ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN HALE COUNTY, TEXAS, AND BRP Paleo BESS, LLC

I. RECITALS

A. On the dates shown below, and effective on the date stated below, Hale County, Texas ("County,"), acting by and through its Commissioners Court, and BRP Paleo BESS, LLC("BRP"), a limited liability company duly formed and authorized to do business in the State of Texas, acting by and through its authorized representative as shown below, have entered this Agreement for the purposes and consideration stated below.

B. The parties have made this Agreement pursuant to Section 381.004(h) of the Texas Local Government Code, Article III, section 52-a, of the Texas Constitution, and the Guidelines and Criteria for the Award of Economic Development Grants in Hale County, Texas ("the Guidelines"), adopted by the Hale County Commissioners Court on June 10, 2019.

C. A copy of the Guidelines is attached as Exhibit A to this Agreement, and they are incorporated into the Agreement by reference.

D. The parties make this Agreement based on BRP's promises to construct and to develop a facility ("the Facility") for the storage of excess electrical power in a battery storage facility or device in the southern portion of Hale County. BRP estimates that the Facility will have an initial value of $65,000,000.00.

E. The Hale County Commissioners Court, by its approval and execution of this Agreement on behalf of County, finds that BRP's construction and operation of the Facility will provide stimulation to Hale County's economy by both direct and indirect means. The Court further finds that the approval and execution of this Agreement serves a public purpose.

II. TERM OF AGREEMENT

A. This Agreement takes effect as of January 1, 2023 ("the effective date"), and applies to all ad valorem tax assessments and payments that County levies and BRP owes and makes after that date and during the term of the Agreement.

B. This Agreement will continue in effect from year to year, subject to the conditions stated below, from January 1 to December 31, beginning on the effective date and continuing for a period of 10 years ("the term"), unless terminated as provided below.

C. The parties may not extend the Agreement past the term.

III. DEFINITIONS

A. Any and all definitions contained in the Guidelines apply to this Agreement.

B. "Appraisal District" means the Hale County Central Appraisal District.

C. "Force majeure" means a contingency or event beyond the reasonable control of the parties, including acts of God, acts of a public enemy, war, riot, civil commotion or insurrection, strikes (unless caused by the acts or omissions of a party), governmental or de facto governmental action (unless caused by the acts or omissions of a party or unless the termination of this Agreement by County as allowed and described below), fire, explosion, flood, or any other natural catastrophe.

D. "Facility" means the facility for the capture and storage of excess electrical power

E. "Taxes" means ad valorem property taxes levied on the Facility by Hale County and due from BRP during the term of the Agreement on January 1 of any particular year during the term.

IV. ECONOMIC DEVELOPMENT GRANT

A. Subject to BRP's continued commercial operation of the Facility during the term of the Agreement, and its compliance with the conditions set forth in this Agreement, County agrees to pay BRP an economic development grant in the form of a rebate of a portionof its taxes each year as stated below.

B. County will rebate all taxes paid by BRP each year during the term of this Agreement, save and except for the sum of Sixty-Three Thousand Four Hundred Eighty-Eight and No 1/100 Dollars ($63,488.00) ("the retained amount"). County will retain the retained amount each year during the term of this Agreement.

C. The amount of the grant paid each year to BRP by County will be calculated only on current taxes levied against, owed by, and paid by, BRP each year. The calculation will exclude any penalties levied against BRP for late payments; failure to report timely; or any other reason related to the levy of taxes against, and payment of taxes by, BRP to County or any other taxing entity located within Hale County.

D. In the event that BRP owes and pays taxes in an amount equal to or less than the retained amount in a given year during the term of this Agreement, BRP will not receive a grant

payment that year.

E. County will calculate the amount of grant paid each year by County to BRP only on taxes due and payable by BRP to County or to the Hale County Farm to Market District.

F. Before County pays the grant to BRP in a given year, BRP will make timely payment of any taxes owed to County for that year. BRP will present a copy of the receipt showing its payment of: (1) taxes owed for that year to County; and (2) taxes owed to all other taxing entities located within Hale County, within 30 days of payment of all of those taxes.

G. Within 90 days of BRP's presentment of the receipt, County will remit the grant payment to BRP, as calculated under the provisions of this Agreement.

H. In the event that the Appraisal District bills BRP for the payment of additional taxes after BRP's payment of its taxes in a given year, BRP may present County with a copy of that bill and a copy of a receipt for payment of the additional taxes. In such event, County will calculate and pay an additional grant amount for that year, and will remit the additional grant amount within 90 days of the payment of the additional taxes.

I. In the event that the Appraisal District notifies BRP of an overpayment of taxes by BRP, BRP will notify County of that overpayment and any refund received from the Appraisal District within 30 days of the notification and refund from the Appriasal District. Within 30 days after County receives notification from BRP of any overpayment and refund of taxes, County will calculate and bill BRP for the amount of grant overpaid by County, if any. BRP will remit a refund of the overpaid grant amount to County within 90 days of its receipt of the bill for the overpaid grant amount.

J. Under no circumstances shall this Agreement be construed to constitute a debt of County under Article XI, section 7(a), of the Texas Constitution.

