arlington with a new multi-phased, mixed-use development, and take action as noted on the following issues:

1. Approve Tarrant County and Tarrant County Hospital District participation with the City of Arlington in the abatement of ad valorem taxes on the eligible real property improvements made by Arlington Commons, LLC for construction of Phase IA multi-family improvements, for i) a period of ten (10) years, at a maximum abatement percentage of seventy percent (70%) for Tarrant County, and ii) a period of ten (10) years, at a maximum abatement percentage of fifty percent (50%) for Tarrant County Hospital District, as set forth in the agreement.
2. Approve a variance from Section III(h)(1) of Tarrant County's Tax Abatement Policy which requires a minimum of twenty-five new full time jobs, to allow for a minimum of three (3) new full time jobs for the Phase IA project.
3. Approve the attached resolution certifying Tarrant County's agreement to participate with the City of Arlington in the abatement of ad valorem taxes for Arlington Commons, LLC and authorize the execution the agreement between Tarrant County and Arlington Commons, LLC.

BACKGROUND:

The developer, The Nehemiah, LLC (a member of Arlington Commons, LLC), and the City of Arlington have proposed a public/private partnership to redevelop approximately sixty-six (66) acres along East Lamar Blvd., between Rolling Hills Country Club and Lincoln Drive. The project includes the demolition and redevelopment of four (4) existing sub-standard apartment complexes - Huntington Chase, The Pointe of North Arlington, Countrywood, and Water Chase, along with improvements to E. Lamar Blvd., improvements to Parkway Central, and modifications/improvements to nearby Roquemore Elementary School. The City of Arlington plans to provide assistance toward the costs of

