

ORDINANCE 2019-10-31-0889

AUTHORIZING AND APPROVING THE TERMS AND CONDITIONS OF A TAX ABATEMENT AGREEMENT WITH CAPLINK, USA, INC., AND FGF, LLC TO EXEMPT ONE HUNDRED PERCENT (100%) OF AD VALOREM TAXES FOR A PERIOD OF TEN (10) YEARS ON REAL AND PERSONAL PROPERTY INVESTMENTS WITHIN AN EXISTING ENTERPRISE ZONE WHICH INCLUDES A CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE FUND (EDIF) GRANT IN AN AMOUNT NOT TO EXCEED \$500,000.00 IN WORKFORCE DEVELOPMENT FUNDS.

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WHEREAS, FGF Brands is a privately-held baked goods manufacturer headquartered in Toronto, Canada with a total global workforce of 2,400 which acquired Hill Country Bakery which is based in San Antonio and produces and supplies baked goods for clients across North America; and

WHEREAS, FGF, LLC (FGF) and CAPLINK, USA, Inc. (CAPLINK) are establishing U.S. headquarters and expanding existing operations by investing \$129,500,000.00 in real and personal property improvements and adding 600 new jobs over ten years at a new business campus and bakery equipped with state-of-the-art manufacturing technology to be located at 6245 State Hwy 151 in Council District 6 (the "Project"); and

WHEREAS, CAPLINK and FGF have committed to hiring 35% of its workforce from targeted populations and investing \$100,000.00 per year in employee retention programs focused on economic mobility which is referred to as an Upskill Partnership Plan (UPP) and must include job coaching, barrier assessments, referrals to services to overcome such barriers, and access to training funds; and

WHEREAS, FGF, through an EDIF Grant provided by the City, will provide training funds in an amount not to exceed \$500,000.00, to be paid out at a rate of \$50,000.00 per year over ten years, to reimburse FGF for training funds paid to qualifying employees to promote economic mobility; and

WHEREAS, the City Council finds that offering FGF/CAPLINK a Tax Abatement Agreement for its real and personal property improvements is a reasonable incentive to help induce FGF/CAPLINK to make significant real and personal property improvements to create a new business campus, expand its operations and create 600 new full-time jobs in San Antonio; and

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code, the City is authorized to establish and provide for the administration of one or more programs, including programs for making grants of public money to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

WHEREAS, in accordance with City Ordinance No. 100684, the City created an Economic Development Program for the purpose of making grants available for economic development projects that the City finds will accomplish the purpose and goals of Chapter 380; and

WHEREAS, the City Council finds that it is in the best interest of the City to approve a Tax Abatement Agreement with FGF/CAPLINK to induce the desired and beneficial economic development in the Enterprise Zone and further finds that the goals of Chapter 380 will be met by assisting FGF/CAPLINK in undertaking and completing the Project and has identified economic development funds for use in carrying out this purpose; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council approves the terms and conditions of a Tax Abatement Agreement with FGF, LLC and CAPLINK, USA, Inc. granting a one hundred-percent (100%), ten (10) year abatement of ad valorem real and personal property taxes within a Texas Enterprise Zone, to include a Chapter 380 Economic Development Incentive Fund Grant, are hereby approved.

SECTION 2. The City Manager or designee is authorized to execute a Tax Abatement Agreement, to include an EDIF grant, with FGF, LLC and CAPLINK, USA, Inc. in accordance with this Ordinance. A copy of the Agreement, in substantially final form, is attached to this Ordinance as **Attachment I**. The final agreement shall be filed with this Ordinance upon execution.

SECTION 3. Funding in the amount of \$500,000.00 for this Ordinance is available in Fund 29059000, Cost Center 1604010001, and General Ledger 5201040 as part of the Fiscal Year 2020 budget.

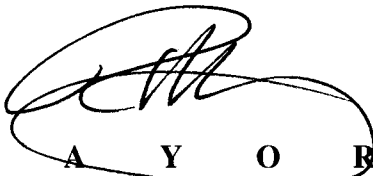
SECTION 4. Payment not to exceed the budgeted amount is authorized to CAPLINK, USA, Inc., and FGF, LLC in the form of a Chapter 380 Economic Development Incentive Fund (EDIF) Grant.

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

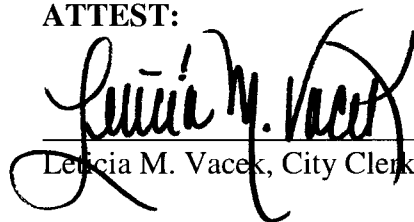
SECTION 6. This Ordinance shall become effective immediately upon its passage by eight (8) votes or more and upon ten (10) days following its passage if approved by fewer than eight (8) votes.

KRH
10/31/19
Item No. 23A

PASSED AND APPROVED this 31st day of October, 2019.

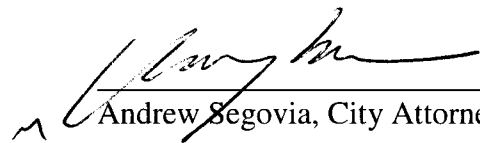

M A Y O R
Ron Nirenberg

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney

Agenda Item:	23A (in consent vote: 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23A, 23B, 24A, 24B, 24C, 24D)						
Date:	10/31/2019						
Time:	10:12:36 AM						
Vote Type:	Motion to Approve						
Description:	Ordinance approving a tax abatement agreement for real and personal property valued at \$4,500,000.00 with CAPLINK, USA, Inc., and FGF, LLC, which includes provisions for an Upskill Partnership Program and a Chapter 380 EDIF Grant of up to \$500,000.00 in workforce development funds.						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ron Nirenberg	Mayor		x				
Roberto C. Treviño	District 1		x			x	
Jada Andrews-Sullivan	District 2		x				x
Rebecca Viagran	District 3		x				
Adriana Rocha Garcia	District 4		x				
Shirley Gonzales	District 5		x				
Melissa Cabello Havrda	District 6		x				
Ana E. Sandoval	District 7		x				
Manny Pelaez	District 8		x				
John Courage	District 9		x				
Clayton H. Perry	District 10		x				

KRH
10/31/19
Item No. 23A

Attachment I

STATE OF TEXAS	§	CITY OF SAN ANTONIO
	§	TAX ABATEMENT AGREEMENT
	§	FOR REAL AND PERSONAL PROPERTY
COUNTY OF BEXAR	§	AND 380 ECONOMIC DEVELOPMENT
	§	GRANT AGREEMENT

1. PARTIES

THIS AGREEMENT (the "Agreement") is entered into on this 31st day of October, 2019 (the "Effective Date") by and between **CAPLINK USA, Inc.**, a Delaware Corporation (hereinafter referred to as "CAPLINK") and who intends to acquire the real property described herein, **FGF, LLC**, a Delaware Limited Liability Company (hereinafter referred to as "MANUFACTURER"), who will own personal property located on said real property, and the **CITY of SAN ANTONIO**, a municipal corporation, (hereinafter referred to as the "CITY"), acting by and through its City Manager under the authority of its City Council.

2. AUTHORIZATION AND FINDINGS

A. This Agreement is entered into pursuant to the following authorities:

1. The Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312, as amended;
2. CITY COUNCIL RESOLUTION No. 89-07-12, dated the 15th day of February 1989, and most recently revised by Ordinance No. 2018-12-13-1020 on December 13, 2018, together which established the City of San Antonio Guidelines and Criteria for Tax Phase-In and Reinvestment Zones, (hereinafter referred to as the "Guidelines and Criteria");
3. The Texas Enterprise Zone Act, V.A.T.S. Government Code, Chapter 2303, as amended, designates a qualifying area as an enterprise zone, which also designates such area as a Reinvestment Zone under Chapter 312 of the Tax Code (the "Reinvestment Zone");
4. Chapter 380 of the Texas Local Government Code, which authorizes CITY to grant funds to promote state or local economic development and to stimulate business and commercial activity in the municipality, and pursuant to City Ordinance No. 100684 adopting an economic development program which meets the requirements of Chapter 380 of the Texas Local Government Code; and
4. CITY COUNCIL ORDINANCE NO. _____ dated _____, 2019, which specifically approved this Agreement and authorized execution hereof.

B. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement abide by the Guidelines and Criteria and approving this Agreement will not have any substantial long-term adverse effect on the provision of city services or the City's tax base and the planned use of the Property (defined below) inside the qualifying Reinvestment Zone by MANUFACTURER/CAPLINK for the uses contemplated herein will not constitute a hazard to public safety, health or morals.

