LOH
06/12/08
Item #4C

AN ORDINANCE 2008-06-12-0511

APPROVING AN AGREEMENT WITH KLN STEEL FOR A 10-YEAR, 100% TAX ABATEMENT ON REAL AND PERSONAL PROPERTY IMPROVEMENTS; AND APPROVING AN EXCEPTION TO THE GUIDELINES BASED ON THE INVESTMENT, WAGE AND EMPLOYMENT LEVELS.

* * * * *

WHEREAS, KLN Steel Products Company is a local manufacturing firm currently located at 2 Winnco Drive along I-35 North which makes high quality furniture for multi-person housing facilities and provides packaged services for federal government offices and dormitory facilities; and

WHEREAS, the company is consolidating its existing manufacturing operations in San Antonio, California and Illinois into one operation with a $20 million expansion; and

WHEREAS, for its expansion, KLN is purchasing a 500,000 sq. ft. building (formerly Friedrich Air Conditioning) at 4200 North Pan Am Expressway and currently employs 200 in San Antonio with plans to create 500 new jobs in 3 years; and

WHEREAS, KLN has requested a 10-year, 100% tax abatement on approximately $1 million in new personal and real property improvements; and

WHEREAS, under the current Joint City/County Tax Phase-In Guidelines, KLN qualifies for a 10-year term and a 100% tax abatement on $500,000.00 in real property improvements and a 50% tax abatement on $500,000.00 on personal property improvements; and

WHEREAS, because the project is in the targeted manufacturing industry, will result in the retention of 200 jobs and the creation of 500 new jobs and will include a substantial investment in a targeted area, EDD staff recommends a 100% tax abatement on all real and personal property improvements as an exception to the Guidelines; and

WHEREAS, the retention and expansion of KLN Steel in San Antonio supports the City's Strategic Plan for Enhanced Economic Development by encouraging the growth of a local manufacturing company, further establishes San Antonio as a skilled manufacturing center and enhances this key sector as an integral part of our regional economy with prospects for substantial future growth; **NOW THEREFORE:**

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

SECTION 1. City Council approves the Tax Phase-In Agreement with KLN Steel Products Company, LLC for a 10-year, 100% abatement of ad valorem taxes for real and personal property improvements, attached hereto in substantially final form as Attachment I, and approves

an exception to the Joint City/County Tax Phase-In Guidelines based on investment, wage and employment levels.

SECTION 2. The City Manager or her designee is authorized to execute the Agreement approved in Section 1.

SECTION 3. This ordinance shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 12th day of June, 2008.

M A Y O R
PHIL HARDBERGER

ATTEST:
City Clerk

APPROVED AS TO FORM: _____
for City Attorney

ATTACHMENT I

TAX PHASE-IN AGREEMENT BETWEEN
KLN STEEL PRODUCTS COMPANY, LLC
AND THE CITY OF SAN ANTONIO

1. PARTIES

THIS AGREEMENT (the "Agreement") is entered into on this _____ day of _____ 2007, by and between KLN STEEL PRODUCTS COMPANY, LLC., a Texas Limited Liability Company, (hereinafter referred to as "KLN"), as real property and personal property owner, and the CITY OF SAN ANTONIO, a municipal corporation, (hereinafter referred to as the "CITY"), acting by and through its City Manager.

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 N0. 2008-_____ on June __, 2008, together which established the Joint City/County Tax Phase-In Guidelines, (hereinafter referred to as the "Guidelines");

3. CITY COUNCIL ORDINANCE NO. _____, dated _____, 2008, which designated the KLN Reinvestment Zone (the "Zone"); and

4. CITY COUNCIL ORDINANCE NO._____, dated _____, 2008, 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, and the property subject to it, generally meet the Guidelines and Criteria as adopted by the City Council and has approved exceptions regarding the percentage of abatement for tangible personal property improvements. The City Council further finds that (a) the approval of this Agreement will not have any substantial long-term adverse effect on the provision of CITY services or the CITY'S tax base; and (b) the planned use of the Property (defined below) inside the Zone by KLN for the uses contemplated herein will not constitute a hazard to public safety, health or morals.

3. PROPERTY

A. The taxable real property which is the subject of the Zone of this Agreement is located at 4200 North Pan Am Expressway in San Antonio, Bexar County, Texas on 38.713 acres of land in San Antonio, Bexar County, Texas which are recorded in the

Deed and Plat Records of Bexar County, Texas at the time of execution of this Agreement as follows:

> 38.713 acres being a resubdivision plat out of the south irregular part of Lot 1 NCB 14346, C.R.S. recorded in Volume 6200 Page 87; the south irregular portion of Lot 2 NCB 12201, Texas Terminal Property Subdivision, recorded Volume 3850, page 252

said parcel being more particularly described in Exhibit A, attached hereto and incorporated herein.

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With a total investment of approximately twenty million dollars ($20,000,000), KLN shall construct new tangible personal property and real property improvements in an approximately five hundred thousand (500,000) square-foot facility to house approximately seven hundred (700) non-temporary, full-time positions, to be completed by December 31, 20__, which KLN shall own, hold an interest in or otherwise control (the "Facility"). KLN shall retain a minimum of an existing two hundred (200) non-temporary, full-time employment positions and additional non-temporary, full-time employment positions shall be created and maintained according to the following schedule: Year 1 (calendar year 2008) – two hundred (200) additional; Year 2 (calendar year 2009) – two hundred (200) additional; Year 3 (calendar year 2010) – one hundred (100) additional; for a cumulative total of seven hundred (700) retained or created and maintained non-temporary, full-time employment positions. These positions shall consist of managerial/executive, professional, clerical and manufacturing associate positions. KLN shall invest a minimum of five hundred thousand dollars ($500,000.00) in real property improvements and invest a minimum of five hundred thousand dollars ($500,000.00) in tangible personal property improvements. KLN shall conduct, in the Facility, normal business activities including, but not limited to, those activities consisting of light industrial manufacturing; more specifically, manufacturing institutional furniture, metal fabrication and wood fabrication (hereinafter collectively referred to as the "Business Activities") or the normal Business Activities of a Related Organization (defined in Article 5, Paragraph I) so long as such Business Activities include the normal Business Activities of light industrial manufacturing facility or similar activity. KLN shall invest a total of five hundred thousand dollars ($500,000.00) in real property improvements with a total personal property improvement investment of five hundred thousand dollars ($500,000.00) by December 31, 20___. KLN shall be entitled to tax abatements authorized herein for real property improvements and tangible personal property improvements above the Base Year Value (as defined in Article 6, Paragraph A) (the "Property Improvements") if KLN or a Related Organization undertakes and maintains Business Activities and employment positions in accordance with the terms of this Agreement in the Zone. KLN understands and agrees that there shall be no abatement of taxes for the land, inventory or supplies.

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B. KLN shall establish an "Improvements Only" tax account for real property improvements with the Bexar Appraisal District regarding the Property and provide these tax account numbers to the CITY.

C. A copy of the Ordinance authorizing this Agreement shall be filed/recorded with the Bexar County Property Records by the City of San Antonio; KLN shall be responsible for the payment of fees associated with this recording, obtained from KLN's application fee.