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



Arlington Commons Redevelopment

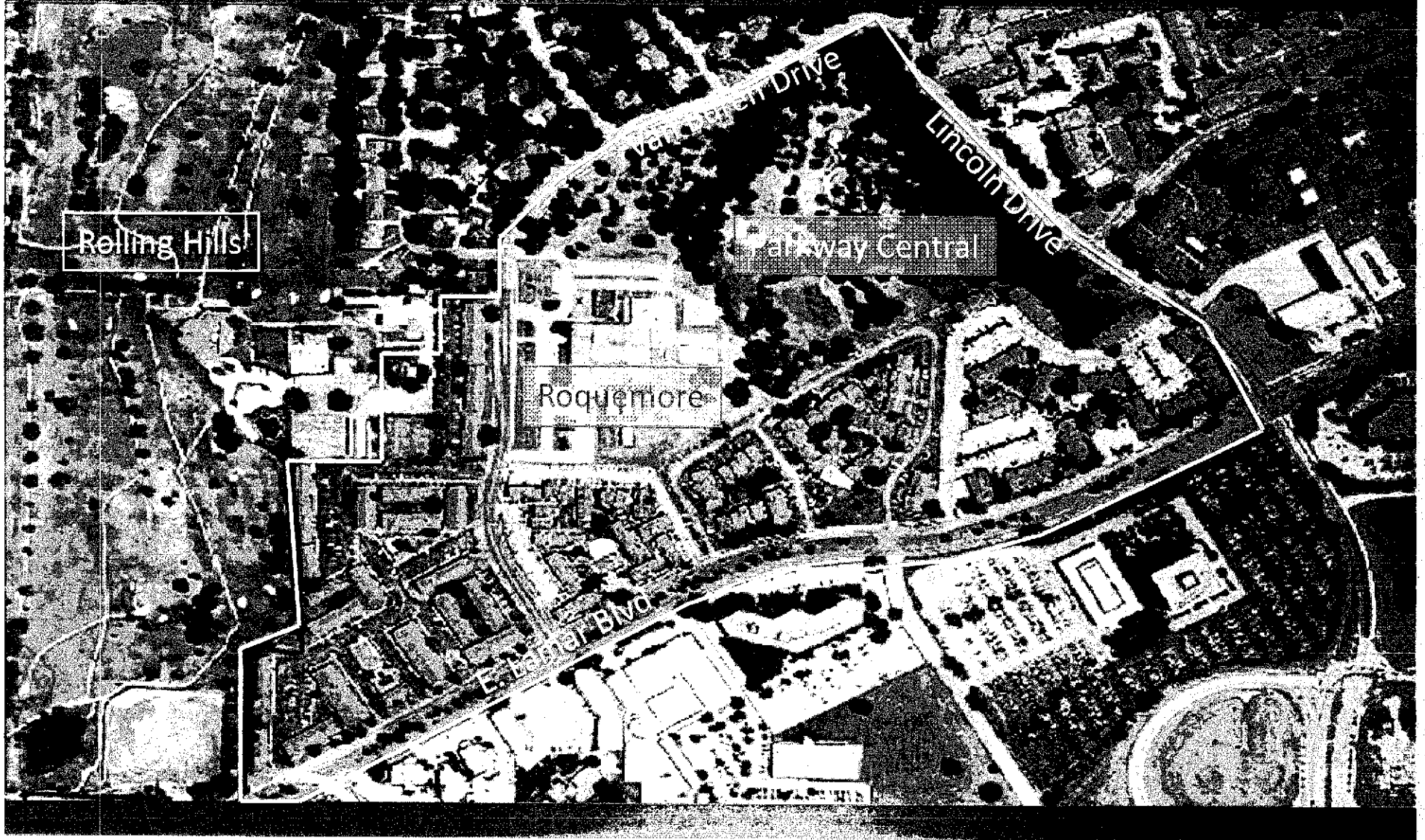
March 24, 2015

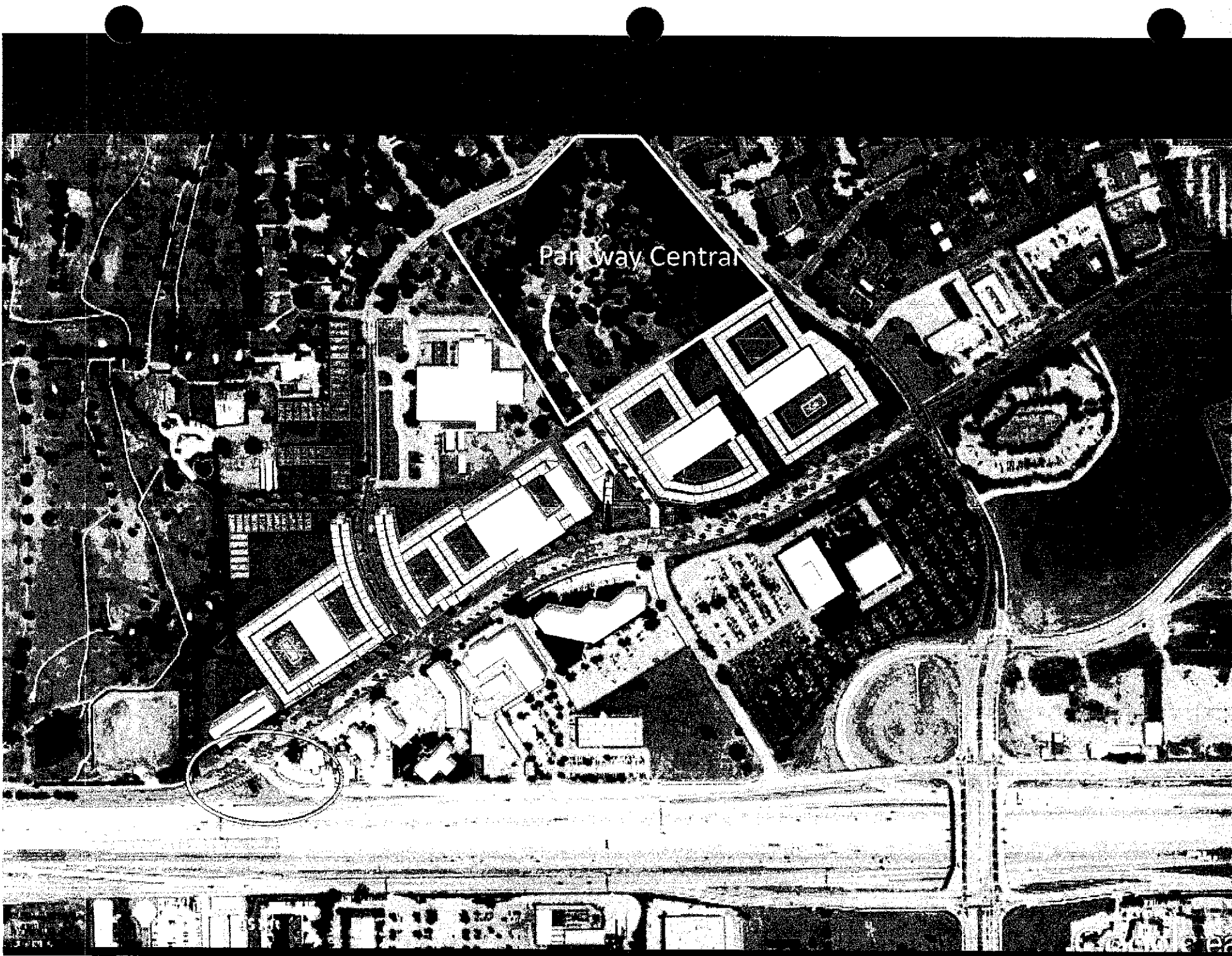
Project Plan

Developer plans a public/private partnership to redevelop approximately 66 acres along East Lamar Blvd.

- Demolition and Redevelopment of four existing sub-standard apartment complexes
- Construction of 1,675 new high-end units within a multi-phased, mixed-use development
- Improvements to E. Lamar Blvd, Improvements to Park Central and Modifications/Improvements to Roquemore Elementary School

Project Area





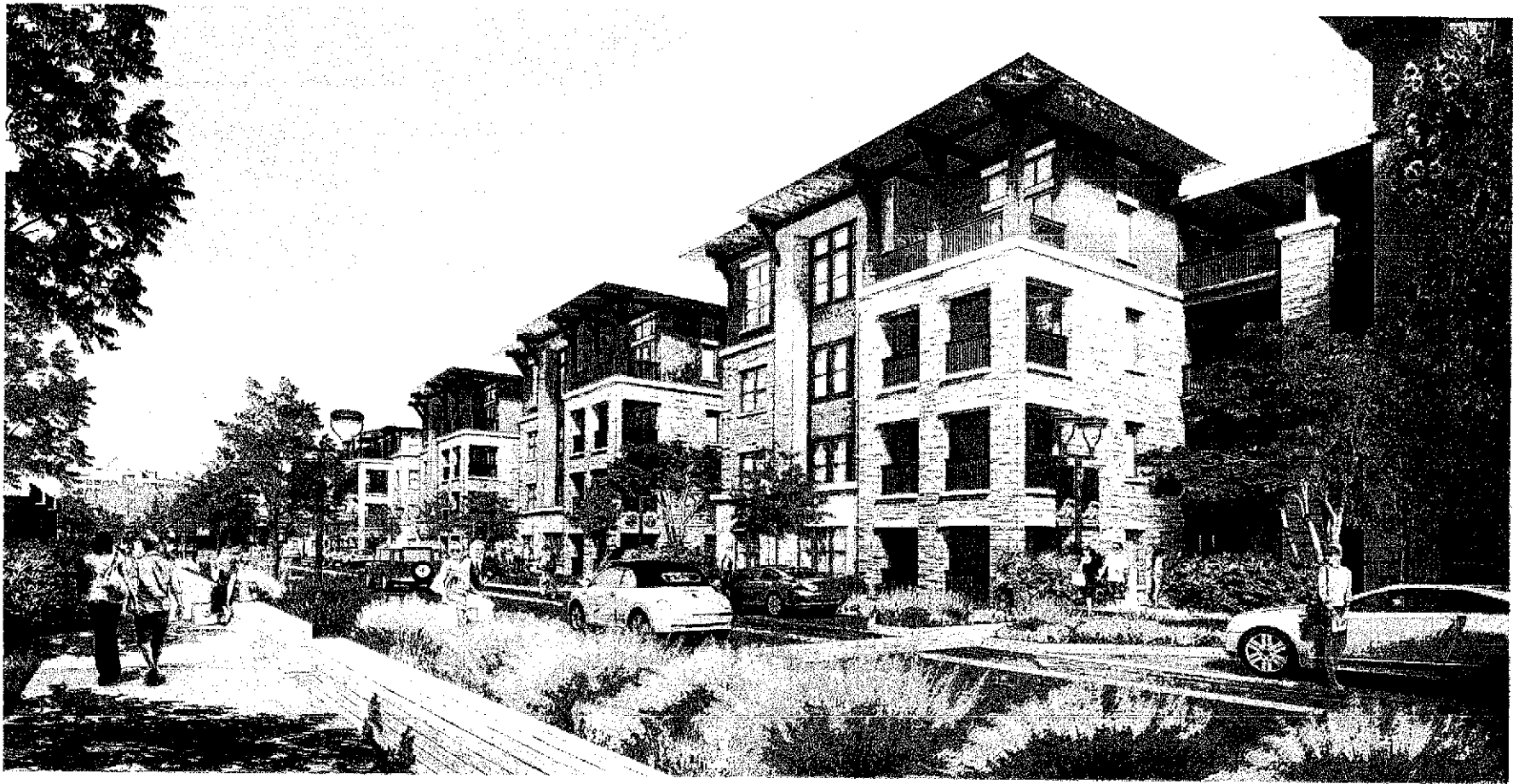
Parkway Central



JHP

ARLINGTON COMMONS





 THE
NEHEMIAH
COMMUNITY

JHP

ARLINGTON COMMONS



1000 14th Street, N.W.
Arlington, VA 22209
703.241.1111



THE
NEHEMIAH
COMPANY

JHP

ARLINGTON COMMONS



100 YEARS OF
AMERICAN
ARCHITECTURE

Public-Private Partnership

City of Arlington:

- Assistance with demolition, environmental remediation, detention and drainage costs
- Lamar and Park Central improvements
- Impact Fees and Fee Waivers
- 20 year tax rebate at up to 90% each phase
- 10 year tax abatement up to 90 % each phase

Tarrant County:

- 10 year tax abatement for each phase; 70% County, 50% Hosp Dist

Arlington Common Project Summary

Request:

- Tax Abatement – 10 year term for each phase of project development
- Four separate agreement for each of Fort (4) Phases
- A Fifth Phase/Agreement is anticipated at a later date after developer gains ownership
- Each phase to commence within 2 years of the prior phase
- Phase 1 development to begin March 2015
- County abatement at 70%; Hospital District at 50%

Project Scope:

- Redevelopment of four (4) existing sub-standard apartment complexes on 66 acres along E. Lamar Blvd.
- New construction of 1,675 high-end apartment/townhome/loft-type units with full amenities at an estimated value of \$105,000 to \$120,000 per unit
- Redevelopment requires demolition and asbestos remediation
- Developer working with Arlington ISD on improvements to Roquemore Elementary and with the City of Arlington on improvements to the Park Central and along Lamar Blvd

Improvement Costs and Incentive Value:

<u>Phase/Agreement</u>	<u>No. Units</u>	<u>Development Cost</u>	<u>Est. Abated Value</u>	
			<u>Cnty 70%</u>	<u>HD 50%</u>
Phase IA	350 units	\$ 37,560,761	\$ 694,123	\$ 427,999
Phase IB	300 units	\$ 32,194,938	\$ 594,962	\$ 366,856
Phase IC	300 units	\$ 32,194,938	\$ 594,962	\$ 366,856
Phase II	<u>375 units</u>	\$ 40,243,673	<u>\$ 743,703</u>	<u>\$ 458,571</u>
Total Initial Project	1,375 units	\$ 142,194,310	\$2,627,751	\$1,620,283
*Phase III <i>(anticipated but property not currently under ownership)</i>	350 units	\$ 37,560,761	\$ 694,123	\$ 427,999
Full Project – 5 phases	1,675 units	\$ 179,755,071	\$3,321,874	\$ 2,048,282



Tarrant County Application for Tax Abatement/Reinvestment Zone

I. APPLICANT INFORMATION

Applicant/Property Owner: Arlington Commons Lands, LLC

Company/Project Name: Arlington Commons Phase 1A

Mailing Address: 835 E. Lamar Blvd # 175

Telephone: (214) 499-4654

Fax: N/A

Applicant's Representative for contact regarding abatement request:

Name and Title: Robert Kembel, Manager of The Nehemiah LLC, (Member of Arlington Commons Lands, LLC.)

Mailing Address: 835 E. Lamar Blvd # 175

Telephone: (214) 499-4654

Fax: N/A

E-mail: rkembel@thenehemiahcompany.com

II. PROPERTY AND PROJECT DESCRIPTION

Address and legal description of property to be considered for Tax Abatement/Reinvestment Zone: The

Address for the property to be considered for Tax Abatement/Reinvestment Zone is 425 East Lamar Boulevard, Arlington, TX 76011

The Legal description of the property can be found in "Exhibit A" attached hereto

- **Project Description:** The project consists of the redevelopment of an old and deteriorated apartment community into 4 story wrap structure with structured parking and containing 353 apartment units, onsite leasing facility and resident amenities

Description of activities, products, or services produced and/or provided at project location: Multifamily Apartments units for rent.

Current Assessed Value: Real Property: estimated at \$545,000 (vacant land)* Personal Property: \$ N/A

* The estimated value of subject property (5.564 Acres) was calculated as the proportionate share of the total 10.278 Acres assessed under the 2014 AV Tax Statement for the Parkway Central Addition Blk 5 Lot AR as follows: $(\$1,006,560 / 10.278 \text{ AC}) * 5.564 \text{ AC} = \$545,000$

Estimated start date of construction/site improvements: The environmental remediation and demolition activities commenced in July of 2014 and will be completed in 2nd quarter of 2015. Arlington Commons Phase 1A construction activities & site improvements are expected to commence in mid to late 2015.

Projected date of occupancy/commencement of operations at project site: The projected date of occupancy is mid 2017 to early 2018 depending on start date.

Location of existing company facilities: 420 E. Lamar Blvd, Suite 210, Arlington TX 76011

Requested level of Tax Abatement: Seventy percent (70 %) of eligible property for Ten (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. Project returns are below the acceptable market capital requirements without the tax abatement

III. PROJECTED VALUE OF IMPROVEMENTS

Estimated Value of Real Property Improvements: We estimate the total value of real property improvements for Arlington Commons Phase 1A to be approximately \$37,600,000

Estimated Value of Personal Property Improvements \$ N/A

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.): N/A

IV. EMPLOYMENT IMPACT AT PROJECT LOCATION

A. NEW EMPLOYMENT

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

Full-time 8 Part-Time None

Provide types of jobs created and average salary levels:

<u>TITLE</u>	<u>NO. OF POSITIONS</u>	<u>HOURS PER WEEK</u>	<u>ANNUAL SALARY LEVEL</u>
Property Manager	1	40	\$75,000
Maintenance Supervisor	1	40	\$56,000
Assistant Manager	1	40	\$49,000
Assistant Maintenance Supervisor	1	40	\$41,000
Leasing Consultant	2	40 each	\$35,500
Grounds Keeper	2	40 each	\$31,100

TOTAL PROPOSED ANNUAL PAYROLL: \$354,400

Start date and annual payroll of new permanent positions (if positions to be phased in, provide figures for each phase year): N/A

Percentage of new jobs too be filled be Tarrant County residents: 50%

Number of employees transferring from other company locations: N/A

B. CONSTRUCTION RELATED EMPLOYMENTS

Projected number of construction related jobs: TBD

Estimated total construction payroll: \$ TBD

Commitment as to percentage of construction dollars to be spent with Tarrant County contractors or subcontractors: TBD

Commitment as to percentage & total dollars of construction contracts to be awarded to DBE: TBD

C. CURRENT COMPANY/PROJECT LOCATION EMPLOYMENT

Current Number of Employees: Full-time 1 Part-time 3

Average annual payroll: \$ 385,000

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

Male 100%

Hispanic 25%

White 75%

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: \$25 Family: \$0

Other employee benefits provided or offered:

- Dental Insurance Coverage for family included in health care benefits
- Health Savings Account \$400.00/mo. company contribution
- Company sponsored 401-K with matching contribution equal to 100% of elective deferrals, up to 3% of annual compensation

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

Estimated amount of annual supply and services expenses: TBD

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: TBD

VI. ENVIRONMENTAL IMPACT OF PROJECT

Indicate if development, construction, equipment, distribution methods, and/or operational processes may

impact the environment in the following areas, attach detail if necessary:

- Air Quality Water Quality Solid Waste Disposal Storm/Water Runoff
Floodplain/Wetlands Noise levels Other (specify) "[Response]"

Provide detail on existing and new fleet vehicles, specifying types of vehicles, quantities and fuel used (gasoline, diesel, LP gas, CNG, etc.): N/A

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 _____

Title _____

Printed Name _____

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.**



RESOLUTION

PARTICIPATION IN TAX ABATEMENT ARLINGTON COMMONS – PHASE 1A

WHEREAS, Arlington Commons, LLC, an entity duly authorized to do business in the State of Texas, and duly acting by and through its authorized officers, (hereafter referred to collectively as "Owner"), plans to redevelop and replace deteriorating apartment complexes along East Lamar Boulevard and construct a new multi-phased, mixed-use multi-family development on real property under its ownership, more particularly described in the Tax Abatement Agreement attached hereto and incorporated herein by reference ("Real Property"), located in the City of Arlington; 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 Arlington; and