V. CONDITIONS PRECEDENT

A. The provisions contained in Article V constitute conditions precedent which must occur or exist in order to obligate County to perform under this Agreement.

B. BRP must submit all documentation to County as required by this Agreement, within the times specified by this Agreement. BRP's failure to submit a required document to County within the specified time in a given year during the term of the Agreement shall excuse County's payment obligation of grant funds to BRP for that year. County shall have discretion to forgive BRP's failure to submit a required document within the specified time in a given year, provided that BRP must actually submit the document to County no later

than 90 days after the original due date.

C. BRP will continue its commercial operation of the Facility at all times during the term of this Agreement. If BRP discontinues its commercial operation of the Facility for more than 180 days, it will give County written notice of that fact and the reason for the discontinuation.

D. BRP will comply with all federal, state, and local statutes, ordinances, and regulations regarding its operation of the Facility and its conduct of business within Hale County.

E. BRP will give County and its agents and employees reasonable access to the Facility, and will timely and promptly comply with all reasonable requests of the Appraisal District and its agents and employees for information or access in order for the Appraisal District to appraise the Facility for taxing purposes.

F. BRP will provide County with any information related to its business at the Facility upon reasonable request by County, its agents, and employees. BRP will designate any proprietary or trade secret information as such in writing to County, and County will safeguard such information from public disclosure to the extent allowed by law. County will make any request for information in writing, and BRP will have a reasonable amount of time within which to provide the information.

G. BRP will timely pay any and all taxes levied against it or its property by any taxing entity located within Hale County, and BRP will not owe any past-due taxes, penalties, or interest related to the non-payment of taxes, to County or any other taxing entity located within Hale County.

H. If BRP timely and properly protests: (1) any appraisal made on taxable property by the Appraisal District; (2) any levy of taxes by County or any other taxing entity located within Hale County; or (3) any assessment of penalties or interest by the Appraisal District, and that protest delays BRP's payment of taxes in a given year during the term of the Agreement, BRP shall notify County in writing of the protest and shall periodically inform County about the status of the protest.

VI. EVENTS OF DEFAULT; TERMINATION OF AGREEMENT; RECAPTURE

A. The failure of either party to perform one of its obligations under this Agreement, including the non-existence or non-occurrence of a condition precedent, will constitute an act of default.

B. BRP's termination or dissolution of itself as a business, or its commencement of a proceeding under any bankruptcy or insolvency laws (except in the case of an involuntary

proceeding against BRP that is discharged within 60 days), constitutes an act of default.

C. BRP's discontinuation of its commercial operation of the Facility for more than 180 days during the term of this Agreement, unless the discontinuation occurs because of a force majeure, constitutes an act of default.

D. If one party commits an act of default, the other party may give written notice to cure to the defaulting party. If the defaulting party fails or refuses to cure the event of default within 90 days after the receipt of the notice of default, the non-defaulting party may terminate the Agreement.

E. County will have no obligation to provide funding for this Agreement in any given fiscal year. In the event that County fails to provide funding for this Agreement in its budget in a given fiscal year during the term of the Agreement, County will give BRP written notice of that fact at least 60 days before the beginning of the fiscal year for which County will not provide funding.

F. BRP's failure to perform any of its obligations under this Agreement in a given year during the term of this Agreement (except as it relates to the condition precedent set forth in Section V(E)) shall excuse County's performance under the Agreement for that year of the Agreement. County has no duty to inform BRP of such failure.

G. If a force majeure causes a delay in a party's performance of its obligations under this Agreement, the party will have additional time in which to perform. That additional time will not exceed 90 days past the initial 180 days of disruption (as provided by Section VI(c)), unless the other party approves a longer time in writing.

H. In the event that County terminates this Agreement based on BRP's failure to cure an act of default, County may demand repayment from BRP of all or any portion of the most recent three grant fund payments made by County to BRP prior to County's termination of the Agreement. BRP will have 90 days following the receipt of such demand to remit payment to County.

VII. REPRESENTATIONS BY BRP

A. BRP represents to County that it has the authority and ability to conduct business in the State of Texas.

B. BRP further represents to County that it may legally construct and operate the Facility for which County will pay grant funds under this Agreement.

C. BRP further represents that it has duly authorized its representative who has signed this Agreement to make this Agreement on BRP's behalf.

VIII. NOTICES

A. All notices required to be given under this Agreement will be given in writing and will be effective on the date actually delivered or on the date when deposited in the United States Mail, certified, return receipt requested, postage prepaid, and addressed to the party to whom the notice is to be given, at the addresses shown below.

B. Correspondence that the parties might exchange concerning the Agreement, but that the Agreement does not require, may be delivered via facsimile transmission or email at the numbers and addresses shown below.

C. The parties will inform each other in writing, as soon as practicable, of any change of mailing address, facsimile number, or email address.

D. The notice address for BRP is:

Broad Reach Power, LLC
Three Allen Center
333 Clay Street, Suite 2800
Houston, Texas 77002
ATTN: KARA KING, Director of Finance
Facsimile Number: (832) 304-7860
Email: kking@broadreachpower.com

E. The notice address for County is:

Hale County Judge
500 Broadway, Suite 240
Plainview, Texas 79072
Facsimile Number: (806) 296-7786

IX. GENERAL PROVISIONS

A. This Agreement does not create any rights between County and any person or entity that is not a named and signatory party to this Agreement.