4. KLN'S REPRESENTATIONS

A. KLN represents that it has no 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. KLN further represents that they shall not knowingly sell, lease or otherwise convey such an interest 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. KLN also represents that it, its employees and officials are in compliance with the CITY's Ethics Code.

B. KLN represents that there is no litigation pending against KLN for any violations under the Occupational Safety and Health Act.

5. TERMS OF THE AGREEMENT

A. Obligations of KLN. For KLN to receive the tax abatement authorized herein: (1) KLN shall own, hold an interest in or otherwise control the Facility and Property Improvements and shall invest a minimum of five hundred thousand dollars ($500,000.00) in real property improvements with a minimum personal property improvement investment of five hundred thousand dollars ($500,000.00) by December 31, 20__ for the Facility described in Article 3, Paragraph A; and (2) KLN shall occupy and use the Facility for its Business Activities throughout the Tax Phase-In Term and Recapture Period of this Agreement; (3) retain, create and maintain the full-time, non-temporary employment positions described in Article 3, Paragraph A; and (4) otherwise comply with all applicable terms of this Agreement.

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B. Wage Requirement. KLN covenants and agrees that it shall comply with the wage standard policy specified in the City of San Antonio Guidelines and Criteria for Tax Phase-In and Reinvestment Zones, attached hereto as Exhibit "B" and incorporated herein for all purposes, at the time the City Council authorized execution of this Agreement. KLN understands and agrees that the minimum cash wage for all employees is ten dollars and nineteen cents ($10.19) per hour and after one year, the hourly earnings for seventy percent (70%) of the positions is not less than eleven dollars and ninety two cents ($11.92) per hour as of the time City Council authorized execution of this Agreement.

C. Full-Time Position. For the purposes of this Agreement, a full-time position shall be equivalent to two thousand eighty (2,080) straight-time paid hours in a fiscal year.

D. Employee Benefits. KLN covenants and agrees that it shall offer all of its non-temporary full-time employees at the Facility the opportunity to elect to receive

substantially similar employee benefits as those employee benefits offered to similarly situated employees of KLN's, as those benefits are currently described in Exhibit "C", attached hereto and incorporated herein, and as they may be modified from time to time corporate-wide. KLN covenants and agrees that, during each year of the Term of this Agreement, it will continue to offer all of its full-time employees at the Facility the opportunity to elect to receive an employee benefits package that is substantially similar to either: (a) the benefits package described in Exhibit "C"; or (b) those employee benefits offered to similarly situated KLN non-temporary full-time employees generally. KLN further covenants and agrees that during the Term of this Agreement all of its full-time employees at the Facility shall be offered the option to elect to participate in a health plan which provides coverage for their eligible dependents, on terms substantially similar to the coverage provided to the eligible dependents generally of KLN's non-temporary, full-time employees. Employees may be required to pay all or a portion of the cost of certain benefits.

E. Compliance with Employment Regulation. KLN covenants and agrees that it shall comply with all applicable federal and state laws governing the employment relationship between employers and employees in all material respects. A non-exclusive list of such laws is attached hereto as Exhibit "D" and incorporated herein.

F. Compliance with Business Activities Regulation. KLN also covenants and agrees that it shall conduct its Business Activities (as defined in Article 3, Paragraph A) at the Facility in accordance with all applicable federal, state and local laws in all material respects.

G. Compliance with Construction Regulation. KLN shall construct any improvements made to the Facility 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 in all material respects.

H. Improvements Completion. KLN shall substantially complete real property improvements and personal property improvements by December 31, 20___ and shall house KLN's Business Activities (as defined in Article 3, Paragraph A) at the Facility in the Reinvestment Zone in which KLN is located. KLN shall be entitled to such additional time to complete said improvements as may be required due to any "Force Majeure" event, contingent upon KLN diligently pursuing said completion of improvements. For purposes of this Section 5(H): (i) "Force Majeure" shall be as defined in Article 8 below; and (ii) the CITY shall have the final determination, to be exercised reasonably and in good faith, whether to grant an extension of time for said completion for reasons of Force Majeure and the length of such extension, if granted. KLN shall notify the CITY of the completion of the real property and personal property improvements by sending notice to the address listed in Article 9 (Notice) within two (2) months of completion.

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I. Authorized Business Activities. Except as provided herein, KLN covenants and agrees that it shall use the Property at the Facility only to conduct its Business Activities

(as defined in Article 3, Paragraph A). Without additional consent or approval required by the City Council, but conditioned upon administrative consent and approval by CITY's Director of Economic Development: (i) a parent, subsidiary or affiliate organization of KLN or new entity created as a result of a merger, or other corporate restructure or reorganization of KLN, or any component thereof (hereinafter "Related Organization"); or subject to City Council approval, duly evidenced by ordinance: (ii) an entity which acquires the Facility and Property Improvements and then contracts with KLN to provide substantially the same services as previously provided by KLN for the Facility (an "Assignee") may occupy and use the Property Improvements and the Facility for such Related Organization's or Assignee's normal business activities, so long as such business activities are those of a light industrial manufacturing facility, or similar or comparable to the Business Activities of KLN at the Facility. To be eligible for the abatement of ad valorem taxes as provided in this Agreement, such Related Organization or Assignee shall comply with all applicable terms of this Agreement. Except as authorized above, KLN covenants and agrees not to change the principal use of the Property Improvements and Facility without prior approval by the City Council, as evidenced in a duly approved ordinance.

J. Maintenance Obligations. KLN covenants and agrees that it shall maintain the Property and the Facility in good repair and condition during the Tax Phase-In Term and Recapture Period of this Agreement. Compliance with the maintenance obligations imposed herein shall be presumed if KLN follows its reasonable, normal and customary maintenance and repair procedures and schedules.

K. Inspections by the City. Upon five (5) business days prior notice to KLN by the CITY, KLN covenants and agrees that it shall allow designated representatives of the CITY access to the Facility 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 KLN's books and records will be limited to information needed to verify that KLN is complying with the terms of this Agreement, has been conducting agreed Business Activities and appropriate maintenance and/or repair at the Facility. Any information that is not required by law to be made public shall be kept confidential by CITY. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require KLN to obtain an independent firm to verify and/or audit the information. This certified statement by an independent firm shall be provided at the sole cost of KLN. For inspection purposes, CITY representatives may be accompanied by KLN representatives and said inspection shall be conducted so that the inspection shall: (a) not unreasonably interfere with the operation of the Facility; and (b) comply with KLN's reasonable security requirements.

L. Disclosure to Bexar Appraisal District. During the Tax Phase-In Term and Recapture Period of this Agreement, KLN covenants and agrees to furnish, as applicable, by April 30th of each year, 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. Disclosure to CITY. KLN covenants and agrees that it shall provide, within thirty (30) days after June 30 and December 31 of each year, the CITY's Director of Economic Development with a semi-annual certification from an officer of KLN attesting to the number of employment positions created and maintained, as well as wages paid, by KLN at the Facility as of such dates. KLN shall also submit this information to the CITY upon request, as deemed necessary at the reasonable discretion of the CITY, during the Tax Phase-In Term and Recapture Period of this Agreement. The information provided shall be on the forms set forth in, or substantially similar to the forms set forth in, Exhibit "E" (attached hereto and incorporated herein), as amended.

