



**WHEREAS**, it is in the best interests of the taxpayers for the City to enter into this Agreement in accordance with the Tax Abatement Guidelines and the Tax Code in order to maintain and enhance the employment, commercial, and industrial economic base of the City; and

**WHEREAS**, the City has adopted guidelines for tax abatement that are current under Tax Code Section 312.002(b) (the “Tax Abatement Guidelines”); and

**WHEREAS**, the Tax Abatement Guidelines contain appropriate guidelines and criteria governing tax abatement agreements to be entered by the City as contemplated by the Tax Code; and

**WHEREAS**, on the 14th day of May, 2024, the City adopted a resolution electing to be eligible to participate in tax abatements; and

**WHEREAS**, the City, after a public hearing, has found that the contemplated use of the Premises (hereinafter defined), and the contemplated Improvements (hereinafter defined) are consistent with encouraging economic development of the Reinvestment Zone and that the proposed tax abatement will be in compliance with the Tax Abatement Guidelines, the Tax Code, and all other applicable laws; and

**WHEREAS**, in order to maintain and enhance the commercial and industrial economic and employment base of the Bryan area, it is in the best interests of the taxpayers for the City to enter into this Agreement in accordance with said ordinance establishing the reinvestment zone, the Tax Abatement Guidelines and the Tax Code; and

**WHEREAS**, a copy of this Agreement has been furnished, in the manner prescribed by the Tax Code, to the governing bodies’ presiding officers of each taxing unit in which the Premises is located, and:

**WHEREAS**, this Agreement was approved at a regularly scheduled meeting of the City Council of the City.

**NOW, THEREFORE**, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, including the expansion of primary employment, the attraction of major investment in the Reinvestment Zone which contributes to the economic development of the City, and the enhancement of the tax base in the City, the Parties agree as follows:

**ARTICLE I  
DEFINITIONS**

Wherever used in this Agreement, the following terms shall have the meanings ascribed to them. If a term is not defined herein it shall have the meaning ascribed to it in Section 1.04 of the Tax Code.

**“Abatement”** means the full or partial exemption from the City’s Maintenance and Operations (M&O) ad valorem taxes on property in a Reinvestment Zone as provided herein. The property tax abatement provided in this Agreement shall extend only to City ad valorem taxes on the Improvements and New Tangible Personal Property located on the Land within the Reinvestment Zone.

**“Affiliate”** shall mean any person or entity which directly or indirectly controls, is controlled by or is under common control with Owner. A person or entity will be deemed to be “controlled” by any other person or entity if such other person or entity: (a) possesses, directly or indirectly, power to direct or cause the direction of the management of such person or entity, whether by contract or otherwise; (b) has direct or indirect ownership of at least fifty percent (50%) of the voting power of all outstanding shares entitled to vote at a general election of directors of the person or entity; or (c) has direct or indirect ownership of at least fifty percent (50%) of the equity interests in the entity.

**“Bankruptcy or Insolvency”** shall mean the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of a receiver for any part of a Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party, and such proceeding is not dismissed within ninety (90) days after the filing thereof.

**“Base Year Taxable Value”** shall mean the Taxable Value of the Property as of the 1st day of January, 2025, from which all increases in the Taxable Value of the Property shall be measured.

**“BCAD”** shall mean Brazos Central Appraisal District.

**“Commencement of Construction”** shall mean that: (a) construction plans have been prepared and all approvals thereof required by applicable Governmental Authorities have been obtained for construction of the Project or the applicable phase of the Project; (b) all necessary permits for the construction of the Project or for the applicable phase of the Project, pursuant to the respective plans therefor have been issued by all applicable Governmental Authorities; and (c) commence construction of the facility foundation of the respective phase of the Project.

**“Effective Date”** shall mean the day after all conditions precedent listed at Section 11.16 have been satisfied.

**“Expiration Date”** shall mean March 1 of the calendar year following the expiration of the last of the tax abatements provided herein.

**“Facility”** shall mean a building or structure erected on the Land for the purpose of the Project.

**“First Year of Abatement”** shall mean January 1, 2026; provided, however, that the Owner may, at its sole discretion and sole option, elect to delay the First Year of Abatement by up to one (1) year by delivering a notice to the City and the BCAD (or its successor) stating such desire (a “Notice of First Year of Abatement Change”), and in such case, the First Year of Abatement shall be the date identified in the Notice of First Year of Abatement Change.

**“Force Majeure”** shall mean any act that (a) materially and adversely affects the affected Party’s ability to perform the relevant obligations under this Agreement or delays such affected Party’s ability to do so; (b) is beyond the reasonable control of the affected Party; (c) is not due to the affected Party’s fault or negligence; and (d) could not be avoided by the Party who suffers it, by the exercise of commercially reasonable efforts, including the expenditure of any reasonable sum of money. Subject to the satisfaction of the conditions set forth in (a) through (d) above, Force Majeure shall include: natural phenomena such as storms, floods, lightning and earthquakes; wars, civil disturbances, revolts insurrections, terrorism, sabotage and threats of sabotage or terrorism; transportation disasters, whether by ocean, rail, land or air; strikes or other labor disputes that are not due to the breach of any labor agreement by the affected Party; delays in obtaining necessary goods or services essential for Project completion caused by an epidemic or pandemic; fires; and actions or omissions of a Governmental Authority that were not voluntarily induced or promoted by the affected Party or brought about by the breach of its obligations under this Agreement or any applicable law. Under no circumstances shall Force Majeure include Owner’s financial inability to perform as a result of economic hardship or changes in market conditions or any strike or labor dispute involving the employees of Owner or any Affiliate of Owner, other than industry or nationwide strikes or labor disputes.