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

WHEREAS, the Real Property and all improvements thereon are located in Reinvestment Zone Number Forty-One in the City of Arlington, a reinvestment zone for the purpose of tax abatement as authorized by Chapter 311 and 312 of the Texas Tax Code, as amended (the "Code"); and

WHEREAS, on the 18th day of November, 2014, the City Council of the City of Arlington approved 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 demolition and construction of certain improvements consisting of 350 unit apartment complex with structured parking at an estimated cost of over \$37,000,000 to be completed by June 30, 2018; and

WHEREAS, the Agreement with the Owner is conditioned upon certain demolition, construction and use of the improvements 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

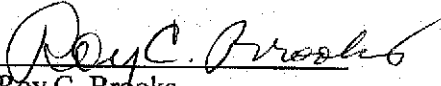
WHEREAS, the County has approved the Tarrant County Tax Abatement Policy Statement Guidelines and Criteria for granting tax abatement in reinvestment zones in Tarrant County;

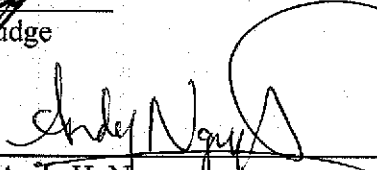
NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Commissioners Court of Tarrant County, Texas:

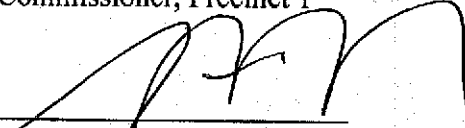
1. That all recitals set forth in the preamble are hereby found to be true and correct;
2. That the Commissioners Court shall have prudently reviewed each tax abatement agreement approved by a municipality having taxing jurisdiction with respect to property located in the County and within a reinvestment 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 County and Hospital District Taxes be and is hereby approved; that the County and its Commissioners Court hereby agree to enter into the Agreements as a party thereto; and the County Judge of the County be and is hereby authorized and directed to execute and deliver said Agreement on behalf of the County and its Commissioners Court, substantially in the form attached hereto, and carry out the terms thereof at the appropriate time(s).


PASSED AND APPROVED, IN OPEN COURT, this 24th day of March, 2015, through Court Order No. 119739.


B. Glen Whitley, County Judge


Roy C. Brooks
Commissioner, Precinct 1


Andy H. Nguyen
Commissioner, Precinct 2


Gary Fickes
Commissioner, Precinct 3


J.D. Johnson
Commissioner, Precinct 4

THE STATE OF TEXAS §

Tax Abatement Agreement
Arlington Commons - Phase IA

COUNTY OF TARRANT §

THIS Tax Abatement Agreement, Arlington Commons - Phase 1A (the "Agreement") is executed by and between **ARLINGTON COMMONS, LLC**, an entity duly authorized to do business in the State of Texas, acting by and through its authorized officer (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 has adopted a Policy Statement for Tax Abatement, which constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the COUNTY; and

WHEREAS, the Premises (as hereafter defined) and the Eligible Property (as hereafter defined) are located in the Reinvestment Zone Number Forty-One in the City of Arlington, Texas, established by City Ordinance No. 14-071, being a commercial-industrial reinvestment zone for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code, as amended; and

WHEREAS, on the 18th day of November, 2014, the City Council of the City of Arlington approved and authorized the execution and delivery of a Tax Abatement Agreement as to the Eligible Property thereon, said Tax Abatement Agreement being fully executed as of January 12, 2015; and

WHEREAS, OWNER has requested participation in tax abatement from the County concerning the contemplated Improvements to the Premises, in order to provide for redevelopment and replacement of deteriorating apartment complexes along East Lamar Boulevard with a new multi-year, phased, mix-use development; and

WHEREAS, the Commissioners Court finds that the contemplated use of the Premises, the Eligible Property and the terms of this Agreement are consistent with encouraging development 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 premises and promises contained herein, do hereby agree, covenant and contract as set forth below:

I.
Definitions

- A. "Added Market Value" is defined as the market value of Eligible Property on the Premises above the Base Year Value, as set forth by the Tarrant Appraisal District.
- B. "Base Year Value" is defined as the tax year 2015 taxable value of the Premises in Reinvestment Zone Number Forty-One on January 1, 2015, as finally determined by the Tarrant Appraisal District.
- C. "Effective Date" is defined as January 1, 2015.
- D. "Eligible Property" is defined as Real Property Improvements as described in Exhibit "A", constructed, erected, installed or affixed to the Premises after the Effective Date of this Agreement and through June 30, 2018. Exhibit "A" is attached hereto and incorporated for all purposes.
- E. "Job" is defined as a permanent, full-time employment position that results in employment on the Premises of at least one thousand, eight hundred and twenty (1,820) hours per position in a year.
- F. "Premises" are defined as the real property (land only) located at 425 East Lamar Boulevard, as described in Exhibit "B", which existed on January 1, 2015, within Reinvestment Zone Number Forty-One, that are owned by OWNER. Exhibit "B" is attached hereto and incorporated for all purposes.
- G. "Phase I and Phase II Properties" are defined as the real property (land and improvements) located at 425, 501, and 525 East Lamar Boulevard and 1900 Van Buren Drive, described by metes and bounds in "Exhibit C" attached hereto.
- H. "Real Property Improvements" are defined as improvements to the Premises, as described in Exhibit "A", and shall include buildings, structures or fixtures erected or affixed to the Premises.
- I. "Reinvestment Zone Number Forty-One" is defined as the real property located in the City of Arlington and described by City of Arlington Ordinance No. 14-071, attached hereto as Exhibit "D".

II.
General Provisions

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

III.
Improvement Conditions and Requirements

- A. OWNER shall improve the Premises by i) demolishing the existing real property improvements located as of June 1, 2013 on the Phase I and Phase II Properties on or before June 30, 2015, and ii) completing the Eligible Property improvements in accordance with this Agreement.
- B. OWNER shall provide for the completion of the Real Property Improvements described in Exhibit "A" of this Agreement not later than June 30, 2018, resulting in an Added Taxable Value above the Base Year Value ("Added Value") of at least Seven Million Dollars (\$7,000,000) for the tax year beginning January 1, 2019, as determined by the Tarrant Appraisal District.
- C. OWNER will create and maintain employment of a least three (3) Jobs on the Premises not later than December 31, 2018.
- D. OWNER shall maintain on the Premises the Eligible Property for the duration of this Agreement as a Multi-Family use under license and regulations as required by the City of Arlington.
- E. All proposed Eligible Property shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations of the City of Arlington and/or Tarrant County.
- F. OWNER agrees and covenants that it will diligently and faithfully pursue the completion of the Eligible Property. OWNER further covenants and agrees that it will use all reasonable efforts to cause the Eligible Property to be constructed in a good and workmanlike manner and in accordance with all applicable state and local laws and regulations.