3. PROPERTY

A. On or before December 31, 2019, CAPLINK shall have an ownership interest in real property located at 6245 STATE HWY 151, San Antonio, Texas, 78227 (the "Property"), legally described in Exhibit A, attached hereto and incorporated herein. The Property is located within a qualifying Reinvestment Zone for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312. At a future, unspecified date, MANUFACTURER/CAPLINK intends to acquire a parcel currently owned by the City of San Antonio (through CPS energy) that is adjacent to the Property and formally identified as a portion of NCB 13941 BLK 60 (approximately 1.8640 acres) ("the CPS Parcel"). When MANUFACTURER/CAPLINK acquires the CPS Parcel, CITY shall consider such parcel for inclusion within the Property described and the terms herein, subject to City Council approval.

B. On or before December 31, 2020, MANUFACTURER shall hold a leasehold interest in the Property acquired by CAPLINK and will control such Property for the Abatement Term (as hereinafter defined) of this Agreement. For the term of the leasehold interest in the Property, MANUFACTURER shall conduct its Business Activities as outlined in Article 5 Section A(iii) below. "Business Activities" are defined for the purposes of this Agreement as operating a baked goods food manufacturing company, which may also include storage and distribution associated with such manufacturing operations, in San Antonio, to include the creation of a campus business park to the Property.

C. In order for MANUFACTURER to conduct the Business Activities on the Property, it will be necessary for MANUFACTURER or CAPLINK to purchase real property and make, certain real property improvements (the "Real Property Improvements") in the minimum amount of THIRTY-NINE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND 0 CENTS (\$39,500,000.00) and for MANUFACTURER to make certain personal property improvements (the "Personal Property Improvements") in the minimum amount of NINETY MILLION DOLLARS AND 0 CENTS (\$90,000,000.00). Real Property and Personal Property shall have the definitions described in Texas Tax Code Section 1.04(2) and Section 1.04(4), respectively. Personal Property Improvements qualifying for tax abatements pursuant to this Agreement shall not include or encompass nor in any way consider the value of personal property relocated from MANUFACTURER's Existing Site, as defined herein, to Property ("Relocated Property"). Such relocated personal property shall not constitute Personal Property Improvements hereunder and shall under no circumstance be subject to tax abatement hereunder. The

Real Property Improvements and Personal Property Improvements are sometimes herein together called the “Improvements” and shall have the definition described in Texas Tax Code Section 1.04(3). The cumulative amount of the Improvements shall at minimum be ONE HUNDRED TWENTY-NINE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$129,500,000.00). No Personal Property Improvements shall be placed on the Property sooner than the Effective Date of this Agreement.

- D. Prior to CAPLINK or MANUFACTURER performing or causing to be performed the Real Property Improvements and Personal Property Improvements at the Property and commencing the Business Activities therein, MANUFACTURER shall establish separate tax accounts with the Bexar Appraisal District for the Real Property Improvements and for the Personal Property Improvements and shall provide these tax account numbers and the related entity information to the CITY.
- E. CITY shall establish a liaison to assist the MANUFACTURER and/or CAPLINK with all permitting and authorizations from the CITY’s Development Services Department.

4. MANUFACTURER’S REPRESENTATIONS

A. MANUFACTURER and CAPLINK represent that neither has knowledge that any interest in the Property is presently owned, held or leased by a member of the San Antonio City Council, Zoning Commission, Planning Commission, the City’s Economic Development Department, or any other City officer or employee. MANUFACTURER and CAPLINK further represent that neither shall knowingly sell, lease or otherwise convey an interest of any type of kind to a member of the San Antonio City Council, the Zoning Commission, the Planning Commission, the City’s Economic Development Department or any other City officer or employee, as long as this Agreement remains in effect.

B. MANUFACTURER and CAPLINK represent that there is no litigation pending against MANUFACTURER or CAPLINK for any violations under the Occupational Safety and Health Act (“OSHA”) in Bexar County.

5. CAPLINK AND MANUFACTURER’S OBLIGATIONS

A. In addition to all other obligations and/or duties imposed on MANUFACTURER/CAPLINK by any other incentive agreements it has entered into with the State of Texas, Bexar County and/or the City of San Antonio, MANUFACTURER and CAPLINK are required to accomplish the following in order to receive the full amount of tax abatement provided in this Agreement:

- i. CAPLINK shall own, hold an interest in or otherwise control the Real Property Improvements and MANUFACTURER shall own Personal Property Improvements in accordance with the terms of this Agreement for the term of the Agreement; and

- ii. CAPLINK shall invest, or cause to be invested, on the Property, a minimum of THIRTY-NINE MILLION, FIVE HUNDRED THOUSAND DOLLARS AND 0 CENTS (\$39,500,000.00) in Real Property and Real Property Improvements by December 31, 2025, and MANUFACTURER shall invest, or cause to be invested, at the Property, a minimum of NINETY MILLION DOLLARS AND 0 CENTS (\$90,000,000.00) in Personal Property Improvements by December 31, 2025; and
- iii. MANUFACTURER shall continuously conduct Business Activities at the Existing Site unless and until operations at Existing Site cease. On or before Business Activities cease at the Existing Site, Business Activities shall commence at the Property for the remaining Term of the Agreement, which shall be no later than January 1, 2023; and
- iv. MANUFACTURER shall maintain THREE HUNDRED TWENTY-EIGHT (328) Full-Time Jobs employed at the Property or the Existing Site (defined below) for the Term of the Agreement; and
- v. MANUFACTURER shall create SIX HUNDRED (600) new Full-Time Jobs at the Property in accordance with Table 1 below and maintain said Full-Time Jobs for the Term of the Agreement

TABLE 1

Year	Full-Time Jobs to be Created/Maintained	Total Full-Time Jobs
December 31, 2019	Retain 328 Full-Time Jobs	328
December 31, 2020	Retain 328 Full-Time Jobs	328
December 31, 2021	Retain 328 Full-Time Jobs	328
December 31, 2022	Retain 328 Full-Time Jobs	328
December 31, 2023	Retain 328 Full-Time Jobs and create 100 additional Full-Time Jobs	428
December 31, 2024	Retain 428 Full-Time Jobs and create 100 additional Full-Time Jobs	528
December 31, 2025	Retain 528 Full-Time Jobs and create 100 additional Full-Time Jobs	628
December 31, 2026	Retain 628 Full-Time Jobs and create 100 additional Full-Time Jobs	728
December 31, 2027	Retain 728 Full-Time Jobs and create 100 additional Full-Time Jobs	828

December 31, 2028	Retain 828 Full-Time Jobs and create 100 additional Full-Time Jobs	928
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vi. Commencing no later than December 31, 2021 and for ten (10) consecutive years thereafter, at least THIRTY-FIVE PERCENT (35%) of all Full-Time Jobs employed by MANUFACTURER at the Property and the Existing Site, shall be from Targeted Populations. MANUFACTURER shall participate in at least two job fairs to be held in IGA (defined below) before the end of the second calendar year of the Term. "Targeted Populations" shall be defined as employees a) utilizing the Upskill Partners Network (UPN), as defined in the 2019-2020 Tax Abatement Guidelines, for the purpose of fulfilling the intent of a Service Plan or Endorsed Career Plan in compliance with Section 8(D)(i)-(iii) in this Agreement, b) eligible for Work Opportunity Tax Credit as defined by Internal Revenue Code (Title 26 of the U.S. Code), or c) residing in Tier II (zip codes within the Inclusive Growth Area that exhibit 30.1% to 40% of the population in poverty) and/or Tier III (zip codes within the Inclusive Growth Area that exhibit 40.1% or greater of the population in poverty) within the Inclusive Growth Area ("IGA"), as adopted in the 2019-2020 Tax Abatement Guidelines, subject to periodic update with the agreement of both parties. A map of the IGA and Tiers II and III is attached hereto as Exhibit B. An employee that qualifies as being from a Targeted Population under more than one of the categories that define the Targeted Population may only be counted as a single employee in determining the percentage of MANUFACTURER's employees that are from a Targeted Population.

vii. MANUFACTURER AND CAPLINK shall comply with all other applicable terms and conditions of this Agreement.

B. It is the intent of the parties to this Agreement that during the Abatement Term (as defined in Section 7(A) of this Agreement), the amount of the investments to be made by the MANUFACTURER and CAPLINK and described in Article 5 Section A(ii) represent a minimum level of investment only. Additional investments, if any, in the Real Property Improvements or Personal Property Improvements (to the extent such investments increase the value of such property above the Base Value) shall also be subject to the terms of this Agreement for the remainder of the Abatement Term following completion of additional investments.

C. By December 31, 2020, and continuing thereafter until end of the Term of the Agreement, MANUFACTURER covenants and agrees to pay one hundred percent (100%) of MANUFACTURER's new and existing employees, to include MANUFACTURER'S part-time and seasonal workers and those hired on a temporary basis through an employment agency, employed at the Property and the Existing Site, the CITY's effective prevailing "living" wage as determined by the City Council in its Tax Abatement Guidelines in effect of the date of the execution of this Agreement, which is twelve dollars

and thirty-eight cents (\$12.38) per hour, excluding benefits, commissions, shift differentials and bonuses.