**“Full Time Employee”** or **“FTE”** shall mean any person who is an employee of Owner or an Affiliate (excluding temporary or seasonal employees) who is on the payroll in a budgeted position who works in Brazos County, has an officially scheduled work week of thirty-five (35) hours or more and who, according to Owner or Affiliate company policy, is entitled to full benefits as a full time employee.

**“Gross Payroll”** shall mean the payroll numbers that Owner or an Affiliate reports to the Texas Workforce Commission quarterly for Full Time Employees for the four preceding consecutive calendar quarters ending on or prior to a date of measurement under this Agreement.

**“Governmental Authority(ies)”** shall mean any federal, state, local or foreign governmental entity, authority or agency, court, tribunal, regulatory commission or other body whether legislative, judicial or executive (or a combination or permutation thereof),

including a local government corporation and the Texas A&M University System.

**“Guaranteed Value”** shall mean a Property Taxable Value as determined by BCAD.

**“Improvements”** or **“Project”** shall mean one or more improvements constructed on the Land consisting of one or more high technology manufacturing plants and other ancillary facilities such as required parking and landscaping, as more fully described in the submittals to be filed with the City.

**“Incremental Taxable Value”** shall mean the Taxable Value for the Property as of January 1st of a given year less the Base Year Taxable Value.

**“Inventory”** shall mean only those items of Tangible Personal Property that are commonly referred to as wares, goods, and merchandise, which are held for sale or lease to customers in the ordinary course of business.

**“Land”** shall mean the approximately 220.9 acres of land located on the RELLIS Campus described in **Exhibit “B”** and the subject of a Land Lease between Owner, as tenant, and TAMUS, as landlord.

**“Land Lease”** shall mean the lease Owner is considering entering with TAMUS to lease the Land.

**“Owner”** shall mean America’s Foundry Bryan LLC, and its successors and permitted assigns.

**“Premises”** shall mean, collectively, the Land and the Improvements following construction thereof.

**“Property”** shall mean the Real Property and Tangible Personal Property located in the Reinvestment Zone, excluding Inventory and supplies.

**“Real Property Taxes”** are the City’s share of the ad valorem taxes received by the City from the Brazos County Tax Assessor-Collector on the value of the Property, which shall include land, improvements, and Tangible Personal Property taxed by the City.

**“Reinvestment Zone”** shall mean the RELLIS Reinvestment Zone No. 1 for Commercial-Industrial Tax Abatement in the City of Bryan, Texas adopted by the City Council of the City, Texas on May 14, 2024 and further described in **Exhibit “A”**.

**“RELLIS Campus”** shall mean the Texas A&M University System RELLIS Campus located in the City.

**“Tangible Personal Property”** shall have the same meaning assigned by the Tax Code Section 1.04 and shall mean all tangible personal property, equipment, machinery, and fixtures, excluding inventory and supplies, owned or leased by Owner that is added to the Improvements subsequent to the execution of this Agreement.

**“Tax Abatement Guidelines”** shall mean the current guidelines for tax abatements in accordance with Tax Code Section 312.002 as adopted by the City on May 14<sup>th</sup>, 2024.

**“Tax Code”** shall mean the current Texas Tax Code.

**“Taxable Value”** shall mean the appraised value (taking into consideration the cost basis in accordance with Section 23.0101 of the Tax Code) as certified by the Brazos Central Appraisal District as of January 1st of a given year.

## **ARTICLE II GENERAL PROVISIONS**

2.1 Owner has or intends to hold a ground lease for the Land, which Land is located within the city limits of the City and within the Reinvestment Zone. Owner intends to construct, or cause to be constructed, the Improvements on the Land.

2.2 The Project is not an improvement project financed by tax increment bonds.

2.3 This Agreement is entered into subject to the rights of the holders of outstanding bonds of the City.

2.4 The Land is not owned or leased by any member of the Bryan City Council or any member of the Bryan Planning and Zoning Commission.

2.5 The Land and the Owner’s Improvements constructed thereon within the Reinvestment Zone shall be used in the manner that, during the period taxes are abated hereunder, is consistent with the general purposes of encouraging development or redevelopment within the Reinvestment Zone.

2.6 The “Term” of this Agreement shall begin on the Effective Date and shall continue until the Expiration Date, unless sooner terminated as provided herein.

## **ARTICLE III TAX ABATEMENT AUTHORIZED**

3.1 This Agreement is authorized by the Tax Code and in accordance with the Tax Abatement Guidelines.

3.2 Subject to the terms and conditions of this Agreement, the City hereby grants Owner an abatement of the Taxable Value of Property as follows for ten (10) calendar years which includes the First Year of Abatement:

<u>Tax Year</u>	<u>Minimum Incremental Taxable Value</u>	<u>Guaranteed Value</u>	<u>% Abatement</u>
Year 1	\$100,000,000	\$100,000,000	80%
Year 2	\$400,000,000	\$500,000,000	80%
Year 3	\$500,000,000	\$1,000,000,000	80%
Year 4	\$1,000,000,000	\$2,000,000,000	80%
Year 5	\$3,000,000,000	\$5,000,000,000	80%
Year 6	\$4,000,000,000	\$9,000,000,000	50%
Year 7	\$1,000,000,000	\$10,000,000,000	50%
Year 8	- 0 -	\$10,000,000,000	50%
Year 9	- 0 -	\$10,000,000,000	50%
Year 10	- 0 -	\$10,000,000,000	50%

The partial exemption from ad valorem taxation of Property during each tax year covered by this Agreement shall be computed by taking a percentage of the increase in value of said Property on January 1<sup>st</sup> of each tax year over the value of Property from the Base Year Taxable Value. For clarity, the Parties intend for the abatements under this Agreement to apply only to Property owned by Owner, or by an assignee of Owner that is consented to by City or otherwise permitted under Section 11.4 herein.