IV.
Abatement Allowed

- A. As set forth in this section, tax abatement allowed herein shall be for Tarrant County and Tarrant County Hospital District ad valorem real property taxes, relative to Added Value of the Eligible Property located on the Premises, subject to the following terms and conditions.
- B. If the Improvement Conditions and Requirements set forth in Section III herein are met, COUNTY agrees to exempt from taxation i) up to seventy percent (70%) of the Added Value as it relates to Tarrant County ad valorem real property taxes and, ii) up to fifty percent (50%) of Added Value as it relates to Tarrant County Hospital District ad valorem real property taxes, in accordance with the various requirements established by terms of this Agreement and to be calculated as set forth below. The abatement period shall be from tax year beginning January 1, 2019 through and including tax year January 1, 2028.
 - 1. Abatement - If OWNER (i.) improves the Premises and adds the required Eligible Property to the Premises as set forth in Section III A., B. and D., (ii.) maintains employment as set forth in Section III.C., and (iii.) employs Tarrant

County residents for a minimum twenty-five percent (25%) of all Jobs, COUNTY shall exempt from taxation seventy percent (70%) of the Added Value of the Eligible Property for Tarrant County ad valorem real property taxes and fifty percent (50%) of the Added Value of the Eligible Property for Tarrant County Hospital District ad valorem real property taxes. Failure to meet the above requirements for Jobs and Tarrant County resident employment shall be cause for a reduction in the percentage abatement for any year in which the requirements are not met, as set forth in Section IV.B.2.

2. Reduction to Abatement Percentage - In any year that employment levels do not meet the minimum requirements set forth in Section IV.B.1.(ii.) and (iii.), the COUNTY shall reduce the base abatement percentage for that year as follows:
 - a. If the actual number of Jobs falls below the minimum Jobs requirement, OWNER will receive a five percent (5%) reduction.
 - b. If less than twenty-five percent (25%) of all Jobs are filled by Tarrant County residents, OWNER will receive a five percent (5%) reduction.

V.

Reports, Audits and Inspections

- A. Annual Certification, Evaluation and Reports - Pursuant to state law, OWNER shall certify annually to taxing units that OWNER is in compliance with the terms of the tax abatement agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the agreement, as follows:
 1. Certification - OWNER shall complete and certify a Tax Abatement Evaluation report to be provided by COUNTY for each year of the tax abatement agreement, to be due annually not later than April 30. This certification shall include information supporting job creation and retention requirements, reports on Eligible Property values and costs, a narrative description of the project's progress, and other submittals required by the tax abatement agreement.
 2. Additional Reports - Additionally, throughout the term of this agreement, OWNER shall furnish COUNTY any additional records and information reasonably requested to support the reports required by this Agreement.
- B. Right to Audit Books and Records - COUNTY shall have the right to audit the books and records related to the Eligible Property and supporting the Eligible Property reports. COUNTY shall notify OWNER in advance in writing of their intent to audit in order to allow OWNER adequate time to make such books and records available.
- C. Inspection - At all times throughout the term of this Agreement, COUNTY and the Tarrant Appraisal District (TAD) shall have reasonable access to the Premises for the purpose of inspecting the Premises to ensure that the Eligible Property is constructed, installed, maintained and operated in accordance with the terms of this Agreement. All inspections shall be conducted in a manner as to not unreasonably interfere with the installation of the Eligible Property or the operation of the Premises. The inspections shall be conducted within a reasonable time period after notice by COUNTY or TAD to

OWNER, provided, however, that all inspections shall be made with one (1) or more representative(s) of OWNER present and in accordance with the safety standards of OWNER.

VI.
Use of Premises

The Premises at all times shall be used in a manner that is consistent with the City of Arlington zoning ordinances and consistent with the general purpose of encouraging development within the Reinvestment Zone. Both parties acknowledge that the use of the Premises as a multi-family development is in accordance with this Agreement and is consistent with such purposes.

VII.
Breach and Recapture

- A. **Breach** - A breach of this Agreement may result in termination of this Agreement and recapture by COUNTY of any taxes which otherwise would have been paid to COUNTY without the benefit of the Abatement during the breach period, as set forth in Sections 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, and such taxes shall become due sixty (60) days following notice of breach and after the expiration of any cure period as provided in Section VII(B). The following conditions shall constitute a breach of this Agreement:
1. The Premises are abandoned by OWNER by ceasing to operate the Eligible Property as multi-family for a consecutive period of at least six (6) months at any time during the term of the abatement, or operating at an occupancy rate below thirty-three percent (33%) for a consecutive period of six months or more in abatement years five (5) through ten (10).
 2. OWNER fails to meet the Abatement Conditions and Requirements as specified in Section III. A., B., D., E., or F. herein; or
 3. OWNER allows its ad valorem taxes on any property located within Tarrant County owed to COUNTY, including Tarrant County Hospital District, to become delinquent; or
 4. OWNER fails to comply with the requirements and provisions described in Sections V and XX of this Agreement.
- B. **Notice of Breach** - In the event that COUNTY makes a reasonable determination that OWNER has breached this Agreement, then 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 recapture of abated taxes may occur. 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 require recapture and payment of abated taxes and to demand payment of such.

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

VIII.
Effect of Sale or Lease of Property

The abatement granted by this Agreement shall not be assignable to any new owner or lessee of all or a portion of the Premises or Eligible Property unless such assignment is approved in writing by the Commissioners Court of the COUNTY, and such approval shall not be unreasonably withheld. Assignment to related entities where THE NEHEMIAH, LLC is the general partner or managing member shall be expressly allowed without Commissioners Court approval, provided notification of such assignment is made in writing to COUNTY.

IX.
Notice

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

OWNER: Arlington Commons Lands, LLC
 3104-7 North Collins Street
 Arlington, Texas 76005
 Attention: Robert H. Kembel

WITH A
COPY TO: Winstead PC
 500 Winstead Building
 2728 N. Harwood Street
 Dallas, Texas 75201
 Attn: Barry R. Knight

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

X.
Commissioners Court Authorization

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

XI.
Severability

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

XII.
Estoppel Certificate

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

XIII.
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 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.
Indemnification

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THE OWNER IS NOT AN AGENT, SERVANT OR EMPLOYEE OF THE COUNTY. OWNER AGREES TO PROTECT, DEFEND AND INDEMNIFY COUNTY FROM ANY AND ALL CLAIMS ARISING FROM OWNER'S DEVELOPMENT OF THE PROPERTY MADE THE SUBJECT MATTER OF THIS AGREEMENT FOR ALL CLAIMS, ACTIONS, CAUSES OF ACTION INCLUDING LAWSUITS UNLESS SAID CLAIM, ACTION OR LAWSUIT AROSE SOLELY FROM THE WRONGFUL OR NEGLIGENT ACT OF AN AGENT SERVANT OR EMPLOYEE OF THE COUNTY. THE PARTIES EXPRESSLY AGREE THAT THIS INDEMNIFICATION CLAUSE SHOULD BE INTERPRETED AS BROADLY AS POSSIBLE, AND EXPRESSLY INCLUDES COSTS, ATTORNEY'S FEES AND EXPENSES INCURRED BY THE COUNTY IN DEFENDING ANY CLAIM, ACTION, CAUSE OF ACTION OR LAWSUIT.

XVI.
Force Majeure

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

XVII.
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.

XVIII.
Recordation of Agreement

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

XIX.
Signatories

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

XX.
Procurement of Goods and Services from Tarrant County Businesses and/or Disadvantaged Businesses Enterprises

OWNER agrees to make all commercially reasonable efforts to satisfy the provisions and requirements as set forth in the Tarrant County Tax Abatement Policy, attached hereto as "Exhibit E", including those relating to Tarrant County and DBE contracting requirements. The percentage requirements pertain only to those contracts/supply/services that are within the local control of OWNER, and do not include contracts/supplies/services that are sole source. OWNER shall complete and submit all information necessary to determine to what extent these contracting percentages were met each year during the abatement period.