B. This Agreement, together with any attachments or exhibits noted within it, constitutes the entire agreement of the parties as to the matters set forth in this Agreement. This

Agreement may not be modified in any way except in a writing that both parties sign.

C. This Agreement will be construed under the laws of the State of Texas.

D. All obligations created by this Agreement are performable in Hale County, Texas. Venue for any action arising from this Agreement will lie in the state district courts of Hale County, Texas.

E. This Agreement shall be effective upon execution by the parties, and shall bind both the parties and their successors in interest, if any.

F. BRP may not assign this Agreement without County's prior written approval. An assignment will no lengthen the term of the Agreement.

G. This Agreement does not create, nor do the parties intend to create, a joint venture or partnership between BRP and County.

H. BRP, as a party to this Agreement, shall be a necessary party to any suit challenging the validity of this Agreement or any actions taken by the Hale County Commissioners Court to authorize this Agreement. BRP has the right to intervene in such a suit.

I. Nothing in this Agreement shall be construed, or is intended, to waive, limit, or otherwise change any sovereign or official immunity or any other immunity from suit or liability enjoyed by County, its officers, employees, and agents.

J. If a Court holds any part of this Agreement to be invalid or unenforceable, that part shall be deemed stricken from the Agreement, and the remainder of the Agreement shall continue in effect, to the extent possible, without the stricken provision.

[Remainder of page left intentionally blank]

HALE COUNTY, TEXAS

By: _____

DAVID B. MULL
Hale County Judge

BRP Paleo BESS, LLC

By: _____

MARK KLEIN
Chief Operating Officer, Broad Reach Power, LLC

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF HALE §

BEFORE ME, the undersigned authority, personally appeared DAVID B. MULL, as County Judge of Hale County, Texas, and signed the foregoing Economic Development Grant Agreement on behalf of said County, as authorized by the Hale County Commissioners Court, on this 28th day of September, 2021.

Monica Hernandez
Notary Public, State of Texas
ID# 12635192-7
My Commission Expires
Feb. 2, 2025

_____
Notary Public, State of Texas

ACKNOWLEDGMENT

STATE OF TEXAS §
§
COUNTY OF HALE §

BEFORE ME, the undersigned authority, personally appeared MARK KLEIN, as Chief Operating Officer of Broad Reach Power, LLC, on behalf of BRP Paleo BESS, LLC, and signed the foregoing Economic Development Grant Agreement on behalf of that entity, on this _____ day of _____, 2021.

SEE ATTACHED CALIFORNIA ACKNOWLEDGMENT

_____
Notary Public, State of Texas

ACKNOWLEDGMENT

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

State of California
County of San Diego)

On October 1, 2021 before me, Paulina Soto, notary Public
(insert name and title of the officer)

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

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

PAULINA SOTO
COMM. # 2322912
NOTARY PUBLIC • CALIFORNIA
SAN DIEGO COUNTY
Commission Expires FEBRUARY 26, 2024

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

ORDER NO. 20-0619

IN THE COMMISSIONERS COURT	§
	§
OF HALE COUNTY, TEXAS	§

WHEREAS, the Hale County Commissioners Court desires to stimulate, to promote, and to foster economic development in Hale County;

AND WHEREAS, economic development leads to a higher standard of living for all citizens in Hale County and helps to create greater resources to serve the citizens of Hale County;

AND WHEREAS, Section 381.004 of the Texas Local Government Code allows the Commissioners Court of Hale County to adopt a program for making grants as an incentive for economic development in Hale County;

AND WHEREAS, establishing a program for making grants as an incentive for economic development in Hale County will serve a public purpose;

AND WHEREAS, the Hale County Commissioners Court, on February 9, 2009, previously adopted guidelines and criteria establishing an economic development grant program pursuant to Section 381.004 of the Texas Local Government Code;

AND WHEREAS, the passage of time and a change in circumstances require the updating of those guidelines and criteria,

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Hale County Commissioners Court hereby adopts the following guidelines and criteria for use in administering its existing economic development grant program created on February 9, 2009, pursuant to Section 381.004 of the Texas Local Government Code. These guidelines and criteria replace those previously adopted on February 9, 2009.

IT IS ORDERED that any person or entity wishing to obtain the benefit of an economic development grant from Hale County must meet the following guidelines and criteria prior to the County's entering any economic development agreement with that person or entity.

GUIDELINES AND CRITERIA FOR THE AWARD OF ECONOMIC DEVELOPMENT GRANTS IN HALE COUNTY, TEXAS

1. The Hale County Commissioners Court continues its previous economic development grant program pursuant to Section 381.004 of the Texas Local Government Code.

2. These guidelines and criteria control the ability of Hale County ("the County") to award economic development grants ("grants") to any individual or entity located in Hale County that meets the criteria set forth herein ("recipient").

3. The County will award a grant as: (1) a "lump sum" payment agreed upon by the County and the recipient; or (2) a payment based on a percentage of ad valorem taxes paid by the recipient.