3.3 Notwithstanding any provision of this Agreement to the contrary, all tax abatements on the value of said Property as the result of this Agreement shall not exceed ten (10) years in accordance with Chapter 312 of the Tax Code.

3.4 During the period of tax abatement herein authorized, Owner shall be subject to all taxation not abated, including, but not limited to, ad valorem taxation on Owner's Property.

#### **ARTICLE IV IMPROVEMENTS AND PERFORMANCE REQUIREMENTS**

4.1 Owner intends to construct or cause to be constructed Improvements on the Land

that is in the Reinvestment Zone and to locate Tangible Personal Property at such Improvements. Nothing in this Agreement shall obligate Owner to construct the Improvements on the Land or to locate Tangible Personal Property thereat, but said actions are conditions precedent to tax abatement pursuant to this Agreement.

4.2 Owner agrees to the Commencement of Construction no later than the beginning of the First Year of Abatement.

4.3 Owner agrees, as good and valuable consideration for this Agreement, that construction of the Improvements by Owner will be in accordance with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations.

4.4 Owner agrees to maintain the Improvements and the Premises during the Term of this Agreement in accordance with all applicable federal, state and local laws, codes, and regulations in all material respects, or shall diligently pursue the cure of any material non-compliance.

4.5 Owner shall file construction plans for the Improvements constructed on the Land with the City, which shall be deemed to be incorporated by reference herein and made a part hereof for all purposes.

4.6 The City, its agents and employees shall have the right of access to the Premises during and following construction at reasonable times and with reasonable notice to Owner, and in accordance with visitor access and security policies of Owner, in order to inspect the Improvements and ensure that the construction of the Improvements are in accordance with this Agreement and all applicable federal, state and local laws and regulations (or valid waiver thereof).

## **ARTICLE V EMPLOYMENT AND JOB CREATION**

5.1 Owner agrees to annually employ a total number of FTE's with a total Gross Payroll as set forth which includes, but is not limited to, engineers, technicians, production, administrative, and clerical staff:

<b><u>Year</u></b>	<b><u>Employee Count</u></b>
1	25
2	100
3	300
4	500



5	700
6	1,000
7	1,200
8	1,400
9	1,600
10	1,800

5.2 On or before March 31, 2026 and March 31 of each year thereafter, Owner shall deliver to City documentation, including, but not limited to, Texas Workforce Commission quarterly reports, demonstrating that Owner met the employment and job creation targets for the preceding year.

**ARTICLE VI  
OWNER’S DUTIES AND OBLIGATIONS**

6.1 Owner shall, before August 1<sup>st</sup> of each calendar year that the Agreement is in effect, certify in writing to City that it is in compliance with each term of the Agreement, using the Certificate of Compliance form attached hereto as **Exhibit “C”**. The submission of these reports shall be the responsibility of Owner and shall be signed by an officer of Owner. Current year paid tax receipts shall be attached to the form as an exhibit.

6.2 Owner shall annually render the value of new Real Property and Tangible Personal Property to BCAD and shall provide a copy of the same to the City upon written request.

6.3 It shall be the responsibility of Owner, pursuant to Section 11.43 of the Tax Code, to file, **on or before April 30**, an annual exemption application form for the new Property with the Brazos County Chief Appraiser using the form attached hereto as **Exhibit “D”**. A copy of the respective exemption application shall be submitted to the City upon request.

6.4 During the Term of this Agreement, Owner shall not allow the ad valorem taxes owed to the City on the Property owned by Owner, or any other property owned by Owner and located within the City to become delinquent beyond the date when due, as such date may be extended to allow for any protest of valuation or appeal. Nor shall Owner fail to render for taxation any property owned by Owner and located within the City.

6.5 During the Term of this Agreement, Owner shall not convey all or part of the Improvements to the Texas A&M University System or other third party, with the exception of Owner’s Affiliate, without the prior written consent of the City, which written consent will not be unreasonably withheld, conditioned or delayed.

6.6 During the Term of this Agreement, Owner shall not default on the Land Lease.

6.7 Owner shall allow City reasonable access, during normal business hours, and with reasonable notice, to examine its records and books and all other relevant records related to Owner's compliance with the performance requirements of this Agreement.

6.8 Owner shall keep the Premises insured against loss or damage by fire or any other casualty at full replacement value by purchasing insurance or through a self-insurance program. Owner shall furnish the City with either a certificate of insurance or documentation of its self-insurance program.

6.9 As an inducement for the City to enter into the Agreement, during each year in which City taxes are abated, Owner shall make certain payments in lieu of taxes ("PILOT") to City in an amount equal to five percent (5%) of the aggregate amount of that year's City taxes which are abated to be utilized for the enhancement of the quality of life of its citizens. The PILOT amount shall be paid no later than January 31 of the year following the year for which the taxes were abated. PILOT payments may be made by Owner or any Affiliate. The quality of life purposes for which the PILOT payments may be utilized include but are not limited to infrastructure or programs for: parks, recreation and exercise; libraries; aesthetic enhancements to public spaces; public education; senior citizen services; youth services; and healthy lifestyles.

6.10 Owner's failure to meet its performance requirements, duties, and obligations under this Agreement shall release the City from all obligations in this Agreement if breach has not been remedied within sixty (60) days after written notice from City or otherwise mutually agreed upon reasonable timeframe.