D. For the purposes of this Agreement, a "Full-Time Job" or "Full-Time Employee" shall constitute one employee position hired to perform two thousand eighty (2,080) straight-time paid hours in a fiscal year.

E. During the Term, MANUFACTURER covenants and agrees that it shall offer all its Full-Time Employees employed at the Property an opportunity to participate in an employee benefits program to include a health plan that provides coverage for eligible dependents.

F. MANUFACTURER and CAPLINK covenant and agree that they shall comply with all applicable federal and state laws governing the employment relationship between employers and employees.

G. During the Term of the Agreement, MANUFACTURER covenants and agrees that it shall conduct its Business Activities (as defined in Article 3, Paragraph B) at the Existing Site or Property in accordance with all applicable federal, state and local laws.

H. Any construction MANUFACTURER or CAPLINK will perform or cause to be performed at the Property shall be in accordance with all applicable federal, state and local laws including, but not limited to, Texas Commission on Environmental Quality regulations, Bexar County and City of San Antonio laws, Building Codes and ordinances, Historic Preservation and Urban Design ordinances, flood, subdivision, building, electrical, plumbing, fire and life safety codes and regulations, current and as amended.

I. Except as provided herein, MANUFACTURER covenants and agrees that it shall use the Property only to conduct its Business Activities. Without additional consent or approval by the City Council, a parent, subsidiary or affiliate organization of MANUFACTURER or new entity created as a result of a merger, acquisition, or other corporate restructure or reorganization of MANUFACTURER, or any component thereof (hereinafter "Related Organization") may occupy and use the Property for such Related Organization's normal business activities, so long as such business activities are those of the MANUFACTURER at the Property. To be eligible for the tax abatements as provided in this Agreement, such Related Organization must agree in writing to fully comply with all applicable terms of this Agreement. Except as authorized above, MANUFACTURER covenants and agrees during the term of this Agreement not to change the principal use of the Property without prior approval by the City Council, as evidenced in a duly approved City Ordinance.

J. MANUFACTURER and CAPLINK covenant and agree that they shall maintain the Property and any constructed improvements in good repair and condition during the Term of this Agreement, normal wear and tear and damage by fire or other casualty not caused as a result of the negligence, intentional act or misconduct of MANUFACTURER

and CAPLINK excepted. Compliance with the maintenance obligations imposed herein shall be presumed if MANUFACTURER and CAPLINK follow their normal and customary maintenance procedures and schedules.

K. MANUFACTURER covenants and agrees that, upon five business days prior notice received by it from the CITY, MANUFACTURER shall allow designated representatives of the CITY access to the Property and/or Existing Site during normal business hours for inspection to determine if the terms and conditions of this Agreement are being met. This inspection is independent of CITY's police powers to inspect for purposes of assuring compliance with applicable City Codes and Ordinances. The CITY's access to MANUFACTURER's books and records will be limited to information needed to verify that MANUFACTURER is and has been conducting Business Activities, and to verify all information contained in the semi-annual reports submitted by MANUFACTURER; provided, however, that the CITY shall not have the ability to obtain copies of MANUFACTURER's records or remove any information or documents from MANUFACTURER's files. CITY shall not have access to MANUFACTURER's confidential or trademarked documentation unless such documentation is required to validate MANUFACTURER's compliance with MANUFACTURER'S obligations under this Agreement. MANUFACTURER shall have the right to have one or more MANUFACTURER employee representatives accompany CITY employees or agents during any such inspection. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require MANUFACTURER to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of MANUFACTURER. CITY representatives may be accompanied by MANUFACTURER representatives and such inspections shall be conducted in such a manner as to (a) not unreasonably interfere with the operation of the Property or Existing Site; and (b) comply with MANUFACTURER's reasonable security requirements.

L. During the Term of this Agreement, MANUFACTURER and CAPLINK covenant and agree to furnish each year, as applicable, the Chief Appraiser of Bexar Appraisal District with information outlined in Chapter 22, V.A.T.S. Tax Code, as amended, as may be necessary for the tax phase-in and for appraisal purposes.

M. MANUFACTURER and CAPLINK covenant and agree to provide the CITY's Director of Economic Development or designated representative with a semiannual certification from an officer of MANUFACTURER and CAPLNK on or before January 31 and July 31 of each year during the Term (including the Recapture Period), attesting to, as of the preceding December 31st or June 30th, as applicable: (i) total number of Full-Time Employees employed at the Property and Existing Site as of such date, (ii) total number of employees employed at the Property and the Existing Site as of such date (iii) the total number of employees qualifying as Targeted Populations as of such date, (iv) the healthcare benefits offered to all Full-Time Employees and their respective eligible dependents working at the Property and/or Existing Site, (v) the total wages paid to all employees working at the Property and/or Existing Site, during the six months preceding such date, (vi) total investment made in the Property, and (vii) evidence of expenditures

made to provide access to training and tuition assistance or training dollars pursuant to Article 8, including, but not limited to, a list of employees, corresponding Service Plans or Endorsed Career Plans (as defined below), and corresponding training requests, to include training providers and training costs incurred for qualified certifications and degrees. MANUFACTURER and CAPLINK shall also submit this information to the CITY upon request, as deemed necessary at the sole discretion of the CITY, during the Term of this Agreement. The information provided shall be on the forms, or substantially similar to the forms, set forth in, Exhibit "C" (attached hereto and incorporated herein), as amended.

N. MANUFACTURER and CAPLINK covenant and agree to notify CITY in writing at least 30 days prior to any sale, transfer or sub-lease of the Property during the Term. CITY shall not unreasonably withhold, condition or delay approval of any requests for Assignment of this Agreement by MANUFACTURER and CAPLINK under Article 13 and any new purchaser or transferee requesting Assignment shall be bound by same. Failure to provide the required notification under this Article 5, Paragraph N shall render MANUFACTURER subject to the termination and recapture provisions under Article 7.

O. MANUFACTURER covenants and agrees to notify CITY in writing at least 60 days prior to Relocating from Property, or from Existing Site if prior to MANUFACTURER commencing Business Activities at the Property, or ceasing its Business Activities (as defined in Article 9, Paragraphs A and C). Failure to provide the required notification under this Article 5, Paragraph O shall render MANUFACTURER subject to the termination and recapture provisions under Article 9 without benefit of the Cure Period (as defined in Article 9, Paragraph F).

P. If, during the Term of the Agreement this Agreement, MANUFACTURER and/or CAPLINK allow its ad valorem taxes due on the land, real and personal property or inventory and supplies to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or is in default with any loan which has been made by the San Antonio Development Agency, South Texas Business Fund, City of San Antonio Industrial Development Authority or any other CITY-sponsored loan/grant/bond program, then the termination and recapture provisions of Article 9 of this Agreement shall apply.

Q. CAPLINK is the owner of approximately 7.7228 acres and several structures located at 122 Stribling Ave. in San Antonio, Texas ("Existing Site"). If MANUFACTURER and/or CAPLINK vacates Existing Site, MANUFACTURER/CAPLINK shall maintain the Existing Site in compliance with the City Code of San Antonio, Chapter 12 "Vacant Buildings Article I entitled "Vacant Building Registration Pilot Program" (Vacant Building Ordinance) for the Term of the Agreement. If during the Abatement Term of this Agreement the Existing Site is in non-compliance of the Vacant Building Ordinance, as evidenced by a non-appealable determination of such violation by a municipal or judicial authority with jurisdiction over such alleged violation, MANUFACTURER and/or CAPLINK shall pay to CITY the full amount of the tax abatement realized in the first year of the Abatement Term, All payments by MANUFACTURER/CAPLINK to CITY pursuant to this Article 5, Paragraph Q. shall

be made within thirty (30) days of receiving a demand for payment from CITY. The provisions of this paragraph Q shall only be binding on MANUFACTURER/CAPLINK so long as it or CAPLINK owns the Existing Property.

6. TERM

A. The term of this Agreement (the “Term”) shall commence on the Effective Date and shall continue in force and effect, unless amended in writing or adjusted pursuant to provision of Article 7 or terminated pursuant to the provisions of Article 9, until the end of the sixth (6th) calendar year after the expiration of the Abatement Term, as defined in Article 7, Paragraph A. The Term of this Agreement includes the recapture period which shall be the period between the end of the Abatement Term (as defined in Article 7(A) of this Agreement) and the sixth (6th) calendar year after the expiration of the Abatement Term (the “Recapture Term”).