N. Hiring Goals for Economically Disadvantaged Workers. KLN covenants and agrees to make a good faith effort to hire Economically Disadvantaged Individuals to hold at least twenty-five percent (25%) of the new non-temporary full-time positions required to be employed at the Facility, as follows:

1. As used herein, "Economically Disadvantaged Individual" shall mean a person:

a. who was unemployed for at least three consecutive months immediately prior to being hired by KLN at the Facility;

b. who receives, or is a member of a family which receives, cash welfare or other public assistance benefits under a federal, state or local program;

c. who has, or is a member of a family which has, received a total family income for the six-month period prior to being hired by KLN (exclusive of unemployment compensation, child support payments and public assistance payments) that, in relation to family size, did not exceed the greatest of the following;

(i) the official poverty line, as defined by the Director of the Office of Management and Budget and revised annually in accordance with §672(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. §9902(2));

(ii) 70 percent of the lower living standard income level; or

(iii) the level for moderate income as defined by the United States Department of Housing and Urban Development;

d. whose residence is in the CITY's State Enterprise Zone areas that include all census tract block groups in which at least 20% of the residents exceed the federal poverty level. These census tract block groups can be found at http://www.governor.state.tx.us/divisions/ecodev/ed_bank/enterprise_zone by clicking on "Texas Block Group Census Tract Zones";

e. is receiving or has been determined within the six-month period prior to the application for the program involved to be eligible to receive food stamps pursuant to the Food Stamp Act of 1977;

f. qualifies as a homeless individual under subsections (a) and (e) of §103 of the Stewart B. McKinney Assistance Act;

g. is a foster child on behalf of whom state or local government payments are made;

h. is an individual with a disability whose own income meets or exceeds the requirements of subsections (c)(i) or (c)(ii) above, but who is a member of a family whose income does not meet such requirements.

2. KLN shall consult with Alamo WorkSource ("AWS"), which is capable of identifying those Economically Disadvantaged Individuals who are qualified for the non-temporary full-time employment positions KLN will seek to fill from time to time.

3. KLN shall from time to time inform AWS of job openings and the qualifications for each such job, providing the same type of information with the same level of detail as KLN would normally use in recruiting for such a position. AWS shall disseminate information about KLN job opportunities to Economically Disadvantaged Individuals, recruit and screen such Economically Disadvantaged Individuals, and refer potential candidates for employment to KLN. Such referrals shall be accompanied by such personnel information as KLN may prescribe so the potential candidates can be evaluated by KLN.

4. In its sole and complete discretion KLN shall:

a. determine which Economically Disadvantaged Individuals, if any, meet its hiring criteria for particular positions;

b. determine how many Economically Disadvantaged Individuals, if any, to interview for particular positions; and

c. determine how many and which Economically Disadvantaged Individuals KLN will hire for particular positions, if any.

5. KLN shall have satisfied its obligations under Article 5, Paragraph N if it makes a good faith effort to hire Economically Disadvantaged Individuals. If KLN consults with AWS in good faith to identify and interview those Economically Disadvantaged Individuals who are qualified for positions to be filled by KLN, then such activity shall be deemed to be the good faith effort required herein. In addition, regardless of whether KLN works with AWS, if KLN meets the goal of hiring at least twenty-five percent (25%) Economically Disadvantaged Individuals, then such activity shall be conclusively deemed to have satisfied the good faith effort required by Article 5, Paragraph N. In determining whether KLN meets the goal of hiring at least twenty-five percent (25%) Economically Disadvantaged Individuals, the calculation shall be calculated on a calendar year basis by the month of April.

O. Local Employment Goal. KLN covenants and agrees to make a good faith effort to hire local employees for positions to fulfill its requirements under Article 5, Paragraph

A. "Local" is defined, for the purposes of this Paragraph, as an employee whose principal residence is located within the city limits of the CITY or within the county limits of Bexar County.

P. Notification Requirement Regarding Sale, Transfer or Sub-lease of Facility or Property Improvements. KLN covenants and agrees to notify CITY in writing at least 30 days prior to any reorganization, sale (whole or partial), transfer or sub-lease of the Facility, Property Improvements or Corporate organization of KLN during the Tax Phase-In Term or Recapture Period of this Agreement. KLN shall request Assignment of this Agreement to any Related Organization, new purchaser, transferee or sub-lessor of the Facility, Property Improvements or Corporate organization of KLN (the "Assignee"). CITY shall not unreasonably withhold, condition or delay approval of any requests for Assignment of this Agreement by KLN, subject to the provisions of Article 11 of this Agreement, and any Assignee to which the provisions of this Article 5, Section P apply shall be bound by all terms of this Agreement.

Q. Notification Requirement Regarding Relocation or Cessation of Business Activities. KLN covenants and agrees to notify CITY in writing at least 30 days prior to Relocating or Ceasing its Business Activities (as defined in Article 7, Paragraphs B and C).

R. Penalty for Default/Termination. If, during the Tax Phase-In Term or Recapture Period of this Agreement, KLN fails to comply with any of the terms of this Agreement for a period of three (3) or more consecutive months, then the termination and recapture provisions of Article 7, Paragraphs E, F and I of this Agreement shall apply against KLN.

S. Other Actions Resulting in Default/Termination. If, during the Tax Phase-In Term or Recapture Period of this Agreement, and after the Cure Period (defined in Section 7), KLN allows its ad valorem taxes due on the land, real and/or personal property or inventory and supplies related to the Facility 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, San Antonio Local Development Company, *dba* 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 7, Paragraphs F and I of this Agreement shall apply.

6. TAX PHASE-IN

A. Term. The tax abatement period shall be as follows for the Real Property Improvements and Personal Property Improvements respectively:

1. Real Property. Ad valorem taxes on Real Property Improvements will be abated for a period of ten (10) years beginning on the January 1st of the calendar year following substantial completion of the Real Property Improvements, but in no case later than _____ (the "*Real Property Term*"). The **Base Year** for calculating the value of the Real Property Improvements shall be the calendar year prior to substantial completion of the Real Property Improvements.

2. Personal Property. Ad valorem taxes on Personal Property Improvements will be abated for a period of ten (10) years beginning on the January 1st of the calendar year in which the new Personal Property Improvements are located at the Facility (the "*Personal Property Term*"). The **Base Year** for calculating the Personal Property Improvements shall be the calendar year prior to the calendar year in which the new Personal Property Improvements are located at the Facility.

The Real Property Term and the Personal Property Term are collectively the "*Tax Phase-In Term*". The "*Base Year Value*" of the Property Improvements shall be the assessed value (determined by the Bexar County Appraisal District), of the Property Improvements as of the Base Year determined in accordance with Article 6, Section A, Paragraphs 1 and 2 above.

B. Conditions Precedent. At the commencement of the Tax Phase-In Term, KLN shall own, have an interest in or otherwise control the Property and shall conduct its Business Activities at the Facility. A Tax Phase-In shall be granted in each year of the Tax Phase-In Term as described in Article 6, Paragraph C below.