## **ARTICLE VII DEFAULT AND TERMINATION**

7.1 This Agreement shall terminate upon any one or more of the following: (i) by mutual agreement of the Parties; (ii) Expiration Date; or (iii) by the City, if Owner suffers an event of Bankruptcy or Insolvency.

7.2 The City or Owner shall have the right to terminate this Agreement in the event the other Party breaches any of the terms or conditions of the Agreement and any such breach is not cured within sixty (60) days after written notice by the non-breaching Party or in accordance with Section 7.3 herein.

7.3 If Owner should default in the performance of any obligation of this Agreement, the City shall notify Owner in writing, and Owner shall have sixty (60) days from receipt of the

notice in which to cure any such default. If the default cannot reasonably be cured within such 60-day period, and Owner has diligently pursued such remedies as shall be reasonably necessary to cure such default, then the City has the right to extend the period in which the default must be cured for additional sixty (60) day periods until such default is cured.

7.4 It is agreed by the Parties that if a particular action required in this agreement is to be performed by a certain date, and such action is not performed by the required date in the first instance but is then performed before the end of the applicable cure period, then the action shall be deemed to have been performed on time in the first instance, with no effect given to the initial delay.

7.5 If Owner fails to cure the default within the time provided, as specified above or as such period may be extended, the City shall have the right to terminate this Agreement by providing written notice to Owner and the City shall have the right to amend this Agreement in accordance with Section 11.3 herein.

7.6 In the event Owner elects not to proceed with the Project as contemplated by this Agreement, Owner shall notify the City in writing, and this Agreement and the obligations on the part of both Parties shall be deemed terminated and of no further force or effect.

7.7 If Owner sells or otherwise conveys without written consent from City the Property or any portion of the Property to a third party, other than an Affiliate as defined herein, prior to the Property obtaining a minimum Incremental Taxable Value of FIVE BILLION DOLLARS (\$5,000,000,000.00), this Agreement shall terminate as of the conveyance date and the City shall have no further obligations thereunder.

7.8 In the event a Party defaults, then the other Party shall have available to it all remedies at law and equity.

## **ARTICLE VIII RECAPTURE OF TAX REVENUE**

8.1 In the event Owner (i) defaults on its obligations under this Agreement and the City exercises its right to terminate this Agreement as described in Section 7.5; (ii) has delinquent ad valorem taxes owed to the City, and does not cure such delinquency within sixty (60) days after written notice from the City (provided Owner retains its right to timely and properly protest such taxes or assessment); (iii) has an event of Bankruptcy or Insolvency, then Owner shall be in default of this Agreement. As liquidated damages in the event of such default, Owner shall, within thirty (30) days after demand, pay to the City all taxes with respect to the three (3) years directly preceding the date of the notice of default which otherwise would have been paid by Owner to the City without the benefit of the tax abatement under this Agreement for the property subject to this

Agreement, plus interest at the statutory rate for delinquent taxes as determined by Section 33.01 of the Tax Code but without penalties. Provided, however, that Owner will be credited toward this damages payment an amount equal to any PILOT actually made to City for the three years described above in this paragraph.

8.2 The Parties acknowledge that actual damages in the event of default and termination by the City would be speculative and difficult to determine. The Parties further agree that the amount of abated tax, including interest, as a result of this Agreement shall in accordance with the above provisions of this Article, be recoverable against Owner, its successors and assigns and shall constitute a tax lien against Owner's Property, and shall become due, owing, and shall be paid to the City within thirty (30) days after notice of termination.

8.3 Upon termination of this Agreement by the City, the amount of liquidated damages set forth in Sections 8.1 and 8.2, shall become a debt to the City as liquidated damages, and shall become due and payable not later than thirty (30) days after a notice of termination is provided. The City shall have all remedies for the collection of the abated tax described in Section 8.1 provided generally in the Tax Code for the collection of delinquent property tax, but without penalties. The computation of the abated tax for the purposes of the Agreement shall be based upon the full Taxable Value of the new Property without tax abatement for the applicable years for which recapture is required as set forth above and in which tax abatement hereunder was received by Owner, as determined by the BCAD, multiplied by the tax rate of the years in question, as calculated by the Brazos County Tax Assessor- Collector. The liquidated damages shall incur interest as provided for delinquent taxes and shall commence to accrue after expiration of the thirty (30) day payment period.

## **ARTICLE IX EVENTS OF FORCE MAJEURE**

9.1 If Owner gives written notice to the City that Owner cannot perform one or more of Owner's obligations because of Force Majeure, within ten (10) days of the event of Force Majeure, the City may, by written notice to Owner, suspend one or more of Owner's obligations, in whole or in part, for the time and to the extent necessary to allow Owner to overcome the Force Majeure and resume performance thereof.

## **ARTICLE X INDEMNIFICATION**

10.1 Owner hereby agrees to waive all claims, release, indemnify, defend and hold harmless the City, and all of its officials, officers, agents and employees, in both their public and private capacities, from and against any and all liability, claims, losses, damages, suits, demands

or causes of action, including all expenses of litigation and/or settlement, court costs and attorney fees which may arise by reason of injury to or death of any person or for loss of, damage to, or loss of use of any property occasioned by the error, omission, or negligent act of Owner, its officers, agents, employees or Affiliates arising out of or in connection with the performance of this Agreement, and Owner will at its own cost and expense defend and protect the City from any and all such claims and demands. The indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Owner or any contractor or subcontractor under workman's compensation or other employee benefit acts.