7. TAX ABATEMENT

A. In the event MANUFACTURER and CAPLINK meet all obligations of Article 5, of this Agreement and otherwise performs all obligations set forth in this Article 7, CITY shall give CAPLINK a ONE HUNDRED PERCENT (100%) tax abatement for the Real Property Improvements on the Property, above the Base Year Value, and MANUFACTURER a ONE HUNDRED PERCENT (100%) tax abatement for the Personal Property Improvements at the Property, above the Base Year Value, (collectively the “Abatement Percentage”), for a term of ten (10) years commencing on January 1, 2020 (the “Abatement Term”). The Base Year for calculating the value of the real property improvements and the personal property improvements existing and located upon the Property prior to the effective date of this Agreement shall be January 1, 2019 (“the Base Year”). This Agreement only provides for the abatement of taxes on Real Property Improvements and Personal Property Improvements on the Property made subsequent to the Base Year.

B. Although investment in an Upskill Partnership Plan (“UPP”) is optional, if MANUFACTURER opts not to invest in and implement a UPP, the Abatement Percentage and the Abatement Term shall be reduced as follows:

- i. If MANUFACTURER does not implement, fails to maintain, or has a UPP that fails to meet all UPP obligations set out in Article 7 for more than a total of 24 months before the 6th anniversary of the commencement of the Abatement Term, the Abatement Percentage shall be reduced to FIFTY PERCENT (50%) and the Abatement Term shall be reduced to (6) years and the Recapture Term to (4) years.

- ii. If MANUFACTURER does not implement, fails to maintain, or has a UPP that fails to meet all UPP obligations set out in Article 7 for more than a total of 36 months on or after the 6th anniversary of the commencement of the Abatement Term, the Abatement Percentage shall be reduced to FIFTY PERCENT (50%) with no reduction in the Abatement term

C. Within one-hundred and fifty (150) days from the commencement of the Abatement Term, MANUFACTURER shall own, have an interest in or otherwise control the Property and shall commence construction operations for, and/or conduct its Business Activities on the Property on a daily basis and continuously throughout the Term.

D. MANUFACTURER and CAPLINK acknowledge and agree that the Base Year Value of the Real Property, Real Property Improvements, and Personal Property Improvements and the tax levy based on said Base Year Value of the Real Property, Real Property Improvements, and Personal Property Improvements in the Reinvestment Zone shall not decrease, but taxes may increase and that the amount of property taxes paid by MANUFACTURER and CAPLINK to the CITY attributable to the Property during the Abatement Term shall not be less than the amount of taxes attributable to the Property paid to the CITY for the Base Year tax year, if any, except in the event of casualty or condemnation of the Property in the Reinvestment Zone.

8. UPSKILL PARTNERSHIP PLAN

A. A UPP is an optional investment made by MANUFACTURER during the Abatement Term to establish an employee retention and development program that meets the Upskill Project requirements set out in the 2019-2020 Tax Abatement Guidelines of raising the income of residents through upskilling.

B. A UPP may be administered by MANUFACTURER or MANUFACTURER may contract with a third party to administer the UPP.

C. If MANUFACTURER chooses to provide a UPP, the UPP must at a minimum be made available to all Full-Time employees making less than the All Industry Wage (\$16.63). Such UPP must be submitted in writing to the CITY within one-hundred fifty (150) days of the Effective Date of this Agreement for approval by the Director of the Economic Development Department or his/her designee. The CITY must accept, reject or request additional information in writing within ninety (90) days of MANUFACTURER's submission of its UPP, which may include briefing the appropriate City Council Subcommittee on the details of the plan. If CITY accepts the UPP, MANUFACTURER shall substantially implement the UPP within ninety (90) days of the date the UPP is accepted by CITY.

D. At a minimum, a UPP must include, the following elements:

- i. **Assessment:** Subject to MANUFACTURER's employee's approval and consent, MANUFACTURER must assess all employees covered by the UPP to establish the following: (a) an assessment of professional and personal goals, and (b) identification of potential Barriers, as defined below, success in the workplace, and economic mobility.

Employee-centered Career Coaching: Based on the assessment results, and subject to the MANUFACTURER'S employee's approval and consent, MANUFACTURER shall provide Employee-centered career coaching which is defined as coaching that focuses on mitigating barriers to success in the workplace as well as pursuing personal and professional development goals. This coaching is not to be based solely on the suitability of the employee for his/her current occupation. Employee-centered Career Coaching shall be evidenced by a career plan establishing a process description for such employee's career advancement which plan must be acknowledged and signed by the employee. Such executed career plan shall constitute an "Endorsed Career Plan." All Endorsed Career Plans must be available for review by CITY.

- ii. **Barrier Removal:** Subject to MANUFACTURER'S employee's approval and consent, MANUFACTURER shall refer employees participating in the UPP which have identified barriers to agencies providing services that address the specific barriers identified during assessment as defined in 8(D)(i) "Barriers" are defined as any issue cited by the employee that is preventing employee from pursuing upskilling, including, but are not limited to, affordable housing, utility assistance, transportation assistance, childcare, or other such barriers. MANUFACTURER must document and track all agency referrals intended to address said Barriers in a client management system. MANUFACTURER must maintain a client management system and associated standard operating procedures which must track, at a minimum, Barriers, agency referral(s) and whether the Barrier was resolved or improved, as well as, the ability to provide aggregate quantitative report of such activity for any time period. Such services and referrals for each employee shall constitute a "Service Plan." The client management system must be available for review by CITY. So long as MANUFACTURER make a good faith effort (as established and evidenced by the Semi-Annual Reports submitted by MANUFACTURER to the CITY) to resolve or remove Barriers, there shall be no penalty, action, or default pursuant to this Agreement for unresolved Barriers or Barrier removal.
- iii. **Access to Training Dollars:** MANUFACTURER shall create and maintain a program for employees to access training and receive tuition assistance based on the Endorsed Career Plan. Under no circumstances shall the access to training or tuition assistance received pursuant to the UPP require employee to reimburse or pay any monies or incur any debt in association with such training unless the entire \$50,000.00 to be contributed to MANUFACTURER by CITY annually for training, as set out below, has been depleted prior to CITY's next

contribution. Employee access to Training Dollars should be made available on a first-come first-serve basis.

City shall make available up to FIFTY THOUSAND DOLLARS (\$50,000.00) ("Training Funds") annually to MANUFACTURER for the Abatement Term and six (6) months thereafter, up to a maximum amount of FIVE HUNDRED THOUSAND (\$500,000.00), as a Chapter 380 Economic Development Incentive Fund grant for the Training/tuition support to be provided pursuant to the UPP and in compliance with Endorsed Career Plan. City shall disburse such amount to MANUFACTURER by making two (2) TWENTY-FIVE THOUSAND DOLLAR (\$25,000.00) payments annually. At the sole discretion of the Director of the Economic Development Department, and with thirty (30) days written notice to the MANUFACTURER, the amount of the payments may be revised without further City Council action. Under no circumstances shall MANUFACTURER use the Training Funds received from the City to in any way fund or contribute to the ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) per year investment MANUFACTURER is required to make in the UPP per Article 8, Paragraph H.

MANUFACTURER shall certify and include with its semiannual report submitted pursuant to Article 5, Paragraph M the actual amounts MANUFACTURER expended to provide access to training and tuition assistance. Allowable expenditures shall include, but are not limited to: (i) "Demand Occupations" defined as nationally recognized industry-based certifications or degrees granted by Eligible Training Providers and meeting the requirement for Targeted Occupations as defined by the Texas Workforce Commission for the Alamo Workforce Development Board, as updated; and (ii) such Foundational Skills Training, approved in writing in advance by City (such approval not to be unconditionally withheld, denied, or delayed), defined as training including, but not limited to: literacy, numeracy, and English as a second language (ESL) external life coaching life skills digital literacy; and such other employer sponsored training pathways that have been approved in writing by CITY, such approval not to be unconditionally withheld, denied, or delayed (Example: MANUFACTURER, as a result of an assessment, develops a training path that should lead to higher wages for that employee within the company and MANUFACTURER enrolls and pays for the employee to attend that training which has been approved by CITY, the cost of that approved training is an allowable and reimbursable expense). Expenditures shall be submitted with supporting documentation.

MANUFACTURER shall establish procedures to minimize the time elapsing between the disbursement of funds from CITY and the expenditure of said funds by MANUFACTURER. Upon completion or termination of this Agreement, all unused funds must be returned by MANUFACTURER to CITY within thirty (30) days.

Should any expense or charge that has been paid with Training Funds be subsequently disapproved or disallowed as a result of any site review or audit, pursuant to Article 5(K) above, MANUFACTURER will refund such amount to CITY no later than thirty (30) days from the date of notification of such disapproval or disallowance by CITY. At its sole option, CITY may, instead, deduct such claims from subsequent payments; however, in the absence of prior notice by CITY of the exercise of such option, MANUFACTURER shall provide to CITY a full refund of such amount no later than thirty (30) days from the date of notification of such disapproval or disallowance by CITY.