XXI.
Headings

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

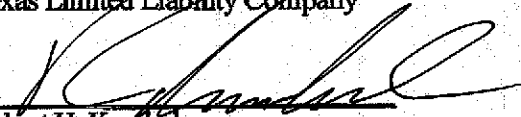
XXII.
Termination

This Agreement shall terminate, in accordance with the terms of this Agreement, unless extended by written agreement of the parties or a written instrument signed by all parties

evidencing a delay by force majeure; provided however, that the period of abatement may not extend beyond ten (10) years.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date indicated below, effective as of the later of such dates.

ARLINGTON COMMONS LANDS, LLC
a Texas Limited Liability Company
By its member: **The Nehemiah, LLC**
a Texas Limited Liability Company

BY 
Robert H. Kembel
Manager of The Nehemiah, LLC

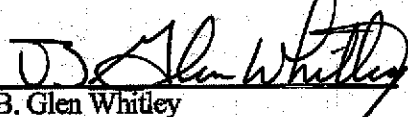
Date 4/8/2015

WITNESS:


Printed Name:

Jason Berend

TARRANT COUNTY, TEXAS

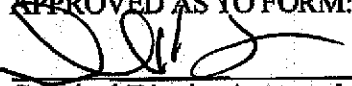
BY 
B. Glen Whitley
County Judge

Date March 24th 2015

ATTEST:


Deputy County Clerk

APPROVED AS TO FORM:


Criminal District Attorney's Office*

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

THE STATE OF § ARLINGTON COMMONS LAND, LLC
COUNTY OF § Acknowledgment

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **ROBERT H. KEMBEL**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **ARLINGTON COMMONS LANDS, LLC**, an entity duly authorized to do business in the State of Texas, and as the Manager of The Nehemiah, LLC, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the _____ day of _____, 2015.

Notary Public in and for
The State of _____

My Commission Expires

Notary's Printed Name

THE STATE OF TEXAS § TARRANT COUNTY, TEXAS
COUNTY OF TARRANT § Acknowledgment

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 24 day of March, 2015.

Kathryn Louise Rotter

Notary Public in and for
The State of Texas

11-7-2014
My Commission Expires

Kathryn Louise Rotter

Notary's Printed Name



EXHIBIT "A"

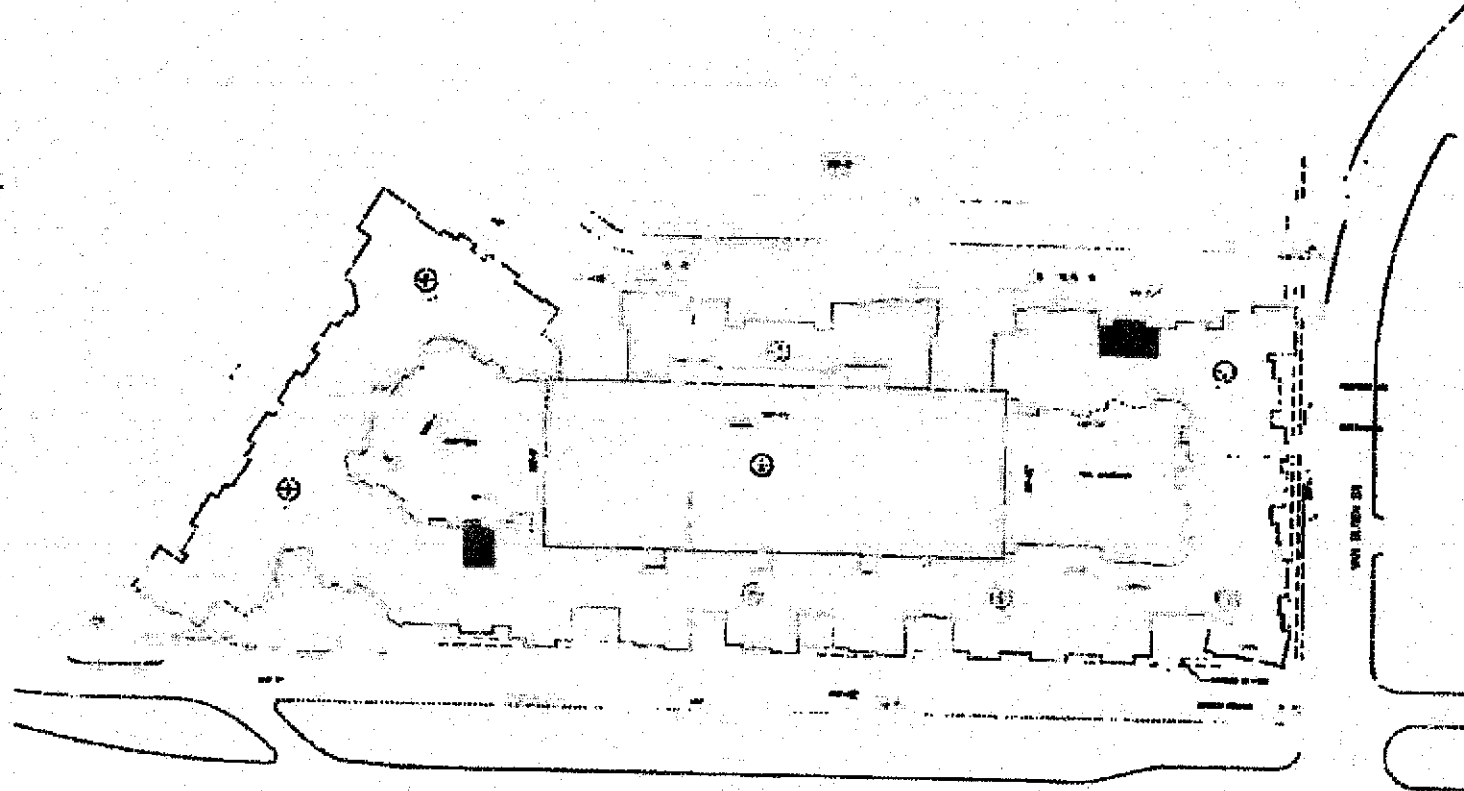
**ELIGIBLE PROPERTY IMPROVEMENTS
PHASE I-A PROJECT**

Phase I-A of a multi-family redevelopment project to include the construction of a new multi-family facility comprised of at least 250 multi-family units and a structured parking garage. Construction of the Phase I-A Project with a total minimum capital investment of \$100,000 per multi-family unit in overall project costs.

01 Accessible Parking Spaces
02 Accessible Drop Room
03 Accessible Parking Spaces
04 Vicinity Map
05 Site Plan Notes & Legend

JEP

DATE: 01/15/2010
 DRAWN BY: JEP
 CHECKED BY: JEP
 PROJECT: A101



Arlington Commons
Arlington, TX

Legend for the site plan, including symbols for accessible parking, drop room, and other site features.