## **ARTICLE XI MISCELLANEOUS**

11.1 Incorporation of Recitals. The determinations recited and declared in the preambles to this Agreement are true and correct and are hereby incorporated herein as part of this Agreement.

11.2 Entire Agreement. This Agreement, including any exhibits hereto, contains the entire agreement between the parties with respect to the transactions contemplated herein.

11.3 Amendments. Any amendment, alteration, or termination of this Agreement must be in writing and signed by all Parties.

11.4 Assignment. Owner may not assign this Agreement without the prior written consent of the City, whose consent shall not be unreasonably withheld. If the City consents to Assignment, the Agreement will be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns.

11.5 No Waiver. Failure of either Party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of either Party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused, unless the waiver is in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any different or subsequent breach.

11.6 Notice. Any notice required or permitted to be delivered hereunder shall be deemed received upon the earlier of (a) actual receipt or (b) three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below, or such other address as is designated by the applicable Party from

time to time, or on the day actually received as sent by courier or otherwise hand delivered. The contact information for each Party is as follows:

If intended for City, to:

Attn: Kean Register  
City Manager  
P.O. Box 1000  
Bryan, Texas 77805-1000

With a copy to:

Thomas A. Leeper  
City Attorney  
P.O. Box 1000  
Bryan, Texas 77805-1000

If intended for Owner, to:

Attn: \_\_\_\_\_  
America's Foundry Bryan LLC  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

With a copy to:

11.7 Applicable Law and Venue. This Agreement is made and shall be construed and interpreted under the laws of the State of Texas. Venue for any legal proceedings shall lie in State courts located in Brazos County, Texas. Venue for any matters in federal court will be in the United States District Court for the Southern District of Texas, Houston Division.

11.8 Severability. In the event any provision of this Agreement is illegal, invalid, or unenforceable under applicable present or future laws, then it is the intention of the Parties that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision.

11.9 Third Parties. The City and Owner intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third-party beneficiary, or any individual or entity other than the City and Owner or permitted assignees of the City and Owner, except that the indemnification and hold harmless obligations by Owner provided for in this Agreement shall inure to the benefit of the indemnitees named herein.

11.10 No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the Parties, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose

whatsoever. Except as otherwise specifically provided herein, neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other.

11.11 Employment of Undocumented Workers. During the term of this Agreement, Owner agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Owner shall repay to City all taxes abated under this Agreement as of the date of such violation within 120 days after the date Owner is notified by City of such violation. Owner is not liable for a violation of this section by a vendor or subcontractor with whom Owner contracts.

11.12 Authorization. This Agreement was authorized by action of the City Council of Bryan, Texas at a meeting authorizing the Mayor to execute this Agreement on behalf of the City.

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

11.14 Right of Offset. The City may at its option, offset any amounts due and payable under this Agreement against any debt (including taxes) lawfully due to the City from the Owner, regardless of whether the amount due arises pursuant to the terms of this Agreement or a Related Agreement or otherwise and regardless of whether or not the debt due the City has been reduced to judgment by a court.

11.15 No Presumption Regarding Drafter. City and Owner acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between City and Owner, and that this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem either City or Owner to be the drafter of this Agreement, and therefore no presumption for or against the drafter shall be applicable in interpreting or enforcing this Agreement.

11.16 Conditions Precedent. This Agreement shall not be effective until such time as: (i) this Agreement is fully executed by both the City and Owner; (ii) and Owner has finalized its Land Lease with TAMUS to lease the Land further described in Exhibit "B".

11.17 Compliance. Owner agrees it will comply with Section 2252.908 of the Texas Government Code, as amended, to the extent said statute applies to this Agreement.

11.18 Paragraph headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope of the meaning of the paragraphs.

11.19 Right to Renegotiate. The Parties reserve the right to renegotiate this agreement in the event there is a significant change in the scope or circumstances of the Project.

THE UNDERSIGNED AUTHORIZED REPRESENTATIVES OF THE PARTIES have executed this Agreement to be effective as of the Effective Date.

**CITY OF BRYAN:**

**ATTEST:**

**APPROVED**

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Bobby Gutierrez, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Thomas A. Leeper, City Attorney