C. Additional Conditions and Tax Phase-In Percentage. Provided that KLN has invested a minimum of five hundred thousand dollars ($500,000.00) in real property improvements with a minimum personal property improvement investment of five hundred thousand dollars ($500,000.00) to the Facility by December 31, 20__; and KLN has satisfied, and continues to satisfy, Article 5, Paragraph A of this Agreement; KLN uses the Facility for its Business Activities; and KLN is otherwise in compliance with the terms and conditions of this Agreement, then one hundred percent (100%) of the ad valorem taxes for the Property Improvements, above the Base Year Value, shall be abated during the Tax Phase-In Term. There shall be no abatement of ad valorem taxes for land, inventory or supplies.

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D. Pre-Term Taxes. KLN shall pay, or cause to be paid, to the CITY ad valorem taxes for real property, personal property and inventory and supplies assessed, if any and as applicable, by the CITY on the Property prior to the commencement of the Term.

E. Base Year Taxation. KLN understands and agrees that the Base Year Value of the Property and the tax levy based on said Base Year Value of the Property in the Zone shall not decrease, but taxes may increase and that the amount of taxes paid by KLN to the CITY attributable to the Property during the 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 Facility in the Zone.

F. Protest Rights. KLN shall have the right to protest appraisals of the Property, or any portion thereof, or the value of any improvements over and above the Base Year Value as applicable.

7. DEFAULT/TERMINATION/RECAPTURE

A. Relocation Defined. For purposes of this section, "Relocation" or "Relocate" shall mean KLN, a Related Organization or Assignee which has taken the place of KLN: (i) substantially relocating the Business Activities to a location outside the CITY; or (ii) substantially relocating the Business Activities outside an approved Enterprise or Reinvestment Zone within the CITY.

B. Termination and Recapture of Taxes in Event of Relocation of Business Activities. If KLN, a Related Organization or Assignee which has taken the place of KLN occupies and uses the Facility for its Business Activities and subsequently Relocates (as defined in Article 7, Paragraph A) during the Tax Phase-In Term, except if such Relocation of Business Activities is caused by a Force Majeure, as defined in Article 8, then City Council shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Facility or Property Improvements were no longer used for the required purposes stated herein. Upon said termination, all ad valorem taxes on Property Improvements otherwise abated for that calendar year and all previously abated ad valorem taxes on these Property Improvements under this Agreement shall be recaptured (based on the table in Article 7, Paragraph H) and shall be paid to CITY within sixty (60) calendar days from the date of said termination notices to KLN, a Related Organization and/or Assignee by CITY, pursuant to the Notice provisions of this Agreement.

C. Termination and Recapture of Taxes in Event of Cessation of Business Activities. If KLN, a Related Organization or Assignee occupies and uses the Facility for its Business Activities and subsequently ceases conducting Business Activities (or a substantial portion thereof) at the site for a continuous period of three (3) months during the Tax Phase-In Term for any reason, except if such cessation is caused by a Force Majeure as defined in Article 8, then the City Council shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Facility or Property Improvements were no longer used for the required purposes stated herein. Upon said termination, all ad valorem taxes on Property Improvements otherwise abated for that calendar year and all previously abated ad valorem taxes on these Property Improvements under this Agreement shall be recaptured (based on the table in Article 7, Paragraph H) and shall be paid to CITY within sixty (60) calendar days from the date of said termination notices to KLN, a Related Organization and/or Assignee by CITY, pursuant to the Notice provisions of this Agreement..

D. Recapture of Taxes Following Term of Agreement. In the event that the Tax Phase-In Term expires and KLN Relocates (as defined in this Article 7, Paragraph A) or ceases to conduct Business Activities (as defined in this Article 7, Paragraph C) at the Facility, then the City Council shall also have the right to terminate this Agreement and recapture from KLN, a Related Organization and/or Assignee all previously abated ad valorem taxes on Property Improvements based on the table in Article 7, Paragraph H of this Agreement (the "Recapture Period"), which shall be paid to CITY within sixty (60) calendar days from the date of said termination notices to KLN, a Related Organization and/or Assignee by CITY pursuant to the Notice provisions of this Agreement.

E. Termination and Recapture of Taxes for Failure to Maintain Minimum Number of Employment Positions. If KLN, a Related Organization or Assignee fails to satisfy

Article 5, Paragraph A above, calculated by the averaging of the two most current semi-annual Employee Wage Information for Tax Phase-In Request Forms, or substantially similar form, (Exhibit "E") 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 number of positions. For example, if KLN establishes and maintains ninety percent (90%) of the minimum number of non-temporary, full-time positions in a given year, KLN shall be entitled to a ninety percent (90%) abatement of the ad valorem Property Improvement taxes for that following year, but subject to a floor of fifty percent (50%). If KLN fails to establish and maintain at least fifty percent (50%) of the minimum number of non-temporary full-time positions in a given year then, at the option of City Council, this failure may be grounds for termination of this Agreement. Said termination shall be effective for the calendar year during which the number of non-temporary, full-time positions stated herein are not established and maintained as required. Upon said termination, all ad valorem taxes on Property Improvements otherwise abated for that calendar year and all previously abated ad valorem taxes on these Property Improvements under this Agreement shall be recaptured (based on the table in Article 7, Paragraph I) and shall be paid to CITY within sixty (60) calendar days from the date of said termination notices to KLN, a Related Organization and/or Assignee by CITY pursuant to the Notice provisions of this Agreement.

F. Cure Period and Declaration of Default. During the Tax Phase-In Term or Recapture Period, CITY may declare a default if KLN, a Related Organization and/or Assignee fails to comply with any of the terms of this Agreement. Should CITY determine KLN, a Related Organization and/or Assignee is in default under any of the terms of this Agreement, CITY will notify KLN, a Related Organization and/or Assignee in writing at the address below in Article 9, and if said default is not cured within sixty (60) calendar days from the date of such notice (hereinafter the "Cure Period"), then City Council shall have the right to terminate this Agreement. CITY may extend the Cure Period if KLN, a Related Organization and/or Assignee commences the cure within the Cure Period and is diligently pursuing such cure. If the Agreement is terminated as a result of default, all ad valorem taxes on Property Improvements will be due for the tax year during which the termination occurred and shall accrue without further abatement for all tax years thereafter; in addition, CITY shall have the right to recapture (based on the table in Article 7, Paragraph H) from KLN, a Related Organization and/or Assignee all previously abated ad valorem taxes on the Property Improvements under this Agreement and said taxes shall be paid by KLN, a Related Organization and/or Assignee to CITY within sixty (60) calendar days from the date of said termination notices to KLN, a Related Organization and/or Assignee by CITY pursuant to the Notice provisions of this Agreement.