25) Architectural Site Plan

S LAMAR BLVD

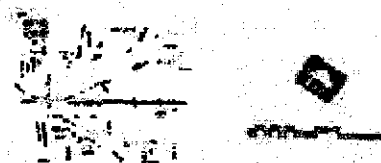
A101

EXHIBIT "B"

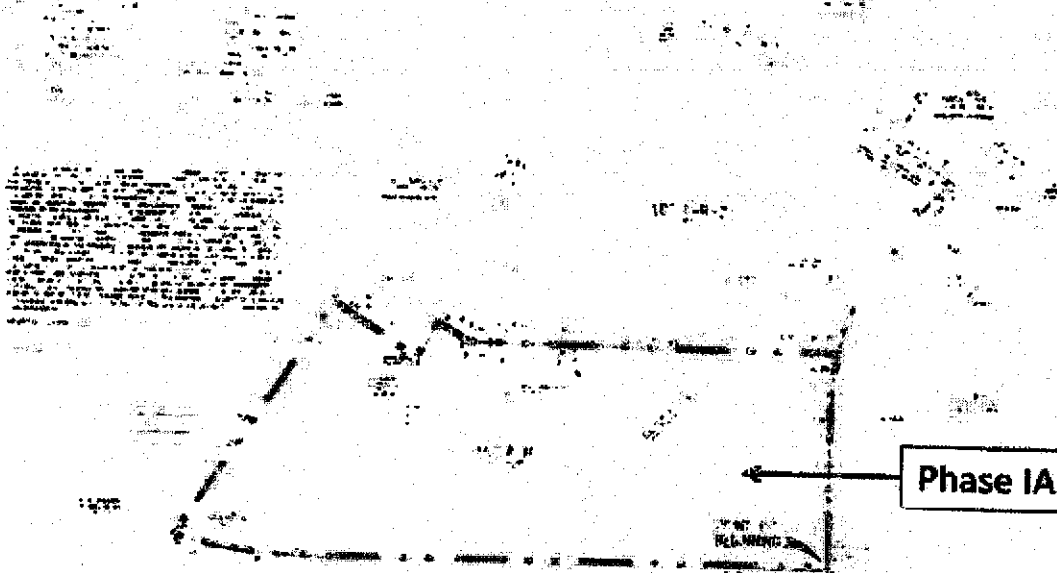
PREMISES

Legal Property Description

Lot A-R-1, Block 5, Parkway Central (5.564 acres), an addition to the City of Arlington, Tarrant County, Texas.



TO: [Illegible]
FROM: [Illegible]
SUBJECT: [Illegible]



Phase IA

[Illegible text block]

[Illegible text block]

[Illegible text block]

PHASE IA

EXHIBIT "C"

PHASE I AND PHASE II PROPERTY

Metes And Bounds Description Of Phase I And Phase II Property

Exhibit "C"

Metes and Bounds description of Phase I and Phase II property

Arlington Commons Lands is the sole owner of a 24.528 acre tract of land situated in the J. M. Henderson Survey, Abstract No. 696 and being all of Lot A-R, Block 5 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-61, Page 1, Plat Records, Tarrant County, Texas (PRTCT), a portion of Lot D, Block 6 of Parkway Central, an addition to the City of Arlington, Tarrant County, Texas as recorded in Volume 388-75, Page 59 (PRTCT), a portion of Van Buren Drive (a variable 60.00 feet wide public right-of-way), all of Lot A, Block 6 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-53, Page 96, Plat Records, Tarrant County, Texas (PRTCT), all of Lot B, Block 6 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-61, Page 96, Plat Records, Tarrant County, Texas (PRTCT) and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1/2 inch iron rod for corner, said point being at a 1/2 inch iron rod found with a cap stamped "GAI" for the Southwesterly corner of said Lot A-R, Block 5.

THENCE North 00°11'11" West, a distance of 393.17 feet to a point for corner;

THENCE North 89°04'55" East, a distance of 132.51 feet to a point for corner;

THENCE North 05°05'41" West, a distance of 593.53 feet to a point for corner;

THENCE North 88°11'13" East, a distance of 380.88 feet to a point for corner;

THENCE North 01°06'10" West, a distance of 505.86 feet to a point for corner;

THENCE North 89°32'21" East, a distance of 142.55 feet to a point for corner;

THENCE South 01°01'09" East, a distance of 402.62 feet to a for the beginning of a tangent curve to the right having a radius of 423.50 feet, a central angle of 12°35'00", and a long chord which bears South 05°16'21" West, 92.82 feet;

THENCE along said curve to the right, an arc distance of 93.01 feet to a point for corner;

THENCE South 11°33'51" West, a distance of 12.86 feet to a point for corner;

THENCE North 89°27'51" East, a distance of 61.36 feet to a point for corner;

THENCE North 89°27'51" East, a distance of 375.00 feet to a point for corner;

THENCE North $54^{\circ}18'04''$ East, a distance of 935.26 feet to a point for corner;

THENCE South $00^{\circ}22'23''$ West, a distance of 663.44 feet to a for the beginning of a curve to the right having a radius of 1269.86 feet and a central angle of $9^{\circ}31'59''$ and a long chord which bears South $81^{\circ}56'21''$ West, 211.04 feet;

THENCE along said curve to the right an arc distance of 211.28 feet to a for the beginning of a reverse curve to the left having a radius of 1041.05 feet, a central angle of $23^{\circ}32'44''$, and a long chord which bears South $73^{\circ}09'17''$ West, 424.81 feet;

THENCE along said curve to the left, an arc distance of 427.81 feet to a for the beginning of a compound curve to the left, having a radius of 1127.24 feet and a central angle of $6^{\circ}07'07''$, and a long chord which bears South $59^{\circ}37'24''$ West, 120.32 feet;

THENCE along said curve to the left an arc distance of 120.38 feet to a point for corner;

THENCE South $56^{\circ}33'51''$ West, a distance of 314.56 feet to a point for corner;

THENCE South $56^{\circ}33'51''$ West, a distance of 60.00 feet to a point for corner;

THENCE South $56^{\circ}33'51''$ West, a distance of 685.00 feet to a for the beginning of a tangent curve to the right having a radius of 786.70 feet, a central angle of $14^{\circ}20'10''$, and a long chord which bears South $63^{\circ}43'56''$ West, 196.33 feet;

THENCE along said curve to the right, an arc distance of 196.84 feet to a for the POINT OF BEGINNING and CONTAINING 1,068,480 square feet, 24.528 acres of land, more or less.

EXHIBIT "D"

**CITY OF ARLINGTON ORDINANCE # 14-071 CREATING
REINVESTMENT ZONE NUMBER FORTY-ONE**

Ordinance No. 14-071

An ordinance establishing Reinvestment Zone Number Forty-One; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; and becoming effective upon second reading

WHEREAS, the City Council of the City of Arlington, Texas, desires to promote the development or redevelopment of a certain area within its jurisdiction by the establishment of a Reinvestment Zone for commercial-industrial tax abatement; and

WHEREAS, on April 7, 2009, the City Council of the City of Arlington, Texas passed Resolution No. 09-079 authorizing staff, following a briefing to City Council regarding creation of the zone, to give notice required by law to call public hearings relative to creation of reinvestment zones for tax abatement; and

WHEREAS, a public hearing was held at which time interested persons were entitled to speak and present evidence for or against the designation of the property described in Exhibit "A" as Reinvestment Zone Number Forty-One, and notice of such public hearing was published in a newspaper of general circulation in the City of Arlington not later than the seventh day before the date of the scheduled hearing; and

WHEREAS, the City Council of the City of Arlington has established guidelines and criteria governing tax abatement agreements and has stated that the City elects to become eligible to participate in tax abatement; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That all of the recitals contained in the preambles of this ordinance are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

2.