4. The length of any grant agreement approved hereunder shall be at the County's discretion, but no grant agreement will provide for more than ten yearly payments by the County.

5. In order to apply for and to receive a grant under these guidelines and criteria, a recipient must be eligible to apply for and to receive a tax abatement under the Guidelines and Criteria established by the County for the granting of tax abatements under Chapter 312 of the Texas Tax Code ("Chapter 312"). A recipient who receives a tax abatement from the County under Chapter 312 may not also receive a grant under this program.

6. The most recent version of the Hale County Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones is attached to this Order as Exhibit A and is incorporated for all purposes herein.

7. The portions of Exhibit A and Chapter 312 that require the establishment of a reinvestment zone as a condition precedent to granting a tax abatement do not apply to the award of grants under these guidelines and criteria.

8. To receive a grant under these guidelines and criteria, a recipient must apply within one year of the last possible time that the recipient could have applied for a tax abatement from the County.

9. A recipient of a grant must make full payment of ad valorem taxes to the County as a condition precedent to receive the grant payment.

10. A grant agreement may require the recipient to continue its business for a minimum specified period of time following the end of the agreement.

11. The recapture provisions of Exhibit A and Chapter 312 will apply to all grant agreements made under these guidelines and criteria.

12. A recipient will submit the same application required by Exhibit A in order to apply for a grant.

13. The Hale County Commissioners Court has sole discretion to set any conditions for the award of a grant or the payment of any grant to a recipient.

14. Any grant agreement made under these guidelines and criteria will be made subject to the continuing appropriation of sufficient funds from current revenues in each fiscal year to discharge the County's obligations under the agreement. The County Commissioners Court will have no obligation to appropriate funds in any given fiscal year under any agreement.

15. No agreement made under these guidelines and criteria shall provide a recipient greater benefits or monetary incentives than the recipient could receive under a tax abatement agreement through Exhibit A and Chapter 312.

ADOPTED by a unanimous vote on the 10th day of June, 2019, at a regular meeting of the Hale County Commissioners Court.

HALE COUNTY JUDGE

ATTEST:
LATRICE KEMP, Hale County Clerk

By:

EXHIBIT A

GUIDELINES AND CRITERIA

FOR GRANTING TAX ABATEMENTS IN REINVESTMENT ZONES

–Hale County, Texas–

Adopted by the Hale County Commissioners Court on October 23, 2006
Re-authorized December 22, 2008; February 14, 2011; April 8, 2013;
October 13, 2014; and February 12, 2018

For additional copies, please contact the Hale County Attorney's Office
(806) 291-5306; jtirey@halecounty.org

Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones Hale County, Texas

I. PURPOSE

Hale County, Texas, ("the County") is committed to the promotion of quality development in all parts of the County and to the improvement of the quality of life for the County's citizens. In order to help meet these goals, the Plainview/Hale County Industrial Foundation, dba the Plainview/Hale County Economic Development Corporation, may consider recommending tax phase-in, which includes the designation of reinvestment zones and the grant of tax abatements, to stimulate growth and development in the County. The County intends to provide such incentives in accordance to the procedures and criteria outlined herein.

NOTHING IN THESE GUIDELINES AND CRITERIA, HOWEVER, SHALL IMPLY, SUGGEST, OR OTHERWISE BE CONSTRUED TO IMPLY OR SUGGEST, THAT THE COUNTY HAS ANY OBLIGATION TO PROVIDE ANY INCENTIVES TO ANY APPLICANT. THE COUNTY SHALL CONSIDER ALL APPLICANTS FOR TAX PHASE-IN INCENTIVES ON AN INDIVIDUAL BASIS REGARDING WHETHER THEY QUALIFY FOR AN ABATEMENT AND WHETHER, AND HOW MUCH OF, AN ABATEMENT THE COUNTY WILL GRANT.

II. DEFINITIONS

"Abatement" means the full or partial exemption from ad valorem taxes of eligible property in a reinvestment zone designated by the County for economic development purposes.

"Affected taxing entity" means any municipality, school district, or other political subdivision that has taxing powers, the majority of which is located in the County and which levies ad valorem taxes upon and/or provides services to property located within a proposed or existing reinvestment zone that the County has designated.

"Agreement" means a contract between a property owner and/or lessee and the County for the purpose of abatement.

"Appraisal District" means the Hale County Central Appraisal District, its employees, agents, and directors.

"Aquaculture/agriculture facility" means buildings, structures, and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is the production of food and/or fiber products in commercially marketable quantities.

"Authorized facility" means an aquaculture/agriculture facility, distribution center facility, manufacturing facility, office building, regional entertainment/tourism facility, research facility, regional

service facility, wind energy facility, or other basic industry.

"Base year value" means the assessed value of eligible property on January 1 preceding the execution of the Agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for tax abatement.

"Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.

"Distribution center facility" means building and structures, including fixed machinery and equipment, used primarily to receive, store, service, or distribute goods or materials owned by the facility, from which a majority of revenues generated by activity at the facility are derived from outside the County.

"Eligible property" means new, expanded, or modernized buildings and structures, fixed machinery and equipment, site improvements, office space, and related fixed improvements necessary to the operation and administration of the facility, and all other real and tangible personal property permitted by Chapter 312 of the Texas Tax Code.