MANUFACTURER agrees and understands that all expenses associated with the collection of delinquent debts owed by MANUFACTURER shall be the sole responsibility of MANUFACTURER and shall not be paid from any training funds received by MANUFACTURER pursuant to this Agreement.

So long as MANUFACTURER makes a good faith effort (as established and evidenced by the Semi-Annual Reports submitted by MANUFACTURER to the CITY) to have employees participate in the Assessment, Employee-centered Career Coaching, Barrier Removal, Service Plan, or Endorsed Career Plans or other terms of this Article 8, there shall be no penalty, action, or default pursuant to this Agreement for MANUFACTURER's employee's unwillingness to participate or complete the Assessment, Employee-centered Career Coaching, Barrier Removal, Service Plan, or Endorsed Career Plans or other terms of this Article 8.

E. Each UPP may have a term of no less than two and no more than five years. After the initial UPP submitted pursuant to this Agreement MANUFACTURER may submit a new UPP by January 31st of the final year of the then current UPP term. City shall review and accept or reject UPP submission within ninety (90) days of submission (such acceptance not to be unreasonably denied, conditioned or delayed) by MANUFACTURER. Notwithstanding the foregoing, no UPP shall extend beyond the tenth (10th) anniversary of the date the initial UPP is implemented pursuant to the terms of the Agreement.

F. MANUFACTURER shall, upon at least five (5) days written notice from the City, allow CITY access to the Property at least once annually during the term of any UPP for compliance monitoring at a mutually acceptable date and time. MANUFACTURER shall have the right to have one or more MANUFACTURER employee representatives accompany CITY employees or agents. MANUFACTURER shall allow City to interview randomly selected MANUFACTURER employees and shall make accommodations for such interviews on the Property.

G. MANUFACTURER may terminate any approved third party UPP administrator by providing CITY at least thirty (30) days prior written notice which notice shall include the date that the termination is effective, which date may not be sooner than thirty (30) days after the notice is received by CITY. In the event of such UPP termination,

MANUFACTURER may, within ninety (90) days from the date the termination is effective, submit a new UPP to the Economic Development Department Director for approval. If MANUFACTURER submits a replacement UPP to CITY within the ninety (90) days and no more than six months laps between UPP termination and implementation of the new UPP, then MANUFACTURER's previous contributions made to the Qualified UPP Investments (as defined below) shall be credited against any amounts MANUFACTURER owes to City pursuant to Article 9, Paragraph E for failure to hire at least the 35% hiring requirement in Article 5, Paragraph A(vi). The provisions under this Paragraph G can be invoked only twice during the Term of the Agreement. If MANUFACTURER terminates an approved UPP more than twice during the Abatement Term, MANUFACTURER shall forfeit any credits it would otherwise have been entitled to against any amounts MANUFACTURER owes to City pursuant to Article 9, Paragraph E for failure to hire at least 35% of its workforce from the Targeted Population.

H. In the event MANUFACTURER chooses to participate in a UPP, MANUFACTURER must invest no less than ONE HUNDRED THOUSAND DOLLARS \$100,000.00 per year into the UPP for each year a UPP is in effect to be considered a "Qualified UPP Investment".

9. DEFAULT/TERMINATION/RECAPTURE

A. For purposes of this section, "Relocation" or "Relocate" shall mean MANUFACTURER, or a Related Organization which has taken the place of MANUFACTURER, transferring substantially all Business Activities from the Property or the Existing Site to a location outside the Reinvestment Zone.

B. Should MANUFACTURER occupy and use the Property and/or the Existing Site for its Business Activities and subsequently Relocate (as defined in this Article 9, Paragraph A) during the Abatement Term, unless such Relocation is from the Existing Site to the Property or caused by a Force Majeure, as defined in Article 10, then CITY shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Relocation occurred. Unless MANUFACTURER presents credible evidence to clearly indicate a date of Relocation, CITY's determination as to the date of Relocation shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and previously abated taxes under this Agreement shall be recaptured by CITY, in accordance with paragraph H below, and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies MANUFACTURER in writing of termination of this Agreement.

C. If MANUFACTURER occupies and uses the Property and/or Existing Site for its Business Activities and subsequently ceases conducting Business Activities (or a substantial portion thereof) at the Property or at the Existing Site, unless the cessation at

the Existing Site is to relocate its operations from the Existing Site to the Property, for a continuous period of three (3) months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure as defined in Article 10, or major renovations (which in no case shall exceed six (6) months in length) then the CITY shall have the right to terminate this Agreement. In the event MANUFACTURER desires to perform renovations to the facility located on the Property that require MANUFACTURER to cease its Business Activities, MANUFACTURER must obtain CITY's prior written approval for such cessation, such approval not to be unreasonably denied, conditioned or delayed. If MANUFACTURER fails to obtain such prior written approval for ceasing Business Activities for purposes of renovating its facilities on the Property from CITY, then CITY shall have the right to terminate this Agreement, subject to Section 9(F) of this Agreement. Said terminations shall be effective for the calendar year during which the Property was no longer used for the required purposes stated herein. Unless MANUFACTURER presents credible evidence to clearly indicate a date of cessation, CITY's determination of a date of cessation shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY, in accordance with Paragraph H below, and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies MANUFACTURER in writing of termination.

D. If MANUFACTURER, a Related Organization or City-approved assignee fails to hire and retain the number of Full-Time Jobs at the Property and /or the Existing Site as required in Article 5, paragraph A and Table 1 of this Agreement, as determined by the most current semiannual certification (Exhibit "C") for such calendar year of noncompliance, then for each such calendar year of noncompliance, the tax abatement shall be reduced in the following tax year by the same percentage as the deficiency in the Full-Time Jobs requirement. For example, if MANUFACTURER hires and retains ninety percent (90%) of the Full-Time Jobs required in this Agreement at the Property and/or the Existing Site in a given year, MANUFACTURER shall be entitled to ninety percent (90%) of the ad valorem real property and personal property tax abatement for the Property for the following year. Notwithstanding the foregoing, should MANUFACTURER fail to hire and retain at least eighty percent (80%) of the Full-Time Jobs requirement at the Property or Existing Site in a given year then, at the option of CITY, this failure may be grounds for termination of this Agreement. Said termination shall be effective for the calendar year during which the Full-Time Jobs requirement as stated herein has not been met as required.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY, in accordance with Paragraph H below, and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies MANUFACTURER in writing of termination of this Agreement.

E. Notwithstanding anything in this Agreement to the contrary, if MANUFACTURER, a Related Organization or City-approved assignee fails to hire at least

35% as required in Article 5, Paragraph A(vi) for two consecutive reporting periods during the Term required in Article 5, Paragraph A(vi), as evidenced by MANUFACTURER's semiannual certifications, then, for each year that MANUFACTURER is in non-compliance, MANUFACTURER shall pay TWO HUNDRED THOUSAND AND 00 DOLLARS (\$200,000.00) into CITY's approved workforce Development Fund (WDF). Pursuant to Article 5 Paragraph A(vi), if MANUFACTURER is in non-compliance for any two consecutive semiannual certifications during the Term, pursuant to Article 5 Paragraph A(vi), CITY shall not enforce payment of such TWO HUNDRED THOUSAND AND 00 DOLLARS (\$200,000.00) until after MANUFACTURER is non-compliant for the second consecutive semiannual reporting period during the Term, pursuant to Article 5 Paragraph A(vi). Payment of the TWO HUNDRED THOUSAND AND 00 DOLLARS (\$200,000.00) to City shall be due within sixty (60) days of receipt of notice that MANUFACTURER was non-compliant for two consecutive reporting periods. If MANUFACTURER does not achieve the 35% hiring requirement in Article 5, Paragraph A(vi) for two consecutive reporting periods during the Term in which Article 5, Paragraph A(vi) is effective and if MANUFACTURER has an approved and active UPP, is not otherwise in violation of Article 8, is not in default of this Agreement, and has previously made Qualified UPP Investments pursuant to Article 8(H), then MANUFACTURER shall be credited the immediately prior two (2) years' Qualified UPP Investment contributions against any payments due to City pursuant to this Article 9, Paragraph E. City shall not be entitled to recapture taxes previously abated pursuant to this Agreement for MANUFACTURER's failure to hire at least 35% as required in Article 5, Paragraph A(vi) for two consecutive reporting periods during the Term Article 5, Paragraph A(vi) is effective.