**AMERICA'S FOUNDRY BRYAN LLC**

**APPROVED AS TO FORM:**

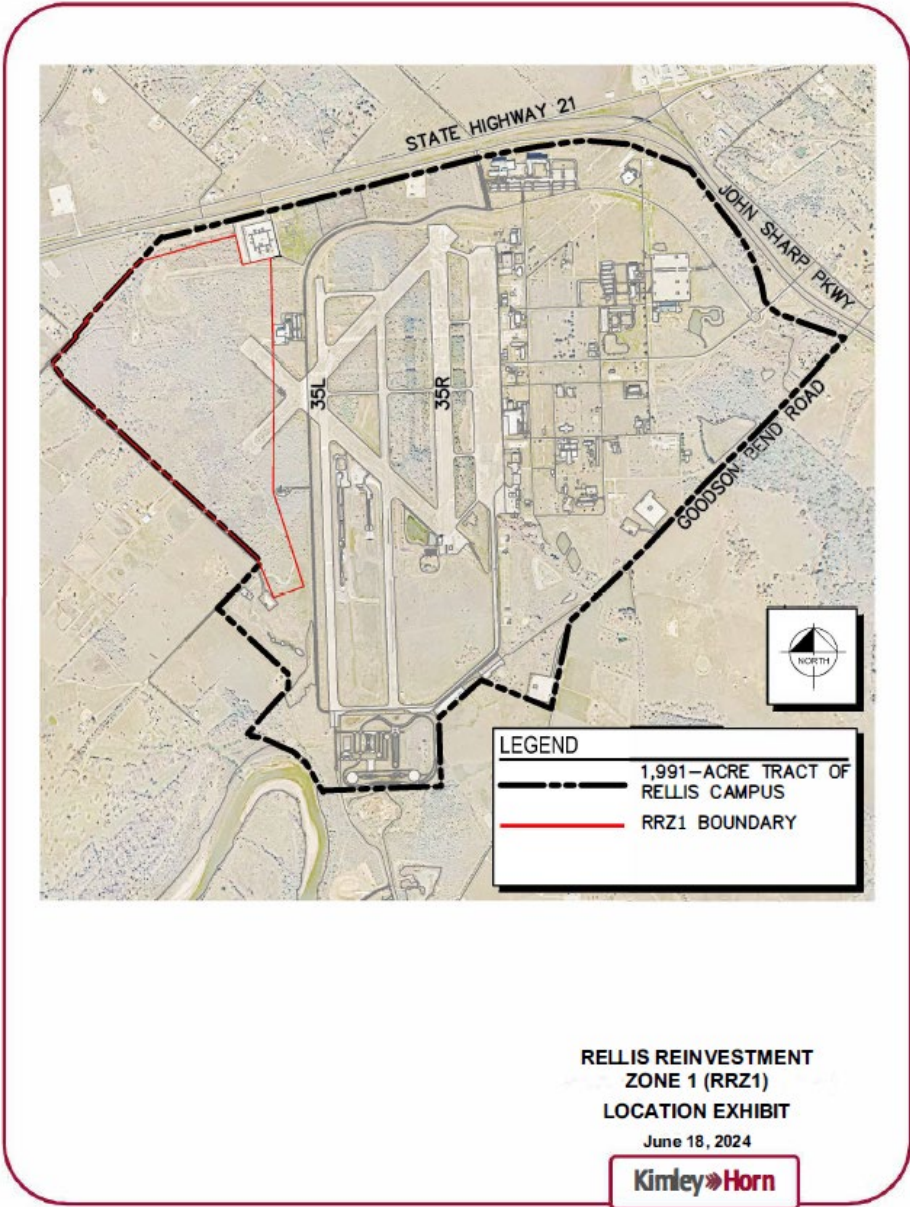
\_\_\_\_\_  
\_\_\_\_\_, Manager

\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT "A"**  
**DESCRIPTION OF RELIS REINVESTMENT ZONE NO. 1**

A 288 acre parcel of land, more or less, said parcel being out of a 1,991.39 acre tract of land, said tract being situated in the James Curtis, Jr. Survey, Abstract No. 12, the John Williams Survey, Abstract No. 237, and the Thomas F. McKinney Survey, Abstract No. 33, Brazos County, Texas and more particularly described in the certain Deed Without Warranty dated April 30, 1962 and recorded in Volume 219, at Page 210, of the deed Records of Brazos County, Texas.



**EXHIBIT "B"**  
**LEGAL DESCRIPTION OF THE LAND**



FIELD NOTES DESCRIPTION  
OF A  
288.0 ACRE TRACT  
JAMES CURTIS JR. LEAGUE SURVEY, ABSTRACT 12  
BRYAN, BRAZOS COUNTY, TEXAS

A FIELD NOTES DESCRIPTION OF 288.0 ACRES IN THE JAMES CURTIS JR. LEAGUE SURVEY, ABSTRACT 12, IN BRYAN, BRAZOS COUNTY, TEXAS, BEING A PORTION OF THE REMAINDER OF A CALLED 1991.39 ACRE TRACT OF LAND DESCRIBED IN A DEED FROM THE UNITED STATES OF AMERICA TO THE BOARD OF DIRECTORS OF THE AGRICULTURAL AND MECHANICAL COLLEGE OF TEXAS, DATED THE 30<sup>TH</sup> OF APRIL, 1962 AND RECORDED IN VOLUME 219, PAGE 201 OF THE DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT); SAID 288.0 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** at a 4"x4" concrete right-of-way monument found in the southeast right-of-way line of State Highway 21 (a variable width right-of-way per TXDOT right-of-way plans and Volume 1157, Page 889 of the Official Records of Brazos County, Texas), same being the northwest corner of said remainder of 1991.39 acre tract and the northeast corner of a called 50.67 acre tract of land described in a deed to Dorothy Ann Penicka Olabay recorded in Volume 1135, Page 171 (ORBCT);

**THENCE**, with the common line of said remainder of 1991.39 acre tract and said Olabay tract, **S 42° 20' 33" W**, at a distance of 379.51 feet passing a 1/2 inch iron rod with plastic cap stamped "STRONG 4961" found at the southwest corner of an electrical easement recorded in Volume 18525, Page 170 of the Official Public Records of Brazos County, Texas (OPRBCT) and the northwest corner of a proposed 100' wide electrical easement and continuing for a total distance of **569.12 feet** to a 1/2 inch iron rod with plastic cap stamped "STRONG 4961" found at the southwest corner of said proposed easement and the **POINT OF BEGINNING** hereof;

**THENCE**, through said remainder of 1991.39 acre tract, along the south line of said proposed electrical easement, the following two (2) courses and distances:

- 1) **N 74° 09' 25" E**, a distance of **1,145.44 feet** to a 1/2 inch iron rod with plastic cap stamped "STRONG 4961" found for an angle point in said line; and
- 2) **N 75° 54' 52" E**, a distance of **529.82 feet** to a 1/2 inch iron rod with plastic cap stamped "STRONG 4961" found in the southwest line of a called 11.499 acre ground lease site recorded in Volume 17297, Page 42 (OPRBCT) at the southeast corner of said easement, from which a 1/2 inch iron rod found in the southeast line of State Highway 21, at the northwest corner of said 11.499 acre lease site, bears **N 13° 31' 31" W**, a distance of 261.41 feet;

**THENCE**, with the southwest line of said 11.499 acre lease site, **S 13° 31' 31" E**, for a distance of **505.51 feet** to a 1/2 inch iron rod with plastic cap stamped "GESSNER" found at the southwest corner of said lease site;

**THENCE**, with the southeast line of said 11.499 acre lease site, **N 76° 28' 29" E**, for a distance of **490.30 feet** to a 1/2 inch iron rod set (all rods set with blue plastic cap stamped 'KERR SURVEYING') for the northeast corner hereof, from which a 1/2 inch iron rod with plastic cap stamped "GESSNER" found at the southeast corner of said lease site bears **N 76° 28' 29" E**, a distance of 159.71 feet;

**THENCE**, through said remainder of 1991.39 acre tract, the following five (5) courses and distances:

- 1) **S 01° 15' 30" E**, a distance of **2,200.78 feet** to a 1/2 inch iron rod set;
- 2) **S 00° 21' 05" W**, a distance of **1,694.90 feet** to a 1/2 inch iron rod set;
- 3) **S 17° 55' 29" E**, a distance of **1,660.16 feet** to a 1/2 inch iron rod set for the southeast corner hereof;
- 4) **S 69° 26' 12" W**, a distance of **536.40 feet** to a 1/2 inch iron rod set for the most southerly corner hereof; and
- 5) **N 22° 20' 38" W**, a distance of **684.78 feet** to a 1/2 inch iron rod set in a curve on the east side of Pitts Road, from which a 1/2 inch iron rod found bent at the south end of said curve bears **S 10° 28' 32" W**, a chord distance of 144.62 feet;

**THENCE**, along the northeast side of Pitts Road, with the northeast line of a called 3.98 acre right-of-way easement for road widening recorded in Volume 1352, Page 228 (ORBCT), the following four (4) courses and distances:

- 1) with a curve to the left, having a radius of **133.41 feet**, an arc length of **58.82 feet**, a delta angle of **25° 15' 35"**, and a chord which bears **N 34° 58' 25" W**, a distance of **58.34 feet**, to a 1/2 inch iron rod found;
- 2) **N 47° 33' 14" W**, a distance of **2,364.93 feet** to a 1/2 inch iron rod found bent;
- 3) **N 47° 12' 44" W**, a distance of **1,969.64 feet** to a 1/2 inch iron rod found; and
- 4) **N 36° 01' 05" W**, a distance of **372.14 feet** to a 1/2 inch iron rod set on the southeast side of Kuder Road for the west corner hereof;

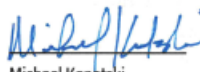
**THENCE**, along the southeast side of Kuder Road, with the southeast line of said right-of-way easement, **N 43° 04' 36" E**, for a distance of **580.64 feet** to a 1/2 inch iron rod found bent at the northeast corner of said right-of-way easement;

**THENCE**, along the northeast line of said right-of-way easement, **N 40° 08' 02" W**, for a distance of **34.61 feet** to a 1/2 inch iron rod set in the northwest line of said remainder of 1991.39 acre tract;

**THENCE**, with the northwest line of said remainder of 1991.39 acre tract, same being the southeast line of said Dlabay tract, the following three (3) courses and distances:

- 1) **N 41° 03' 25" E**, a distance of **334.29 feet** to a point, from which a 3 inch pipe fence corner post found bears S 53° 20' 15" W, a distance of 0.45 feet;
- 2) **S 75° 44' 07" W**, a distance of **54.49 feet** to a point, from which a 3 inch pipe fence corner post found bears N 05° 36' 10" E, a distance of 1.39 feet; and
- 3) **N 42° 20' 33" E**, a distance of **1,343.26 feet** to the **POINT OF BEGINNING** hereof and containing **288.0 acres**, more or less.

Surveyed on the ground May 2024 under my supervision. See plat prepared May 2024 for other information. The bearing basis for this survey is based on the Texas State Plane Coordinate System of 1983 (NAD83), Central Zone, Grid North as established from GPS observation using the Leica Smartnet NAD83 (NA2011) Epoch 2010 Multi-year CORS Solution 2 (MYCS2). Distances described herein are surface distances. To obtain grid distances (not grid areas) divide by a combined scale factor of 1.00010722566876 (calculated using GEOID12B). Reference drawing: 24-623-Exhibit.

  
5/31/24

Michael Konetski  
Registered Professional Land Surveyor No. 6531



## KERR SURVEYING

Kerr Surveying, LLC | 1718 Briarcrest Dr. Bryan, TX 77802

Office: (979) 268-3195 | Web: [www.kerrlandsurveying.com](http://www.kerrlandsurveying.com)

[Surveys@kerrsurveying.net](mailto:Surveys@kerrsurveying.net) | TBPELS Firm No. 10018500



**EXHIBIT "C"**

**STATEMENT OF COMPLIANCE  
WITH AGREEMENT FOR TAX ABATEMENT WITH  
AMERICA'S FOUNDRY BRYAN LLC  
IN CITY OF BRYAN RELLIS REINVESTMENT ZONE NO. 1**