G. Additional Rights to Terminate. If KLN, a Related Organization and/or Assignee allows its ad valorem taxes due on the Base Year Value of the Property Improvements to become delinquent and KLN, a Related Organization and/or Assignee fails to timely and properly follow the legal procedures for their protest and/or contest, or is in default on any loan which has been made by the San Antonio Development Agency, San Antonio Local Development Company *dba* South Texas Business Fund, City of San Antonio Industrial Development Authority or any other CITY sponsored loan/grant/bond program

or agreement, City Council shall have the right to terminate this Agreement under this Article 7, Paragraph F. Ad valorem taxes for the Property Improvements shall then be due for the tax year during which the termination occurred and shall accrue without further abatement for all tax years thereafter. All ad valorem taxes previously abated by virtue of this Agreement shall be recaptured (based on the table in Article 7, Paragraph H) from KLN, a Related Organization and/or Assignee and shall be paid to CITY within sixty (60) calendar days from the date of said termination notices to KLN, a Related Organization and/or Assignee by CITY pursuant to the Notice provisions of this Agreement.

H. Termination in Event of Taking by Eminent Domain. If the Facility, or any portion of the Property Improvements in the Facility, is taken by any public or quasi-public authority under the power of eminent domain, condemnation or expropriation, then the abatement of ad valorem taxes on the Property Improvements shall terminate (only as to the portion of the Property Improvements or Facility affected by the taking), effective as of the calendar year during which the taking occurs, and there shall be no recapture of taxes. In the event of a partial taking, KLN shall have the right to continue or to terminate this Agreement, for the remaining portion of the Property Improvements or Facility, without recapture or other penalty.

I. Calculation of Taxes Subject to Recapture. If KLN, a Related Organization and/or Assignee fails to comply with any of the terms of this Agreement including, but not limited to, defaults defined in Article 7, Paragraphs A through H, then the City Council shall have the right to terminate this Agreement during the Tax Phase-In Term or Recapture Period and recapture from KLN, a Related Organization and/or Assignee the applicable percentage of the abated ad valorem taxes to Property Improvements based on the following table:

YEAR OF TAX PHASE-IN TERM OR RECAPTURE PERIOD	TOTAL TAX PREVIOUSLY ABATED SHALL BE MULTIPLIED BY:
Tax Phase-In Term	
1-10	100%
Recapture Period	
11-12	80%
13	60%
14	40%
15	20%
16	10%

FORMULA: The recapture formula for Tax Phase-In Term or Recapture Period shall be:

Total Taxes Abated	X	Applicable Percentage from above Schedule	=	Amount to be Recaptured

CITY shall recalculate the amount of recapture (whether during the Tax Phase-In Term or Recapture Period) pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to KLN, the Related Organization and/or Assignee.

I. 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 KLN, the Related Organization and/or Assignee 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 KLN, the Related Orgnanization and/or Assignee may be entitled.

8. AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)

For purposes of this section, "Force Majeure" is defined as an act of God, terrorism, war, social unrest, strike or natural disaster, explosion, casualty or accident not due to negligence, intentional act or misconduct on the part of KLN. In addition to relief expressly granted in this Agreement, CITY shall grant relief from performance of this Agreement if KLN is prevented from compliance and performance by an event of Force Majeure and may, at CITY's election, terminate the Agreement. The burden of proof for the need for such relief shall rest upon KLN and shall include sufficient and appropriate documentation. To obtain release based upon this Article 8, KLN must file a written request with the CITY'S Director of Economic Development for processing to City Council for a decision, authorized by a duly approved Ordinance.

9. 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 three (3) days after deposit into the custody of the United States Postal Service or one (1) day after deposit with 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 KLN:

- (Whether personally delivered or mailed):

KLN Steel Products Company, LLC
c/o Owner and CEO
4200 North Pan Am Expressway

San Antonio, TX 78218

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
Frost Bank Tower, 19th Floor
San Antonio, Texas 78205

10. **CONDITION**

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

11. **ASSIGNMENT**

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. KLN shall 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, the Facility or KLN's corporate body; however, no City Council consent is required for an administrative assignment or transfer to a parent of KLN, a subsidiary of KLN, an affiliate entity of KLN, or to any new entity created as a result of a merger, or other corporate restructure or reorganization of KLN (a "Related Organization"). However, KLN shall give CITY prior written notice, subject to Article 9, requesting assignments or other transfers that do not require City Council consent, as required under Article 5, Paragraph P for administrative assignment. All Assignees shall be bound by all terms and/or provisions and representations of this Agreement.

12. **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. Except as otherwise provided in this Agreement, 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, subject to City Council approval, as evidenced by ordinance.

13. SEVERABILITY

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or word 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.

14. 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 lender, subsequent purchaser or assignee of KLN or other party designated by KLN 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.

15. OWNER STANDING

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

16. APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and venue and jurisdiction shall lie in Bexar County, Texas, the location of the Reinvestment Zone in which the KLN Facility and Property Improvements are located.

17. DUPLICATE ORIGINALS

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

[***Signatures appear on following page***]

KLN STEEL PRODUCTS COMPANY, LLC
A Texas Limited Liability Company

BY: _____
Name: Edward Herman
Title: Owner and CEO

ATTEST:

Name: _____
Title: _____

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

_____
CITY MANAGER

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
CITY ATTORNEY

EXHIBIT A

**(NEW SURVEY TO BE PROVIDED BY KLN
FOR LEGAL DESCRIPTION**

EXHIBIT B

TAX PHASE-IN GUIDELINES

FOR

BEXAR COUNTY

AND

THE CITY OF SAN ANTONIO

Policy Statement

The growth and diversity of a regional economy is critical to the long-term well being of a community and its citizens. Today, perhaps more than ever, communities must strategically plan and implement policies to achieve these goals. Through joint Tax Phase-in Guidelines for Bexar County and the City of San Antonio, the collaborative efforts of San Antonio's economic development partners are refining strategies to attract and grow targeted industries in order to increase employment, expand the tax base, and create long-term investment and new wealth opportunities in the community.

Both the City Council of the City of San Antonio and the Commissioners Court of County of Bexar, Texas will consider these guidelines to ensure that any abatement of property taxes achieves these community economic development goals.

While these Guidelines represent the joint economic development interests of Bexar County and the City of San Antonio for projects located within the corporate limits of San Antonio, the County will use the guidelines when considering abatements for any project to be located within its jurisdictional boundaries.

Introduction

Chapter 312 of the Texas Tax Code authorizes local governments to abate ad valorem property taxes on the value of new improvements to the property, including real property, tangible personal property, and inventory and supplies. Taxing jurisdictions (e.g., Bexar County and the City of San Antonio) are required by this statute to develop and periodically review guidelines every two years for the eligibility and award of this tax incentive.

State law further requires that each taxing jurisdiction enter into a Tax Abatement Agreement with each owner of property or the owner of a leasehold interest in real property receiving an abatement or portion thereof. These agreements are binding legal documents between all parties involved. Additional provisions and requirements are included in those agreements.

Eligibility Criteria

Under these Guidelines, to be eligible for consideration by these jurisdictions for a tax abatement, a company or project must meet and/or exceed all of the criteria, as described below:

- Minimum amounts of real or personal property investment must be achieved
- Minimum levels of full-time job creation must be achieved
- Employee access to health care benefits must be provided
- Minimum wage requirements for employees must be achieved
- Applicant must be in a targeted industry, or non-targeted industry but meeting exceptional investment requirements

The amount and term of the tax abatement will also be impacted by:

- The location of facility
- Other incentives used for same project
- Overall benefit to the community

These eligibility criteria, with the exception of the requirement of employee access to health care, do not apply to central city multi-family housing or mixed-use projects. The criteria for these projects can be found in Appendix A.