Amounts paid by MANUFACTURER into the WDF pursuant to this Article 9, Paragraph E shall be disbursed by CITY, in its sole discretion, to any project within the CITY qualifying for such funds in accordance with the Tax Abatement or any other related CITY economic development incentive guidelines as approved by City Council. MANUFACTURER may apply for WDF funds for reimbursements for employee training resulting in and evidenced by an increase in wages above the All Industry Wage for that employee. MANUFACTURER shall provide such documents as CITY may require, to determine whether employee training qualifies for reimbursement and the amount of such reimbursement. CITY, in its sole discretion, shall determine whether training qualifies for reimbursement.

F. During the Term of the Agreement, CITY may declare a default if MANUFACTURER fails to comply with any of the terms of this Agreement. Should CITY determine MANUFACTURER is in default under any of the terms of this Agreement; CITY will notify MANUFACTURER in writing at the address below in Article 11. If said default is not cured within sixty (60) calendar days from the date of such notice (hereinafter the "Cure Period"), then CITY shall have the right to terminate this Agreement. In the event that a default by MANUFACTURER cannot be cured within sixty (60) days after the date on which MANUFACTURER has received notice of such default, then the CITY shall not have the ability to terminate this agreement based on such default so long as MANUFACTURER has commenced to cure such default within the sixty (60) day cure period and the Parties agree that such cure is being diligently pursued to its

completion. If the Agreement is terminated as a result of default, all taxes abated shall be due for the tax year during which the termination occurred and shall accrue without further abatements for all tax years thereafter; in addition, CITY shall have the right, in accordance with paragraph H below, to recapture from MANUFACTURER any previously abated property taxes under this Agreement and said taxes shall be paid by MANUFACTURER within sixty (60) calendar days of receiving CITY'S written notification of recapture.

G. Other Remedies Available. CITY shall have the right to seek any remedy at law to which it may be entitled, in addition to termination and/or recapture, if MANUFACTURER defaults under the terms of this Agreement. However, such termination and/or recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which MANUFACTURER may be entitled. The termination and/or recapture of taxes provided in this Article 9 are not applicable to situations involving minor changes to the description of the Property, or changes in ownership or in management thereof, so long as MANUFACTURER, a Related Organization or its CITY-approved successor or assignee continues conducting Business Activities or other authorized activities at the Property as provided hereinabove.

H. Calculation of Taxes Subject to Recapture. Subject to Section 8 and Section 9(E) of this Agreement, if MANUFACTURER fails to comply with any of the terms of this Agreement, then the City Council shall have the right to recapture from MANUFACTURER a percentage of the abated taxes based on the following table:

TERM YEAR	TOTAL TAXES PREVIOUSLY ABATED
During the Abatement Term	100%
First year after termination of Abatement Term	100%
Second year after termination of Abatement Term	80%
Third year after termination of Abatement Term	60%
Fourth year after termination of Abatement Term	40%
Fifth year after termination of Abatement Term	20%
Sixth year after termination of Abatement Term	10%

FORMULA: The recapture formula shall be:

$$\begin{array}{rcl}
 \text{Total Taxes Abated} & \times & \begin{array}{l} \text{Applicable Percentage} \\ \text{from above Schedule} \end{array} \\
 & & = \text{Amount to be Recaptured}
 \end{array}$$

CITY shall recalculate the amount of recapture pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to MANUFACTURER.

10. **AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)**

For purposes of this section, "Force Majeure" is defined as an act of God or a natural disaster. It also includes explosion or other casualty or accident which is not the result of negligence, intentional act or misconduct on the part of MANUFACTURER and/or CAPLINK. In addition to relief expressly granted in this Agreement, CITY may grant relief from performance of this Agreement if MANUFACTURER and/or CAPLINK is prevented from compliance and performance by an event of Force Majeure. The burden of proof for the need for such relief shall rest upon MANUFACTURER and/or CAPLINK. To obtain release based upon this Article 10, MANUFACTURER and/or CAPLINK must file a written request with the CITY'S Economic Development Department for processing to City Council for a decision, authorized by a duly approved Ordinance.

11. NOTICE

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective upon its deposit into the custody of the United States Postal Service or such nationally recognized delivery service as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO MANUFACTURER:

- (Whether personally delivered or mailed):

FGF BRANDS
(c/o Ojus Ajmera)
1295 Ormont Road
Toronto
ON M9L 2W6 CAN

TO CAPLINK:

CAPLINK
(c/o Soham Ajmera)
1295 Ormont Drive
Toronto
ONT M9L2W6 CAN

With a copy to:
BROWN & ORTIZ, P.C.
(c/o Daniel Ortiz)
112 E. Pecan Suite 1360
San Antonio, Texas, 78205

TO CITY:

- If mailed:

Economic Development Department
Attn: Director
P.O. Box 839966
San Antonio, Texas 78283-3966

- If by personal or overnight delivery:

Economic Development Department
Attn: Director
City Hall, 4th Floor
Military Plaza
San Antonio, Texas 78205

12. CONDITION

This Agreement is conditioned entirely upon the approval of the San Antonio City Council, as evidenced by duly approved Ordinance Number _____, dated _____, 2019.

13. ASSIGNMENT

Unless assigned to one of MANUFACTURER's or CAPLINK's subsidiaries and except as otherwise expressly provided herein, this Agreement may be assigned or otherwise transferred only with City Council's prior approval (which approval shall not be unreasonably withheld, conditioned or delayed), as reflected in a duly adopted ordinance. MANUFACTURER OR CAPLINK, as the case may be, must submit a written request to CITY for approval of the proposed assignment or other transfer at least thirty (30) days prior to the effective date of the assignment or transfer of any part of the Property; however, no City Council consent is required for an assignment or transfer to a parent of MANUFACTURER or CAPLINK, a subsidiary of MANUFACTURER or CAPLINK, an affiliate entity of MANUFACTURER or CAPLINK, or to any new entity created as a result of a merger, acquisition or other corporate restructure or reorganization of MANUFACTURER or CAPLINK. However, MANUFACTURER and CAPLINK, as the case may be, shall give CITY prior written notice of all assignments or other transfers that do not require City Council consent, as required under Article 5, Paragraph N. All

future assignees shall be bound by all terms and/or provisions and representations of this Agreement.

14. GENERAL PROVISIONS

A. None of the property improvements described in this Agreement are financed by tax increment bonds.

B. This Agreement is entered into subject to the rights of the holders of outstanding bonds of the CITY related to this project. No bonds for which the CITY is liable have been used to finance this project.

C. No amendment, modification, or alteration of the terms hereof shall be binding unless in writing dated subsequent to the date of this Agreement and duly authorized by the parties. MANUFACTURER and/or CAPLINK acknowledges that City Council approval is required for any and all of these actions. Notwithstanding the foregoing, the Director of the Economic Development Department shall have the authority to approve UPPs and amendments to such UPPs and to make changes to the format of the required certification forms without approval of City Council.

15. SEVERABILITY

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or work herein is held invalid, illegal or unenforceable, 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, subparagraph, sentence, phrase or word. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable. This Agreement constitutes the entire Agreement between the parties hereto relating to the subject matter contained herein and supersedes all prior, oral or written agreements, commitments or understandings with respect to the matters provided for herein.

16. ESTOPPEL CERTIFICATE

Any party hereto may request an estoppel certificate related to this project (hereafter referred to as "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 MANUFACTURER and/or CAPLINK or other party designated by MANUFACTURER and/or CAPLINK which shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default, if such is the case, the remaining Term of this Agreement, the levels of tax abatement in effect, and such other matters reasonably requested by the party(ies) to receive the Certificate.

17. OWNER STANDING

MANUFACTURER and CAPLINK, each 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 MANUFACTURER and/or CAPLINK shall be entitled to intervene in said litigation.

18. APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is performable in Bexar County, Texas, the location of the Reinvestment Zone.

19. CONFLICTS OF INTEREST

A. CITY warrants and undertakes that no council member, employee or agent of CITY will receive from or give to any director, employee or agent of MANUFACTURER or CAPLINK any commission, fee, rebate, or any gift or entertainment of significant cost or value in connection with this Agreement except as expressly provided for in the Agreement. CITY shall promptly notify MANUFACTURER and CAPLINK of any breach of this Section and any consideration received as a result of such breach shall be paid over or credited to MANUFACTURER or CAPLINK, without prejudice to the right of MANUFACTURER or CAPLINK to seek compensation or claim damages or any other rights that MANUFACTURER or CAPLINK may have under applicable law.

B. CITY shall maintain and retain complete and accurate records of this transaction for the current calendar year plus the next preceding two (2) calendar years, to enable MANUFACTURER and CAPLINK to exercise its rights under this Section. MANUFACTURER and CAPLINK shall have the right, at its expense, upon reasonable prior written notice to CITY, to audit the records of CITY relevant to this Agreement during CITY's normal business hours solely for the purpose of confirming CITY's compliance with this Section, and for no other purpose. For purposes of this Section, "records" shall mean all records relevant to this Agreement and the intent of this Section.