**THE STATE OF TEXAS §  
COUNTY OF BRAZOS §**

AMERICA'S FOUNDRY BRYAN LLC ("Owner") hereby certifies any improvements on the Property, as called for in the above referenced Agreement, have been completed and constructed in every material respect pursuant to said Agreement. Owner further certifies that it has complied with all applicable and material terms of said Agreement.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

AMERICA'S FOUNDRY BRYAN LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Any above described improvements have been accepted by the City of Bryan, Texas as having been constructed in compliance with the above referenced Agreement, and that pursuant to said Agreement the partial exemption from taxation shall commence on January 1, 20\_\_\_\_ continuing through the year 20\_\_\_\_, which will be the last year that the property will be entitled to exemption from taxation in accordance with this Agreement, and that the taxable value of the Premises for such period of time shall be the taxable value as finally determined, following any applicable contests and appeals, by the Brazos County Appraisal District on January 1st of each year of the term of the Agreement.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: CITY OF BRYAN, TEXAS

\_\_\_\_\_  
Kean Register, City Manager

ATTEST:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

# EXHIBIT "D"

## Application for Property Tax Abatement Exemption

Appraisal District Name

Phone (area code and number)

Appraisal District, Address, City, State, ZIP Code

**GENERAL INSTRUCTIONS:** This application is for use in claiming property tax exemptions pursuant to Tax Code Section 11.28. A property owner who has established a tax abatement agreement under Tax Code Chapter 312, Property Redevelopment and Tax Abatement Act, is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

**FILING INSTRUCTIONS:** This document and all supporting documentation must be filed with the appraisal district office in the county in which the property is taxable. Do not file this document with the Texas Comptroller of Public Accounts. A directory with contact information for appraisal district offices may be found on the Comptroller's website.

**APPLICATION DEADLINES:** The completed application and supporting documentation must be filed beginning Jan. 1 and no later than April 30 of the year for which an exemption is requested. For good cause shown, the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

**ANNUAL APPLICATION REQUIRED:** An application for this exemption must be filed each year. If information has not changed and/or agreement(s) were not modified, copies of the agreement(s) are not required to be attached.

### OTHER IMPORTANT INFORMATION

Pursuant to Tax Code Sec. 11.45, the chief appraiser may request additional information. The additional information must be provided within 30 days of the request or the application is denied. For good cause shown, the chief appraiser may extend the deadline for furnishing the additional information by written order for a single period not to exceed 15 days.

State the tax year for which you are applying.

Tax Year

Did the applicant own the property that is the subject of this application on Jan. 1 of the tax year? .....  Yes  No

### SECTION 1: Property Owner/Applicant

The applicant is the following type of property owner: (check one):

Individual  Partnership  Corporation  Other (specify):

Name of Property Owner

Driver's License, Personal I.D. Certificate  
Social Security Number or Federal Tax I.D. Number\*

Physical Address, City, State, ZIP Code

Phone (area code and number)

Email Address\*\*

Mailing Address of Property Owner (if different from the physical address provided above):

Mailing Address, City, State, ZIP Code





**SECTION 5: Abatement(s) Questions**

1. Is this a continuation of an existing abatement agreement?  Yes  No
2. Are the terms and duration of each taxing unit's agreement different or identical?  Different  Identical  
 If different, please copy this form for each taxing unit and complete section 5 for each unit. In the area where taxing units are listed, please circle the taxing unit being summarized.  
 If identical, please describe the nature of the abatement agreements for this year by completing the following:
  - Lump sum exemption of \$ \_\_\_\_\_
  - Percentage exemption of \_\_\_\_\_ %
  - Other (Attach a statement describing the method of calculating abatement. Provide dollar value to be exempted this year.)
3. Does the agreement abate taxes on personal property?  Yes  No
4. Are you in compliance with the agreement?  Yes  No  
 If no, attach a statement explaining the reason for noncompliance.

**SECTION 6: Additional Required Documentation**

The following documents must be included with this application.

- copies of abatement agreements, unless the abatement was previously granted and no changes have occurred and/or the agreement(s) were not modified;
- a statement describing the method of calculating the abatement if it is not a lump sum or percentage exemption (provide the dollar amount to be exempted this year); and
- a statement explaining the reason for noncompliance if applicant is not in compliance with an abatement agreement.

**SECTION 7: Certification and Signature**

**NOTICE REGARDING PENALTIES FOR MAKING OR FILING AN APPLICATION CONTAINING A FALSE STATEMENT: If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Penal Code Section 37.10.**

I, \_\_\_\_\_, swear or affirm the following:  
 Printed Name of Property Owner or Authorized Representative

1. that each fact contained in this application is true and correct;
2. that the property described in this application meets the qualifications under Texas law for the exemption claimed; and
3. that I have read and understand the *Notice Regarding Penalties for Making or Filing an Application Containing a False Statement*.

sign here →

\_\_\_\_\_  
 Signature of Property Owner or Authorized Representative

\_\_\_\_\_  
 Date

\* If the property owner is a company or other legal entity (not an individual), the Federal Tax I.D. Number is to be provided. Disclosure of your social security number (SSN) may be required and is authorized by law for the purpose of tax administration and identification of any individual affected by applicable law. Authority: 42 U.S.C. § 405(c)(2)(C)(i); Tax Code Section 11.43(f). Except as authorized by Tax Code Section 11.48(b), a driver's license number, personal identification certificate number, or social security number provided in this application for an exemption filed with your county appraisal district is confidential and not open to public inspection under Tax Code Section 11.48(a).

\*\* An email address of a member of the public could be confidential under Government Code Section 552.137; however, by including the email address on this form, you are affirmatively consenting to its release under the Public Information Act.