Investment

If the project meets the following investment criteria, as well as the other criteria in these Guidelines, the Applicant will be eligible for an abatement of taxes on either the real property improvements **AND/OR** the new personal property investment. The following eligibility criteria do not apply to central city multi-family housing or mixed-use projects.

LEVEL 1 PROJECT

Should the project meet the following investment criteria:

1. Real property improvements of at least $1,000,000 in the property of interest **OR**

2. Investment of at least $10,000,000 in new tangible personal property located at the property of interest, **AND**

3. Creation and maintenance of at least 25 new, full-time, permanent jobs

the company will be able to select an abatement of taxes of:

1. Up to 100% (40% from the County) on the real property improvements **OR**

2. Up to 100% (40% from the County) on the new personal property investment.

LEVEL 2 PROJECT

Should the project meet the following investment criteria:

1. Total capital investment (real property improvements and new personal property investment) of at least $25,000,000 in the property of interest **AND**

2. Creation and maintenance of at least 250 new, full-time, permanent jobs at the property of interest

the company will be able to select an abatement of taxes from one of the following categories, but not both:

1. Up to 100% (40% from the County) on the real property improvements **AND** up to 50% (20% from the County) on the new personal property investment **OR**

2. Up to 100% (40% from the County) on the new personal property investment **AND** up to 50% (20% from the County) on the real property improvements.

LEVEL 3 PROJECT

A project will be considered an "exceptional investment" if the project meets the following criteria:

1. Total capital investment (real property improvements and new personal property investment) of at least $50,000,000 in the property of interest **AND**

2. Creation and maintenance of at least 500 new, full-time, permanent jobs at the property of interest

Such projects will be eligible for an abatement of taxes of up to 100% (40% from the County) on the real property improvements **AND** the new personal property investment.

Additionally, a local company expanding its operations in Bexar County must hire at least 25% of its new employees from residents of Bexar County, regardless of the size of the project.

Employee Health Care Benefits

The company seeking an abatement under these Guidelines must provide each full-time person employed at the project location and his or her dependents with access to affordable health insurance within a reasonably timely manner from the date the employee starts employment. **This criteria also applies to employees of central city multi-family housing projects.**

Wage Requirement

In order to be eligible for a tax abatement, companies must meet the following wage requirements:

1. Throughout the term of the abatement, all (100 percent) new and existing employees of the company requesting a tax abatement, *at the project location*, must earn a cash wage exceeding the poverty level for a family of four, as determined annually by the U.S. Department of Health and Human Services (HHS). This Wage Requirement is indexed in April of each year. As of April 2003, this Wage Requirement equals $8.85 per hour.
2. Within one year of project location opening, 70 percent of all new and existing employees at the project location must earn a cash wage exceeding the average hourly durable goods or non-durable goods (which includes services) wage standard, depending on how the company's activities at the project location are categorized.
    a. Average Hourly Wage for Durable Goods: This is the wage standard for those companies engaging in durable goods manufacturing at the project location, at the time the tax phase-in agreement is executed. As published by the Texas Workforce Commission, the wage standard is determined by the average annual hourly wage for durable goods manufacturers in the San Antonio Metropolitan Statistical Area. This Wage Requirement is indexed in April of each year. As of April 2003, this wage is currently $10.94 per hour.
    b. Average Hourly Wage for Non-Durable Goods and Services: This is the wage standard for those companies engaging in non-durable goods manufacturing at the project location, at the time the tax phase-in agreement is executed. As published by the Texas Workforce Commission, the wage standard is determined by the average hourly wage for non-durable goods manufacturers in the San Antonio Metropolitan Area. This wage standard also applies to those companies engaged in services activities at the project location. This Wage Requirement is indexed in April of each year. As of April 2003, this wage is currently $10.70 per hour.
    c. For small, minority, or women-owned businesses with 100 or fewer employees, the City and County may consider abatements for firms whose wage levels may not meet the Average Hourly Wage for Durable Goods or the Average Hourly Wage for Non-Durable Goods and Services (outlined above).

If the company does not meet and maintain this Wage Requirement for all pertinent employees going forward, the company will be considered in default of the Agreement, possibly resulting in termination of the Agreement and subject to recapture of prior abated property taxes.

Targeted Industries

The majority of the company's business at the project location must be engaged in one of the following Targeted Industries, as defined in Appendix A:

- Agribusiness
- Aviation/Aerospace
- Biotechnology
- High Level Business Services
- Information Technology and Security
- Logistics and Distribution
- Manufacturing
- Telecommunications

Additionally, the following projects, as defined in Appendix A, are also eligible for consideration:

- Corporate and Regional Headquarters
- Central City Multi-Family Housing or Mixed-use Project

Non-targeted Industry

Companies whose majority business is not in a Targeted Industry may still be eligible for a tax abatement only if they meet the criteria of a Level 3 Project as defined above.

Regardless of the investment or jobs created, retail stores, retail centers, or businesses that competitively provide goods or services to consumers are not eligible for an abatement. In addition, hotel or motel facilities and outbound or contract call centers (see definition in Appendix A) are not eligible for an abatement. Furthermore, Neighborhood Empowerment Zones may not be used to grant abatements of sales taxes.

Targeted Areas for Investment and Job Creation

Certain areas are targeted for job creation and investment. Depending on the location of the project, the term of the abatement will vary, as follows (see map in Appendix B):

Areas eligible for a 10-year term:

- Projects located within Loop 410 or located south of U.S. Highway 90 will be eligible for an abatement term up to 10 years.
- Projects located within the Medical Center area, the boundaries of the San Antonio International Airport, or the Texas Research Park Foundation.

Areas eligible for a 6-year term:

- Projects located outside of Loop 410 and also located north of U.S. Highway 90 will be eligible for an abatement term up to 6 years.

Projects located over the Edwards Aquifer Recharge Zone or Contributing Zones:

- Projects located in whole or in part over the Edwards Aquifer Recharge Zone, as defined in Appendix A, are not eligible for an abatement.
- Projects located in whole or in part over the Contributing Zone or the Contributing Zone within the Transition Zone, as defined in Appendix A, require an affirmative vote by eight existing City Council members for approval of the tax abatement.

These criteria will not be used to favor one location over another in Bexar County, except as permitted by the Guidelines.

Additional Terms and Conditions

Each jurisdiction reserves the right to negotiate additional terms and conditions on a case-by-case basis.

Recipients of tax abatements will also agree to work with Alamo Workforce Development Inc. to facilitate the posting and advertisement of new jobs at the property of interest, as well as for the recruitment of potential qualified applicants for these positions. Alamo Workforce Development Inc. offers other employer services, such as assessment of basic skills and work aptitudes of potential employees, job matching services, labor market information, assistance in arranging workforce training, and outplacement services which the recipient may also access.