"Expansion" means the addition of buildings, structure, machinery, or equipment for purposes of increasing production capacity.

"Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

"Ineglible property" means any of the following types of property: land, animals, inventories, supplies, tools, furnishings and other forms of movable personal property, vehicles, vessels, aircraft, housing or residential property, hotels or motels, fauna, flora, retail facilities (unless housed in an historic structure in a designated area), deferred maintenance investments, property to be leased or rented (except as provide in part IV(F)), any improvements (including those to produce, store, or distribute natural gas or fluids) that are not integral to the operation of the facility, and property owned or used by the State of Texas or its political subdivisions, or by any organization owned, operated, or directed by a political subdivision of the State of Texas.

"Manufacturing facility" means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.

"Modernization" means the upgrading and/or replacements of existing facilities which increases their productive input or output, updates their technology, or substantially lowers the unit cost of operation at a facility. Modernization includes the construction, alteration, or installation of buildings, structures, fixed machinery or equipment, if made for a purpose other than reconditioning, refurbishing, or repairing such items.

"New facility" means improvements to previously undeveloped real property.

"New job(s)" mean(s) a newly-created employment position on a full-time and permanent basis. Two or more part-time permanent employees working an average of not less that 40 hours per week may be considered as one full-time permanent employee.

"Office building" means a newly-constructed office building.

"Other basic industry" means buildings and structures, including fixed machinery and equipment, not elsewhere described, used in the production of products or services which serve a market primarily outside the County and results in the creation of new permanent jobs and new wealth in the County.

"Regional entertainment/tourism facility" means buildings and structures, including fixed machinery and equipment, used to provide entertainment or tourism-related services, from which a majority of revenues generated by activity at the facility are derived from outside the County.

"Research facility" means buildings and structures, including fixed machinery and equipment, used primarily for research or experimentation to improve or to develop new tangible goods or material or the production processes thereof.

"Wind energy facility" means buildings and structures, including, but not limited to, electricity-generating turbines, electric transmission lines, electric power substations, electrical gathering equipment, communications systems, roads, and fixed machinery and equipment, used to general and to provide electric energy.

III. ELIGIBILITY

A. In order to qualify for designation as a reinvestment zone and to receive a tax abatement, a facility must meet the following minimum guidelines:

1. be an authorized facility; and

2. add at least $150,0000.00 to the tax roll or eligible property or add 5 or more new jobs.

B. In evaluating a request for designation as a reinvestment zone and for a tax abatement, the County will consider the following factors:

1. *The number of jobs projected to be created by the facility, including the retention of exiting jobs.* The County will consider the type of jobs created, the average salary or wages paid for those jobs, and the total payroll and number of local citizens hired.

2. *The fiscal impact of the facility.* The County will take into consideration the amount of eligible and ineligible property added to the tax roll; the amount of direct sales tax that is expected to be generated by the facility; the infrastructure improvements made by the County that the facility will necessitate; the infrastructure improvements made by the facility's owner; and the compatibility of the project with the County's master plan

for development, if one exists.

3. *The impact of the facility on the community.* The County will consider such factors as the amount of pollution and other negative environmental impacts caused by the facility; whether the facility will help to revitalize a depressed area; the opportunities created for local vendors by the facility; alternative development possibilities at the proposed site of the facility; the impact on other taxing entities; and whether, and the extent to which, the facility will simply transfer employment from one part of the County to another.

4. *The expected life of the facility.* A facility should have an expected useful life of a least five, and preferably fifteen, years.

C. An area designated as a reinvestment zone by the County must lie wholly outside the taxing jurisdiction of any municipality.

D. The County may create a reinvestment zone if it will contribute to the retention or expansion of employment, attract major investment in the County, or promote other economic development in the County.

IV. ABATEMENT AUTHORIZED

A. *Authorized Date.* An authorized facility shall be eligible for abatement if an application for such is made prior to the commencement of construction; provided, however, that such facility must meet the criteria for granting abatement in a reinvestment zone created in Hale County pursuant to these Guidelines and Criteria.

B. *Creation of New Value.* The County will grant an abatement only for the additional value of eligible property improvements made subsequently to the filing of an application for abatement and specified in an agreement between the County and the owner of the eligible property, subject to such limitations imposed by these Guidelines and Criteria.

C. *New and Existing Facilities.* The County may grant an abatement for new facilities and improvements added to or made to existing facilities for the purpose of modernization or expansion. If an expansion project includes facility replacement, the County will only abate taxes based on a calculation of the value of the new facility less the value of the old or prior facility.

D. *Property covered.* The County may only grant an abatement as to eligible property; ineligible property cannot be subject to an abatement agreement.

E. *Leased Facilities.* The County may execute an abatement agreement with the lessee of taxable real property located in a reinvestment zone to abate taxes on all or a portion of the value of eligible property, including tangible personal property as allowed by Chapter 312 of the Texas

Tax Code, in an authorized facility owned by the lessee and located on the leased real property.