20. JOINT AND SEVERAL LIABILITY

The liabilities and obligations of MANUFACTURER and CAPLINK shall be joint and several liabilities and obligations. The joint and several obligations of each shall be absolute and unconditional and shall remain in full force and effect for the Term of the Agreement. City's notices to either MANUFACTURER or CAPLINK shall constitute notice to the other. In the event of any suit, MANUFACTURER and CAPLINK are considered the agent of the other for service of process.

21. DUPLICATE ORIGINALS

This Agreement shall be executed in two duplicate originals, with a duplicate original going to each party.

EXECUTED as of the dates set forth beneath the signatures of each party below, to be effective as of the _____ of _____, 2019 (the "Effective Date").

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

Erik Walsh
CITY MANAGER

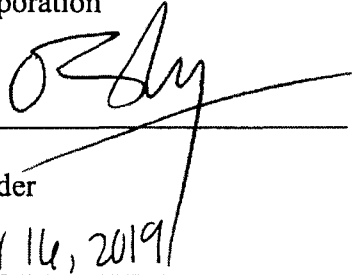
ATTEST:

Leticia Vacek
CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

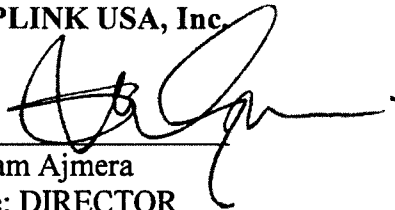
FGF, LLC,
a Canadian corporation
Delaware



Ojus Ajmera
Title: Co-Founder

Date: October 14, 2019

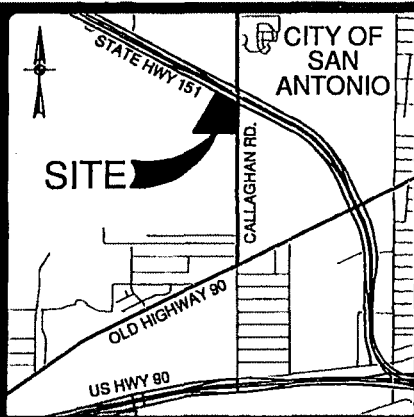
CAPLINK USA, Inc.



Soham Ajmera

Title: DIRECTOR

Date: October 16, 2019



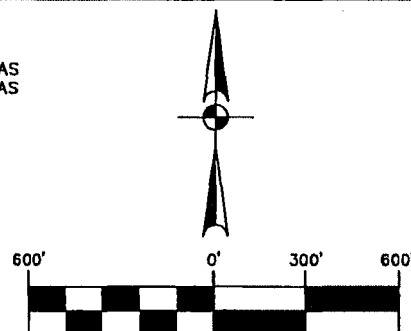
LOCATION MAP
NOT-TO-SCALE

LEGEND:

DR DEED RECORDS OF BEXAR COUNTY, TEXAS
OPR OFFICIAL PUBLIC RECORDS OF BEXAR COUNTY, TEXAS
DPR DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS
FD FOUND

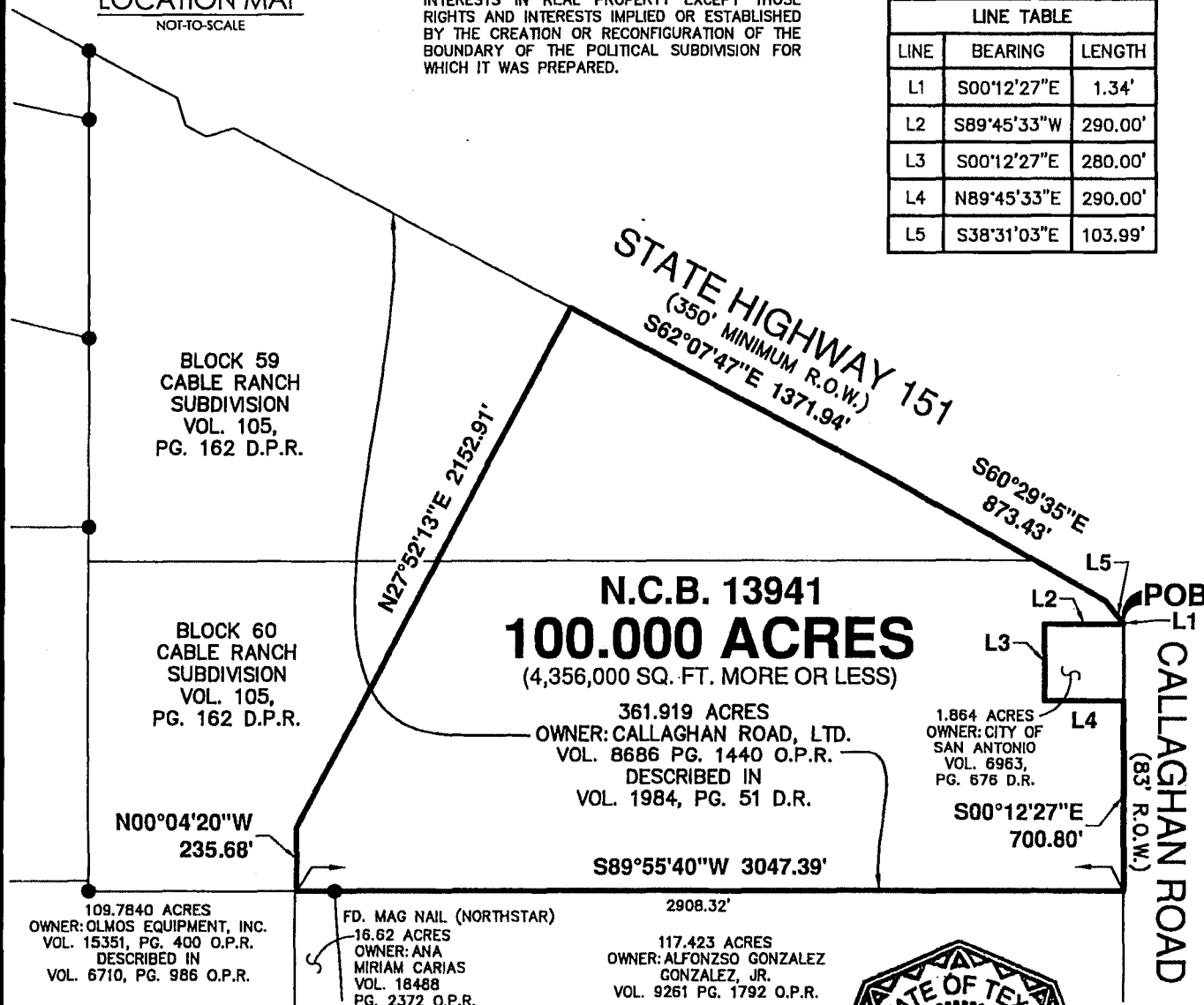
NOTES:

1. THIS EXHIBIT IS ISSUED IN CONJUNCTION WITH A METES AND BOUNDS DESCRIPTION PREPARED UNDER JOB NO. 11815-00 BY PAPE-DAWSON ENGINEERS, INC.
2. THE BEARINGS ARE BASED ON THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE FROM THE NORTH AMERICAN DATUM OF 1983 NAD 83 (NA2011) EPOCH 2010.00.
3. THIS DOCUMENT WAS PREPARED UNDER 22TAC663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



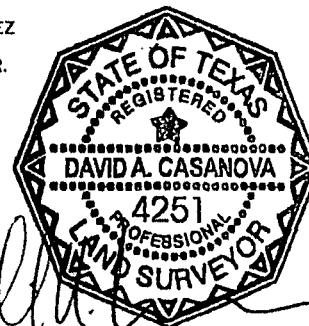
SCALE: 1" = 600'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°12'27"E	1.34'
L2	S89°45'33"W	290.00'
L3	S00°12'27"E	280.00'
L4	N89°45'33"E	290.00'
L5	S38°31'03"E	103.99'



PAPE-DAWSON ENGINEERS

SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS
2000 HW LOOP 410 | SAN ANTONIO, TX 78213 | 210.375.8000
TOPE FIRM REGISTRATION #470 | TDPLS FIRM REGISTRATION #10028800



MARCH 19, 2019

SHEET 1 OF 1
JOB No.: 11815-00



METES AND BOUNDS DESCRIPTION
FOR
ZONING

A 100.000 acre, or 4,356,000 square feet more or less, tract of land out of Block 59 and Block 60 of the Cable Ranch Subdivision recorded in Volume 105, Page 162 in the Deed and Plat Records of Bexar County, Texas, and being further described as being out of the 361.919 acre tract listed in Volume 8686, Page 1440 in the Official Public Records of Real Property of Bexar County, Texas, and described in Volume 1984, Page 51 in the Deed Records of Bexar County, Texas, in New City Block (N.C.B.) 13941 of the City of San Antonio, Bexar County, Texas. Said 100.000 acre tract being more fully described as follows, with bearings based on the Texas Coordinate System established for the South Central Zone from the North American Datum of 1983 NAD 83 (NA2011) epoch 2010.00;