The City Council, after conducting a public hearing and having considered all relevant evidence and testimony, has made the following findings and determinations based on such evidence and testimony:

- A. That a public hearing on the designation of Reinvestment Zone Number Forty-One has been properly called, held and conducted, and that notice of such hearing was published in accordance with the law; and
- B. That the boundaries of Reinvestment Zone Number Forty-One should be the proposed area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and
- C. That the improvements sought to be made in Reinvestment Zone Number Forty-One are feasible and practical and would be a benefit to the land to be included in the Zone and to the City of Arlington following the expiration of an executed Tax Abatement Agreement; and
- D. That the proposed area of land to be designated Reinvestment Zone Number Forty-One is reasonably likely, as a result of this 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, thereby contributing to the economic development of the City of Arlington.

3.

In accordance with State law, the City of Arlington hereby officially creates Reinvestment Zone Number Forty-One for commercial-industrial tax abatement, which Zone shall hereafter encompass only that certain area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and such Reinvestment Zone shall be officially designated as Tax Abatement Reinvestment Zone Number Forty-One of the City of Arlington, Texas.

4.

The designation of Reinvestment Zone Number Forty-One of the City of Arlington, Texas shall expire five (5) years after the effective date of its designation and may be renewed.

5.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

6.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

7.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

8.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

9.

This ordinance shall become effective upon second reading.

PRESENTED AND GIVEN FIRST READING on the _____ day of _____, 2014, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the _____ day of _____, 2014, by a vote of _____ ayes and _____ nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

MARY W. SUPINO, City Secretary

**APPROVED AS TO FORM:
JAY DOEGEY, City Attorney**

BY

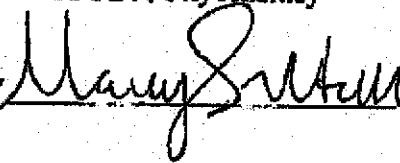


Exhibit "A"

**LEGAL DESCRIPTION
ARLINGTON COMMONS LANDS**

Arlington Commons Lands is the sole owner of a 24.528 acre tract of land situated in the J. M. Henderson Survey, Abstract No. 696 and being all of Lot A-R, Block 5 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-61, Page 1, Plat Records, Tarrant County, Texas (PRTCT), a portion of Lot D, Block 6 of Parkway Central, an addition to the City of Arlington, Tarrant County, Texas as recorded in Volume 388-75, Page 59 (PRTCT), a portion of Van Buren Drive (a variable 60.00 feet wide public right-of-way), all of Lot A, Block 6 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-53, Page 96, Plat Records, Tarrant County, Texas (PRTCT), all of Lot B, Block 6 of Parkway Central, an addition to the City of Arlington, according to plat filed for record in Volume 388-61, Page 96, Plat Records, Tarrant County, Texas (PRTCT) and being more particularly described by metes and bounds as follows:

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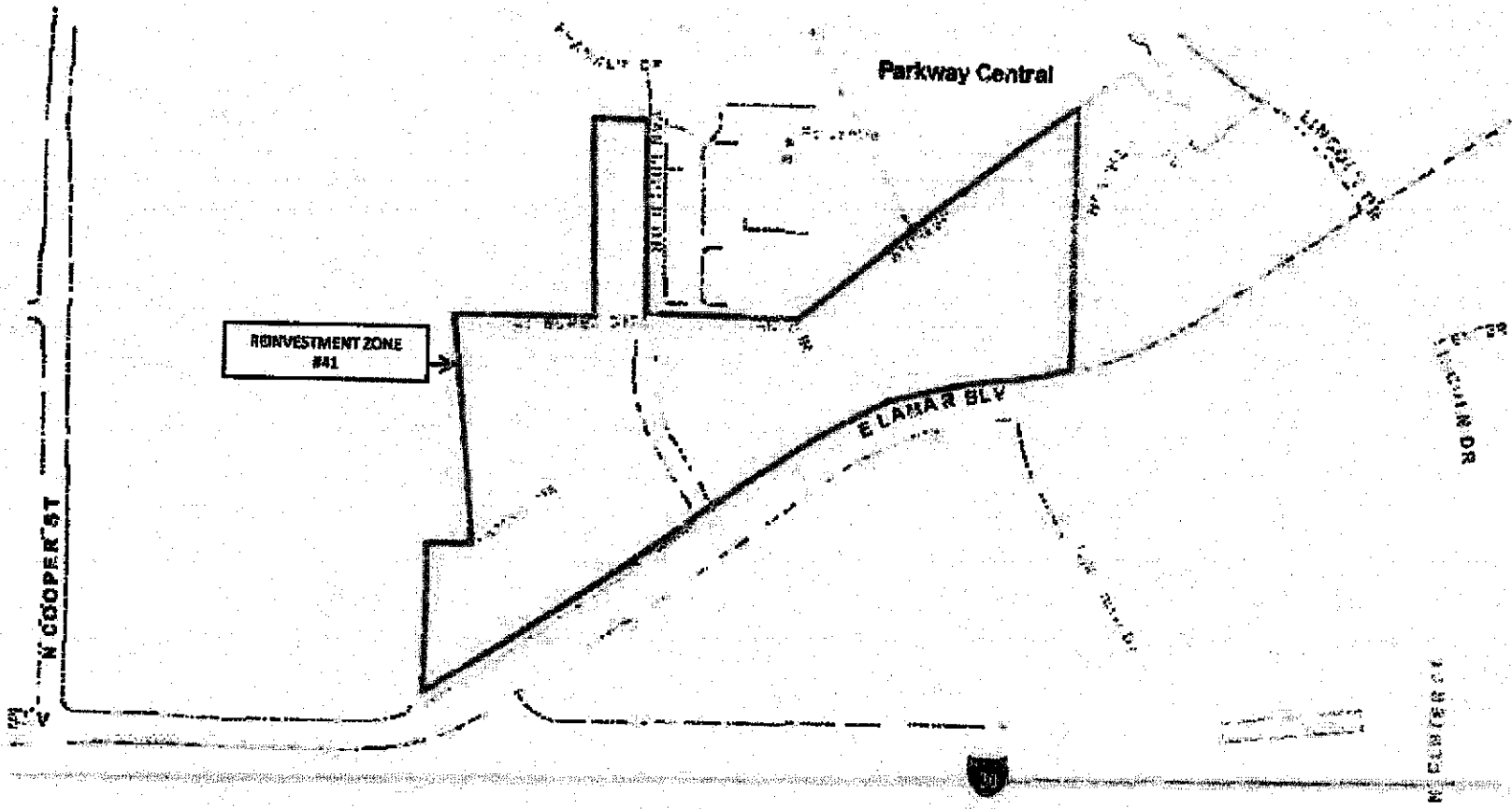
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Exhibit "B"

Map



REINVESTMENT ZONE
#41

Parkway Central

N COOPER ST

E LAMAR BLV

N CENTER ST

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.