F. *Value and Term of Abatement.* An abatement shall take effect on January 1 following the date or event specified in the abatement agreement. The abatement agreement between the County and the owner of the eligible property shall govern the amount of taxes for which an abatement is granted. The Hale County Commissioners Court has sole discretion to set the amount of any abatement. The table contained in Appendix A to these Guidelines and Criteria shall determine the maximum amount of abatement available, and the Commissioners Court will not exceed the maximum percentages of abatement provided in Appendix A.

The County may agree to extend an abatement by executing a subsequent agreement if doing so becomes necessary to comply with state law regarding the term of a reinvestment zone designation.

G. *Construction in Progress.* If the owner of an authorized facility cannot place the facility in service prior to any deadline set forth in an abatement agreement, the owner may inform the County of such in writing, and the County may grant a one-year extension of the applicable deadline. The owner must apply for an extension under this section before the end of the calendar year containing the applicable deadline.

H. *Taxability.* From the execution of an agreement to the end of the abatement period, the owner of a facility subject to an abatement agreement must pay taxes as follows:

1. The value of any ineligible property shall always be fully taxable.

2. The base year value of existing property, as determined each year by the Appraisal District shall always be fully taxable.

3. The value of new eligible property shall be taxable in an the amount set forth in the abatement agreement; provided, however, that the value of new eligible property shall be fully taxable until the abatement agreement fully takes effect as provided by its terms.

I. *Compliance with Other Laws.* The owner of a facility on which the County grants an abatement must comply with all applicable local, state, and federal laws, rules, and regulations regarding the operation of the facility. Any abatement agreement executed by the County shall make the failure to comply with applicable laws, rules, and regulations an act of default.

V. CREATION OF REINVESTMENT ZONE

A. Any owner of real property located outside of any municipal boundaries in Hale County may request the creation of a reinvestment zone.

B. An applicant shall submit a legal description of the property as well as a map showing its location in Hale County. If necessary, the owner shall also submit proof that the property does

not lie within any municipal boundary. The applicant shall submit the request and information to the Hale County Attorney's Office.

C. The County shall approve or deny the request to create a reinvestment zone within 45 days following the receipt of the request and required information. The County Judge or his designated representative shall notify the applicant in writing of the County's decision as soon as practicable, but no longer than 7 days following the date of the decision. Failure to meet these deadlines will not affect the County's discretion to approve or to reject an application.

VI. APPLICATION FOR TAX ABATEMENT

A. Any present or potential owner or lessee of eligible property or an authorized facility in Hale County may request the grant of a tax abatement by filing a written request with the Hale County Attorney's Office.

B. The application shall consist of a completed application form as set out in Appendix B, along with the following information:

1. a general description of the use and the general nature and extent of the proposed modernization, expansion, or new facility;

2. a descriptive list of all proposed improvements;

3. a map and property description, or site plan;

4. a schedule for undertaking and completing the modernization, expansion, or new facility; and

5. a statement of: (a) the assessed value of any existing facility (stated for both real and personal property for the tax year immediately preceding the application; and (b) the estimated value of the proposed modernization, expansion, or new facility.

C. The County may require any other information that it deems necessary to evaluate the financial capacity of the applicant or any other factor relevant to determine whether to create a reinvestment zone or to grant a tax abatement.

D. The County will not grant a tax abatement if it determines that:

1. the tax abatement will have a substantial adverse effect on the provision of a government service by, or the tax base of, an affected taxing entity;

2. the applicant has insufficient financial capacity to complete or to sustain the proposed project;

3. a planned or potential use of the property would constitute a hazard to public safety, health, or morals; or

4. a planned or potential use of the property would violate any applicable statute, regulation, rule, ordinance, or order.

E. The applicant shall deliver the application and its supporting information to the Hale County Attorney's Office.

F. If the eligible property is not located within an existing reinvestment zone, the applicant shall also submit the information required to create a reinvestment zone, as set forth in Part V, above. If a reinvestment zone does not exist at the time of the submission of an application for a tax abatement, the deadlines set forth in Section VI(F) shall be extended by 60 days.

G. The County shall approve or reject an application for tax abatement within 45 days following the date of receipt of the application. The County Judge or his designated representative shall notify the applicant in writing of the County's decision as soon as practicable, but no longer than 7 days following the date of the decision. Failure to meet these deadlines will not affect the County's discretion to approve or to reject an application.

H. The County will not grant a tax abatement if the application is filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization, expansion, or new facility.

I. An applicant may request a variance from the provision outlined in Parts VI(A)-(E) by submitting a written request to the Hale County Judge. The request for a variance must include a complete description of the circumstances surrounding the request and explaining why the County should grant a variance. The request must also set out the specific variance that the Applicant seeks. The grant of a variance rests solely in the discretion of the Hale County Commissioners Court, and the Court may only grant a variance upon at least a three-fourths majority vote.

J. The County shall maintain as confidential any proprietary information that it might acquire from an applicant during the application process. The applicant must identify in writing all proprietary information that it provides to the County and must mark each page of such information as being proprietary and confidential. The County shall return to the applicant any information properly marked as proprietary and confidential.

VII. PUBLIC HEARING

A. Upon receipt of a completed application, the County shall send any notifications required by Chapter 312 of the Texas Tax Code.