BEGINNING: At a point at the south end of the southwest cutback, at the intersection of State Highway 151, a minimum 350-foot right-of-way and Callaghan Road, a 83-foot right-of-way;

THENCE: S 00°12'27" E, along and with the west right-of-way line of said Callaghan Road, a distance of 1.34 feet to a point, at the northeast corner of the 1.864 acre tract described in Volume 6963, Page 676 in said Deed Records;

THENCE: Departing the west right-of-way line of said Callaghan Road, along and with said 1.864 acre tract the following bearings and distances:

S 89°45'33" W, a distance of 290.00 feet to a point;

S 00°12'27" E, a distance of 280.00 feet to a point;

N 89°45'33" E, a distance of 290.00 feet to a point on the west right-of-way line of said Callaghan Road;

THENCE: S 00°12'27" E, along and with the west right-of-way line of said Callaghan Road, a distance of 700.80 feet to a point on the south line of said Block 60 and at the northeast corner of the 117.432 acre tract described in Volume 9261, Page 1792 in said Official Public Records;

THENCE: S 89°55'40" W, along and with the south line of said Block 60 and the north line of said 117.423 acre tract, at a distance of 2908.32 feet passing a found mag nail marked "Northstar", at the northwest corner of said 117.423 acre tract and the northeast corner of the 16.62 acre tract described in Volume 18488, Page 2372 in said Official Public Records, continuing along and with the south line of said Block 60 and the north line of said 16.62 acre tract, a total distance of 3047.39 feet to a point;

THENCE: Departing the south line of said Block 60 and the north line of said 16.62, over and across said Block 60, Block 59 and said 361.919 acre tract, the following bearings and distances:

N 00°04'20" W, a distance of 235.68 feet to a point;

N 27°52'13" E, a distance of 2152.91 feet to a point on the southwest right-of-way line of said State Highway 151;

THENCE: Along and with the southwest right-of-way line of said State Highway 151, the following bearings and distances:

S 62°07'47" E, a distance of 1371.94 feet to a point;

S 60°29'35" E, a distance of 873.43 feet to a point, at the west end of said cutback;

THENCE: S 38°31'03" E, along and with said cutback line, a distance of 103.99 feet to the POINT OF BEGINNING and containing 100.000 acres in the City of San Antonio, Bexar County, Texas. Said tract being described in conjunction with an exhibit map prepared under job number 11815-00 by Pape-Dawson Engineers, Inc.

"This document was prepared under 22TAC663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

PREPARED BY: Pape-Dawson Engineers, Inc.
DATE: March 19, 2019
JOB NO. 11815-00
DOC. ID. N:\CIVIL\11815-00\Word\11815-00 ZONING FN.docx

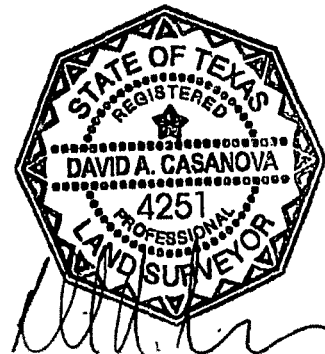


EXHIBIT B: INCLUSIVE GROWTH AREA MAP



City of San Antonio
Economic Development Department
Incentive Reporting Form

Company Name: _____

Reporting Period: _____

Contact Information: _____

Jobs: Please report on all full-time (2,080 hours annually), and other than full-time jobs (part-time, seasonal, etc.), created and maintained during this reporting period at both the Property and the Existing Site as outlined in the Agreement. (Supporting Documents: payroll registers with total number of employees, dates of hire, hourly wages, etc.)		
	At Property	At Existing Site
1. Last Reporting Period Results:		
a. Total number of Full-Time Jobs reported:		
b. Total number of part-time, seasonal, and other non-Full-Time jobs reported:		
Totals from last reporting period:		
2. Current Reporting Period Results:		
a. Total number of Full-Time Jobs retained at the end of this current reporting period:		
b. Total number of Full-Time Jobs created during this current reporting period:		
c. Total number of part-time, seasonal, and other non-Full-Time jobs created this reporting period:		
Totals from current reporting period:		
Wages: Please report hourly wages excluding overtime, bonuses, benefits, non-guaranteed income, etc. in accordance with the Agreement.		
What is the minimum hourly wage paid to Full-Time employees?		
What is the minimum hourly wage paid to part-time, seasonal, or other than Full-Time jobs?		
Does 100% of the total company workforce earn at least the Living Wage per the Agreement?		
Additional Contractual Obligations (As applicable per your Agreement)		
Are employee benefits (including medical coverage) offered to all full-time employees and eligible dependents? (Please attach separate sheet demonstrating compliance with your agreement.)		

Real Property Improvements: Expenditures associated with real property improvements at the Property, excluding the Existing Site as required in the Agreement and during the reporting period. (Verification may include receipts, paid invoices, request for payment from contractor, etc.)	
BCAD Real Property Tax Account Number:	
Cost of Real Property improvements made at the Property only and reported last reporting period (excludes investments made at the Existing Site):	\$
Cost of Real Property improvements made at the Property only since last reporting period (excludes investments made at the Existing Site):	\$
Total cumulative amount of Real Property improvements made to date. (Attach supporting documents.):	\$
Personal Property Improvements: Expenditures associated with personal property improvements at the Property, excluding the Existing Site as required in the Agreement and during reporting period. (Verification may include receipts, paid invoices, requests for payment, etc.)	
BCAD Personal Property Tax Account Number:	
Cost of Personal Property improvements made at the Property only and reported last reporting period (excludes investments made at the Existing Site):	\$
Cost of Personal Property improvements made at the Property only and since last reporting period (excludes investments made at the Existing Site): (Attach supporting documents.)	\$
Total cumulative Personal Property improvements made:	\$



**City of San Antonio
Economic Development Department
Incentive Reporting Form**

Targeted Populations Hiring: Company validation of which employees qualify under Targeted Populations Definition (Verification: payroll register with three columns indicating which one of these items applies to the specific employee. Employees will only count once if they qualify for more than one definition).	
**Beginning December 31, 2021	
Total number of employees residing in Tier II or III of the Inclusive Growth Area (IGA Qualified). <ul style="list-style-type: none"> Company may request a mapping "en masse" at any time by sending a list of addresses and unique identifiers (maximum 30-day turnaround). EDD will also make available a GIS Mapping application for the company to validate addresses on an individual basis. Each employee listed must be associated with a unique identifier. 	
Total number of employees that qualify for Work Opportunity Tax Credits <ul style="list-style-type: none"> Company has indicated that it contracts with a service to provide those assessments Listing of employee, which qualifying status under WOTC must be associated with a unique identifier. 	
Total number of employees currently enrolled in City of San Antonio Delegate Agency programs or through the Service Plan or Endorsed Career Plan in the Agreement (subject to verification by City). <ul style="list-style-type: none"> Company/Contractor may at any time submit a listing of employees referred to UPN Delegate Agencies. 	

Upskill Partnership: Company/contractor validation of meeting the criteria set forth in Upskill Partnership Section of the agreement. (Verification: report listing employee name or unique identifier and service (Assessment, Barrier Removal, Training Funds Request) currently accessed as agreed to in the Upskill Partnership Plan.)	
**Beginning upon City Approval of Upskill Partnership and ninety (90) day window for implementation	
Total number of employees Assessed	
Total number of employees referred for Barrier Removal	
Total number of employees for which a request for Training Funds has been submitted	
Total number of employees participating in the UPP <ul style="list-style-type: none"> This listing of employees served will include either name or reference number that can be tracked in Company/Contractor case management system. 	
Total number of employees exited or opting out of service available through the UPP <ul style="list-style-type: none"> The list of employees served by either name or reference number that can be tracked in Company/Contractor case management system. 	

Certification:
<i>I certify, under penalty of perjury, that the information provided in this report and the attached documents is correct, and that the company has complied with all terms and conditions of its agreement with the City of San Antonio.</i>

Signature:	Date:	
Printed Name:	Title:	

Mail original signed form, with supporting documents, to: Economic Development Department, Operations & Monitoring, City of San Antonio, P. O. Box 839966, San Antonio, Texas 78283-3966. For questions regarding this report, please contact Pamela Cruz, Sr. Management Analyst, at (210) 207-0150 or e-mail: monitoringandops@sanantonio.gov.