Amount of County Abatement

Property taxes are the single largest source of operating funds for Bexar County (70% of its General Fund revenue), while they are the third largest source of operating revenue for the City of San Antonio. So, dollar for dollar, a tax abatement has a greater organizational impact on the County government than on the City government. To help equitably invest in economic development projects using tax abatements, the County may grant an abatement of taxes up to 40% on the qualified real property improvements and new personal property investment. Applicants may, however, negotiate for additional County abatement participation if the project meets certain other criteria, as defined below. Commissioners Court shall not grant a tax abatement for the Flood Control tax levied by the County or for taxes levied on behalf of the University Health System.

Bexar County may increase the amount of the abatement up to 80% of taxes on qualified real property improvements and new personal property investment after considering these other project criteria:

- **Local Hire Incentive**: Applicant agrees to fill at least 25% of the employment positions created and maintained with individuals whose place of residence, for at least six months prior to employment with the applicant, is located in Bexar County.
- **Hiring of Economically Disadvantaged or Dislocated Individuals Incentive**: Applicant commits that at least 25% of the employment positions created will be filled with economically disadvantaged and/or dislocated individuals.
- **Small, Minority, Women-owned Business Enterprise (SMWBE) Incentive**: Applicant agrees to make a good faith effort to award at least 25% of its contracted work to minority and women-owned business and will make a good faith effort to award at least 10% of its contracted work to small businesses. A good faith effort is defined as the applicant increasing involvement of SMWBEs in the projects procurement process within the areas of commodities, equipment, services (non-professional and operations), maintenance and construction.
- **Environmental Practices Incentive**: Applicant commits to demonstrating sound environmental practices when constructing, operating and maintaining the project. This includes, but is not limited to, the utilization of clean and renewable energies; the implementation of water conservation practices and flood protection measures; the provision of incentives for mass transportation alternatives to

employment positions created and maintained; and the sponsorship of other innovative practices that serve to minimize the project's environmental impact and to protect water, land and energy resources for the economic benefit of the community.

Firms may also be considered for an additional 20% County tax phase-in on a case by case basis. For the final 20%, a County negotiating team composed of the County Judge, the Commissioner in whose Precinct the project will be located, and appropriate staff will negotiate, at the County's discretion, terms and conditions for any abatement of the final 20%. The County will give preference for payments in lieu of taxes in an amount equal to the final 20% being abated. These payments will be used for designated purposes, such as educational grants and funding, and other non-profit assistance. Consideration will be given for payments in lieu of taxes that will serve as cash matches to help leverage private sector investment in such educational and non-profit uses. In any case, these agreements are subject to final approval of the Commissioners Court as a whole, as is the case for all tax phase-in agreements.

Recapture of Abated Taxes

Tax abatement agreements will provide for recapture of abated property taxes in the event contract requirements are not met.

APPENDIX A

DEFINITIONS

Agribusiness: Businesses engaged in the research, development, manufacturing, or refining of agricultural products into foodstuffs or for use as intermediate products in the processing of other agricultural finished goods or products, including those related to defense operations.

Aviation/Aerospace: Companies primarily engaged in one or more of the following activities:

(1) Manufacturing complete aircraft, missiles, or space vehicles
(2) Manufacturing aerospace engines, propulsion units, auxiliary equipment or parts
(3) Developing and making prototypes of aerospace products
(4) Aircraft conversion (i.e., major modifications to systems)
(5) Complete aircraft, missile, or space vehicle or propulsion systems maintenance, repair, overhaul and rebuilding (i.e., periodic restoration of aircraft to original design specifications)
(6) Research and development
(7) Defense- related operations
(8) Regional air passenger operations

Biotechnology: This industry comprises establishments primarily engaged in conducting research, development, and manufacturing in the physical, bio-engineering, and life sciences, such as pharmaceutical, agriculture, environmental, biology, botany, biotechnology, chemistry, food, fisheries, forests, health, and defense-related operations.

Call Center: A business in which the main task of a predominant number of the employees at the location is to receive communications via telephone, fax, electronic mail, or postal service for the purposes of providing customer service may be eligible for a tax abatement. A business whose predominant function is to make outbound calls or a business who contracts their call center services to other companies, regardless of whether or not the communications are inbound or outbound, are not eligible for a tax abatement.

Central City Multi-family Housing or Mixed-use Project: Multi-family market rate housing project or mixed-use project, defined as a project with housing units constituting at least 75 percent of the usable enclosed space, located within boundaries of the Empowerment Zone. Any tax increment reinvestment zones or tax increment financing zones within the aforementioned areas are excluded. See map in Appendix C.

Contributing Zone: The area or watershed where runoff from precipitation flows downgradient to the recharge zone of the Edwards Aquifer. The contributing zone is illustrated on

Contributing Zone (Southern Part) for the Edwards Aquifer and Contributing Zone (Northern Part) for the Edwards Aquifer. The contributing zone is located upstream (upgradient) and generally north and northwest of the recharge zone for the following counties (See map in Appendix D):

(A) all areas within Kinney County, except the area within the watershed draining to Segment 2304 of the Rio Grande Basin;
(B) all areas within Uvalde, Medina, Bexar, and Comal Counties;
(C) all areas within Hays and Travis Counties, except the area within the watersheds draining to the Colorado River above a point 1.3 miles upstream from Tom Miller Dam, Lake
Austin at the confluence of Barrow Brook Cove, Segment 1403 of the Colorado River Basin; and
(D) all areas within Williamson County, except the area within the watersheds draining to the Lampasas River above the dam at Stillhouse Hollow reservoir, Segment 1216 of the Brazos River Basin. (From TCEQ rules 30 TEX. ADMIN. CODE Chapter 213 Subch. B §213.22(2))

Contributing Zone within the Transition Zone: The area or watershed where runoff from precipitation flows downgradient to the Recharge Zone of the Edwards Aquifer. The Contributing Zone Within the Transition Zone is located downstream (downgradient) and generally south and southeast of the Recharge Zone and includes specifically those areas where stratigraphic units not included in the Edwards Aquifer crop out at topographically higher elevations and drain to stream courses where stratigraphic units of the Edwards Aquifer crop out and are mapped as Recharge Zone. See map in Appendix D. (From TCEQ rules, 30 TAC, § 213.22(3))

Corporate and Regional Headquarters: The firm's corporate or regional legal principal place of business is located in Bexar County, and its total assets will be at least $500,000,000 and/or its total revenues will be at least $500,000,000 for the corporate fiscal year preceding the date of the filing of its application for Tax Phase-In with the City of San Antonio or Bexar County. This does not include the corporation's retail outlets.

High Level Business Services: Includes businesses or divisions of corporations that are primarily engaged in business support functions that require a high level of technical expertise, including, but not limited to finance/accounting, insurance/risk management, marketing, real estate/planning, project management, and other analytical services or transactional operations. It does not include call center operations, as previously defined. It is required that a majority of the positions at the project site require a bachelors degree, professional degree, or equivalent relevant professional experience.