B. Before acting upon the application, the County shall, through public hearings, afford the

applicant and the designated representative of any affected taxing entity to show cause why the County should or should not grant the tax abatement.

C. The County will post, according to the same procedures that it gives notice of any other meetings subject to the Texas Open Meetings Act, notice of a public hearing regarding a proposed tax abatement. The County shall post the notice at least 7 days prior to the date of the hearing.

D. The Hale County Commissioners court may base its decision not to grant a tax abatement in whole or in part on a showing by an affected taxing entity that the abatement would adversely affect its bonds, tax revenue, or ability to provide services.

VIII. AGREEMENT

A. Upon approval of an abatement application, the Hale county Commissioners Court shall pass a resolution and authorize the execution of an agreement with the owner or lessee of the facility. The agreement shall include:

1. the estimated value of property on which the County will abate taxes and the base year value of the property;

2. the percentage of the value of the eligible property on which the County will abate taxes each year during the term of the agreement;

3. the commencement and termination dates of the abatement (or a method for determining those dates);

4. the proposed use of the facility; the nature of the construction or improvements; a time schedule for undertaking the completion of the planned construction or improvements; a map of the facility property; a property description; and a list of improvements as provided in Part V(B) of these Guidelines and Criteria;

5. provisions establishing all conditions precedent to the abatement of taxes; relating to events of default; violation of the terms or conditions of the abatement; recapture of previously abated taxes; administration of the abatement; assignment of the contract; and any other terms as required by law or determined necessary by the Hale County Commissioners Court;

6. the amount of investment or average number of annual full time jobs created by the project.

The requirements of Chapter 312 of the Texas Tax Code supersede these Guidelines and Criteria.

B. The County may negotiate the amount and terms of an abatement agreement following the

approval of an abatement application. An abatement agreement executed by the County may not abate, forgive, or refund any taxes that become due and payable to the County prior to the execution of the agreement.

C. The Hale County Commissioners Court has full discretion regarding the amount and terms of any abatement agreement, and the decisions or actions of any other taxing entity will not bind or affect the authority of the County to negotiate any particular amount or terms.

IX. RECAPTURE

A. In the event that a facility subject to a tax abatement agreement ceases producing products or services for any reason except fire, explosion, or other casualty, accident, or natural disaster, for a period of more than one year during the term of the abatement agreement, the agreement shall terminate and so shall the abatement of taxes for the calendar year in which the termination occurs. The owner or lessee of the facility shall pay the taxes otherwise abated for that calendar year to the County within 60 days of the date of termination.

B. If the County determines that a party to an abatement agreement has defaulted under the terms and conditions of the agreement, the County will notify the party of the default in writing at the address stated in the agreement and will give the party 60 days from the date of notice to cure the default. The County shall terminate the agreement if the party fails to cure the default within the time allowed.

C. A party's failure to pay any other taxes owed to the County or any other taxing entity located within Hale County will constitute an act of default under any abatement agreement entered under these Guidelines and Criteria.

D. Any abatement agreement entered under these Guidelines and Criteria shall contain a provision for the recapture of previously abated taxes following termination of the agreement for any act of default. The recapture provision will specify repayment of those taxes within 60 days of the date of termination.

X. ADMINISTRATION

A. The Chief Appraiser of the Appraisal District shall annually determine the value of the real and taxable personal property contained within a reinvestment zone. Any party receiving benefits under an abatement agreement must furnish the Appraisal District with all information necessary for a determination of value. The party shall also provide all information to the Appraisal District that the abatement agreement or these Guidelines and Criteria might require.

B. The owner or lessee of a facility subject to an abatement agreement must give the County and its officers, employees, and agents reasonable access to the facility in order to inspect for compliance with the agreement. The County shall give the party notice at least 24 hours in advance of any compliance inspection, and the County will not unreasonably interfere with the

construction or operation of a facility in order to conduct a compliance inspection. The County will conduct any compliance inspection pursuant to the safety rules and regulations of the facility in question.

C. If the County discovers any violations of an abatement agreement, it will report those to any other affected taxing entity within a reasonable period of time.

D. The County will maintain as confidential any proprietary information that it receives from a party to a tax abatement agreement for purposes of monitoring compliance with the agreement. The owner or lessee of the facility must clearly identify in writing all proprietary information and must mark each page of such information as being proprietary and confidential.

XI. ASSIGNMENT

A. A party to an abatement agreement may assign the agreement to a new owner or lessee of a facility, but the Hale County Commissioners Court must pass a resolution approving the assignment, and the new owner or lessee must meet all the requirements of the agreement and these Guidelines and Criteria.

B. An assignee must sign a new abatement agreement with the County following the approval of the assignment.

C. A new agreement signed under this Part may not exceed the term of the original agreement or the amount of the original abatement.

D. A party may not assign its interest in an abatement agreement to an individual or entity that owes any delinquent taxes or other obligations to the County or any other affected taxing entity.

E. The County will not unreasonably withhold approval of an assignment under this Part.

XII. SUNSET PROVISION

A. These Guidelines and Criteria are effective upon the date of the adoption and will remain in effect for 2 years, at which time the County will review all reinvestment zones and abatement agreements created under them. Following that review, the County will consider whether to renew, modify, or rescind these Guidelines and Criteria. No action taken by the County under this Part will affect any existing abatement agreements or reinvestment zones.

B. The County may review and modify these Guidelines and Criteria at any time.

XIII. SEVERABILITY AND LIMITATIONS

A. In the event that a court of competent jurisdiction adjudges any part, section, clause, sentence, paragraph, or any other portion of these Guidelines and Criteria to be invalid, or if legislative action renders any portion of these Guidelines and Criteria invalid, that invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria, to the extent possible.

B. The County will not grant a tax abatement, or any benefit under a tax abatement agreement, on property owned or leased by a member of the Hale County Commissioners Court or any member of any planning board or commission of the County.

C. Any requirements that the Legislature places upon tax abatement or reinvestment zones and that these Guidelines and Criteria omit shall be deemed incorporated into these Guidelines and Criteria and shall control in the event of a conflict between the requirement and the Guidelines and Criteria.

APPENDIX A: SCHEDULE OF POTENTIAL TAX ABATEMENTS

Category A Amount of Valuation of Eligible Property as Determined by the Hale County Appraisal District		*Category B* Average Number of New Employees During the Twelve Calendar Months Prior to the Tax Assessment Date of January 1		Maximum Percentage of Taxes Abated Each Year During a 10-Year Agreement *Note: The Hale County Commissioners Court has complete discretion to set the actual amount of abatement allowed in any agreement, and to negotiate that amount with the parties to the agreement.*									
From	To	From	To	1	2	3	4	5	6	7	8	9	10
$ 150,000.00	$ 1,000,000.00	5	25	100	75	50	25	0	0	0	0	0	0
$ 1,000,001.00	$ 2,500,000.00	26	45	100	100	75	50	25	0	0	0	0	0
$ 2,500,001.00	$ 4,000,000.00	46	60	100	100	100	75	50	25	0	0	0	0
$ 4,000,001.00	$ 5,000,000.00	61	75	100	100	100	100	75	50	25	0	0	0
$ 5,000,001.00	$10,000,000.00	76	85	100	100	100	100	100	75	50	25	0	0
$10,000,001.00	Above	86	Above	100	100	100	100	100	100	100	100	100	100

During the first year following the completion of new construction or improvements, and for each subsequent year during the term of an abatement agreement executed pursuant to the Guidelines and Criteria, the percentage of taxes abated shall be based on : (1) the valuation of eligible property (Category A); or (2) the average number of additional employees (Category B). The determination of which category to use in determining the percentage of taxes abated shall be according to which category provides the greatest percentage of abatement.

APPENDIX B:

APPLICATION FOR TAX ABATEMENT
—Hale County, Texas—

Please type or print legibly. Deliver completed Application and supporting information to Hale County Attorney's Office, 500 Broadway, Suite 340, Plainview, Texas 79072

Date:_____

Name of Owner/Lessee of Property for which abatement is sought[1] ("the Applicant"):

_____

Address:_____

Phone No.:_____ Facsimile:_____

Contact Person:_____ Title:_____

Please attach the following information to this Application, labeled as indicated below:[2]

Exhibit A:	A general description of the proposed use and the general nature and extent of the modernization, expansion, or new facility planned. Include a description of any existing facility, if applicable.
Exhibit B:	A descriptive list of the improvements which will be part of the facility.
Exhibit C:	A map and legal property description of the facility.
Exhibit D:	A schedule for undertaking and completing the modernization, expansion, or new facility.
Exhibit E:	Documents showing the amount of planned investment in the modernization, expansion, or new facility, and the number of new jobs and retained jobs as a result of the modernization, expansion, or new facility.
Exhibit F:	A statement regarding the reasons why a tax abatement for the modernization, expansion, or new facility will promote economic development in Hale County.
Exhibit G:	Copies of any permits or licenses required for the construction or operation of the modernization, expansion, or new facility.

[1]Please list the legal name of the person or entity for which this Application is made. If the business is run under an assumed name, please indicate that as well.

[2]If any information required to be submitted with this Application is proprietary information, please indicate such in writing and mark each page of that information as proprietary and confidential. You may retrieve that information following consideration of the Application. ***Proprietary information left in the possession of Hale County following action on this Application is not confidential and will not be protected from disclosure by Hale County.***

Exhibit H: A balance sheet and profit/loss statements for the past 3 years for the Applicant. (If the Applicant is new, please provide substantiated estimates of this information.)

Exhibit I: A statement of: (1) the assessed value of any existing facility, stated for real and personal property for the tax year immediately preceding the Application; and (2) the value of the propsed modernization, expansion, or new facility.

Hale County may request additional information in considering this Application. The Applicant agrees to provide any requested information as soon as possible following the request.

The undersigned hereby certifies that he or she is authorized to make this Application and that the information contained in, and submitted with, this Application is true and correct, and the County may rely upon said information in determining whether to approve this Application and to negotiate a tax abatement agreement with the Applicant.

_____ _____

Signature Date

Title:_____

_____

COUNTY USE:

Date Received:_____

Received By:_____

ACTION (Circle One):

Approved ***Denied***

Date:_____

Signed:_____

Hale County Commissioners Court