Information Technology and Security: This industry comprises establishments primarily engaged in planning and designing computer systems that integrate computer hardware, software, and communication technologies. The hardware and software components of the system may be provided by this establishment or company as part of integrated

services or may be provided by third parties or vendors. These establishments often design and develop software, install the system and train and support users of the system.

Companies in this industry are engaged in the following activities:

(1) Producing and distributing information and cultural products
(2) Providing the means to transmit or distribute these products as well as data or communications
(3) Research and development
(4) Defense-related operations
(5) Processing data

Logistics/Distribution: Businesses involved in the receiving, storage, service, or distribution of goods or materials, where a majority of the goods or services are distributed to points outside the San Antonio metropolitan statistical area. This includes defense-related operations.

Manufacturing: Businesses engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products - includes related research and development and defense-related operations.

Medical Center Area: The area bound by Louis Pasteur to the South, Babcock Road to the West, Fredericksburg Road to the East, and Huebner Road to the North.

Recharge Zone: That area where the stratigraphic units constituting the Aquifer crop out, including the outcrops of other geologic formations in proximity to the Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Aquifer. The recharge zone is identified as that area designated as such on official maps located at the Authority and in 30 TEX. ADMIN. CODE § 213.22. See map in Appendix D. (From Edwards Aquifer Authority rules, Chapter 713.1(45))

San Antonio International Airport Area: San Antonio International Airport is located in the north central portion of the city and is generally bounded by Wurzbach Parkway to the north, US 281 to the west, Loop 410 to the south and Wetmore Road to the east.

Telecommunications: Businesses primarily engaged in research & development, regional distribution, defense-related operations and the manufacturing of telecommunication-related products and services. It does not include operations involved in the retail sale of telecommunications products and services. It also does not include operations categorized as call centers.

Texas Research Park: The Texas Research Park is a 1,236-acre site, located in West Bexar County and connected to U.S. Highway 90 and Potranco Road (State Highway 1957). The Texas Research Park supports the development of a world-class center of bioscience research and medical education.

APPENDIX B

Map of Targeted Areas

APPENDIX C

Map of Central City

APPENDIX D

Map of Edwards Aquifer Recharge, Contributing, and Transition Zones

EXHIBIT C

KLN's 2008 Employee Benefits

Medical
- United Health Care
  - Base and Buy up Plans-

Dental
- MetLife
  - Plan 1- In network Providers
  - Plan 2 – Out of network providers

Vision
- Avesis

Optional Life Insurance
- SunLife

Voluntary Short Term Disability
- SunLife

Voluntary Long Term Disability
- SunLife

401K
- One America

All benefits are available to salaried employees after the completion of 30 days except for 401K, which is available after the completion of 1 full year.

EXHIBIT D

THE UNITED STATES CONGRESS HAS ENACTED VARIOUS LAWS GOVERNING THE EMPLOYMENT RELATIONSHIP BETWEEN EMPLOYERS AND EMPLOYEES INCLUDING, BUT NOT LIMITED TO, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AMERICAN DISABILITIES ACT, THE AGE DISCRIMINATION IN EMPLOYMENT ACT, THE NATIONAL LABOR RELATIONS ACT, THE FAIR LABOR STANDARDS ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE EQUAL PAY ACT, THE EMPLOYEE POLYGRAPH PROTECTION ACT, THE IMMIGRATION REFORM AND CONTROL ACT, THE CIVIL RIGHTS ACT OF 1991, THE REHABILITATION ACT OF 1973, THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, THE FAMILY AND MEDICAL LEAVE ACT, THE EMPLOYEE RETIREMENT INCOME SECURITY ACT AND THE WORKERS ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

EXHIBIT E

INVESTMENT FOR TAX PHASE-IN REQUEST FORM

Provide support documents, or appropriate summaries of same, only for activity occurring during the reporting period of _____ to _____. Please fax this form by January __, 200__.
Return this form with attached documentation no later than _____ to:

City of San Antonio
Economic Development Department
Management Analyst
100 Military Plaza
City Hall, 4th Floor
San Antonio, TX 78205
(210) 207-8080
FAX (210) 207-8151

Real Property Improvements
Expenditures associated with the real property improvements to your facility for the above reporting period. **Verification may include AIA forms, receipts, invoices, requests for payment from the contractor, etc.**

Improvements occurring since _____: $_____(attach supporting documents)
Improvements existing prior to _____: $_____

Total Real Property Improvements: $_____

Personal Property Improvements:
Expenditures associated with the personal property improvements to your facility for this reporting period. **Verification may include receipts, invoices, requests for payment, etc.**

Improvements occurring since _____: $_____ (attach supporting documents)
Improvements existing prior to _____: $_____

Total Personal Property Improvements: $_____

I certify, under penalty of perjury, that the information provided on this form and attached support documents are true and correct.

Signature
Printed Name

Date
Company Name

EMPLOYEE WAGE INFORMATION FOR TAX PHASE-IN REQUEST FORM

Provide support documents, or appropriate summaries of same, only for activity occurring during the reporting period of _____, 200__. **Please fax this sheet to:**

City of San Antonio
Economic Development Department
Management Analyst
100 Military Plaza
City Hall, 4th Floor
San Antonio, TX 78205
(210) 207-8080
(210) 207-8151 FAX

Company Name

***Total** Number of Employees (full-time Only) _____

****Total** Number of New jobs created _____

***Number of Employees **Earning At or Above Wage Standard**

_____

- Minimum Hourly Wage for all employees

_____

***Wage standard will remain constant throughout a company's Tax Phase-In Term. Standard will be the minimum hourly earnings (for San Antonio MSA) in force at the time Agreement was signed.

Please **attach support documents, or appropriate summaries of same,** such as payroll registers to document total number of employees, dates of hire, hourly wages of employees and weekly number of hours worked. **Personal identifying information is not required.**

I certify, under penalty of perjury, that the information provided on this form and attached support documents are true and correct.

Signature
Printed Name

Date
Company Name

***number of employees on _____**
**** Created from _____ to_____**

City of San Antonio Direct Deposit Form

Employee Name _____ SAP Employee ID _____

Personnel Area (Department)_____ Effective Date (must be first day of pay period)_____

Main Bank Information – This section MUST be completed if this is your initial request or a replacement for primary bank

Bank Name and Location _____

Bank Key/Routing Number ☐☐☐☐☐☐☐☐☐

Bank Account Number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐*

Checking (01) ☐ or Savings (02) ☐ **Stop Direct Deposit** ☐

Is this SAN ANTOINIO CITY EMP FCU (314088572)? ☐

Other Bank Information – This section is optional if you wish to redirect a specified amount or percentage of your net check to an account other than your primary bank

Bank Name and Location _____

Bank Key/Routing Number ☐☐☐☐☐☐☐☐☐

Bank Account Number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐*

Checking (01) ☐ or Savings (02) ☐

Is this SAN ANTOINIO CITY EMP FCU (314088572)? ☐

Amount Per Pay Period $_____ Or Deposit Percentage Per Pay Period _____%

Employee's Signature _____ Date _____

Information provided by: _____ Date _____

Entered and Authorized by _____ Logon_____ Date _____

***To help ensure accuracy please attach a VOIDED check for verification.**