

City of Houston, Texas, Ordinance No. 2019- 1022

**AN ORDINANCE APPROVING AND AUTHORIZING A TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF HOUSTON, TEXAS, AND BRITTMOORE FOUNDERS DISTRICT, GP, LLC. FOR PROPERTY LOCATED WITHIN THE BRITTMOORE FOUNDERS DISTRICT, GP, LLC REINVESTMENT ZONE; CONTAINING FINDINGS AND OTHER PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the City Council hereby approves and authorizes the contract, agreement, or other undertaking ("Agreement") described in the title of this Ordinance, in substantially the form of the document attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute the Agreement described in the title of this Ordinance and all related documents on behalf of the City of Houston and to take all actions necessary to effectuate the City's intent and objectives in approving the Agreement in the event of changed circumstances. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

**Section 2.** That the City Council hereby finds that the terms of the Agreement authorized by this Ordinance meet the guidelines and criteria of Chapter 44 of the City of Houston Code of Ordinances ("Code") relating to tax abatement; that the property subject to abatement under the Agreement authorized by this Ordinance lies within the BRITTMOORE FOUNDERS DISTRICT, GP, LLC. Reinvestment Zone, a designated reinvestment zone authorized by Chapter 312 of the Texas Tax Code and Section 44-122 of the Code; that this Agreement will result in no substantial potential adverse effect on the provision of City services or the tax base; and that the proposed use of the facility to provide products and services to the upstream oil and gas industry will contribute to the economic development of the City.

**Section 3.** That the City Attorney is hereby authorized to take all actions necessary to enforce all legal obligations under such contracts, agreements, or other undertakings without further authorization from the City Council.

**Section 4.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 11th day of December, 2019.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is DEC 17 2019.

Pat J. Manuel  
City Secretary Assistant

Prepared by Legal Department Alana J. Howard

AH/ah 12-10-19 Senior Assistant City Attorney  
Requested by Andy Icken  
Chief Development Officer, Office of the Mayor  
L. D. File No.

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CAPTION PUBLISHED IN DAILY COURT  
REVIEW DATE: DEC 17 2019

AYE	NO	
✓		MAYOR TURNER
....	....	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
	ABSENT-ON PERSONAL BUSINESS	LE
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		LASTER
✓		MARTHA CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		EDWARDS
✓		CHRISTIE
CAPTION	ADOPTED	

## TAX ABATEMENT AGREEMENT

This **TAX ABATEMENT AGREEMENT** ("Agreement") is made by and between the **CITY OF HOUSTON, TEXAS**, a municipal corporation and home-rule city ("City"), and **BRITTMORE FOUNDERS DISTRICT, GP, LLC**, a limited liability corporation, authorized to transact business in the State of Texas ("the Company"). The City and the Owner may be referred to singularly as "Party" and collectively as the "Parties." Capitalized terms have the meanings defined in the first section of this Agreement.

### RECITALS

**WHEREAS**, the creation and retention of job opportunities, building an entrepreneurial hub for startups, technology firms, and other high-growth businesses in the City is paramount to the City's continued economic development; and

**WHEREAS**, in accordance with the requirements of Section 44-127(a)-(c) of the Code, the Owner desires to expand, operate, and construct a "Mixed Use Facility" as defined in Section 44-121 of the Code to be occupied and used as a business incubation community that shall include a mix of the uses that may include office space, co-working space, restaurants, retail stores, a regional community events center, multi-family housing, athletic facilities, and park amenities; and

**WHEREAS**, the proposed Mixed-Use Facility site is located at 1260 thru 1334 Brittmoore Road within the City of Houston; and

**WHEREAS**, in accordance with Section 44-123 of the Code, the Owner filed a written application for tax abatement dated September 7, 2018; and

**WHEREAS**, the City Council finds that it is reasonably likely that this Agreement will contribute to the retention, expansion, and creation of primary employment and will attract major investment in the Zone that would be a benefit to property within the Zone and that would contribute to the economic development of the City; and

**WHEREAS**, the City Council finds that the Improvements are practical and are of benefit to the area within the Zone and to the City; and

**WHEREAS**, the City Council finds that there will be no substantial potential adverse effect on the provision of City services or on the tax base caused by this Agreement; and

**WHEREAS**, the Owner has represented that the Improvements will be designed, constructed and installed in the Facility according to all applicable federal, state, and local environmental regulations; and

**WHEREAS**, the City Council finds that the terms of this Agreement meet the applicable requirements of Chapter 44, Article IV, of the Code; and

**NOW, THEREFORE**, for and in consideration of the premises and mutual promises stated herein, the Parties agree as follows:

**1. Definitions**

As used in this Agreement, the following capitalized terms shall have the meanings assigned to them below, unless otherwise defined or the context clearly requires otherwise.

"Abated Property" means improvements to the following types of property made subsequent to the Base Year of this Agreement: buildings, structures, fixed machinery and equipment, site improvements, office space and related fixed improvements necessary to the operation and administration of the Facility, and tangible personal property.

"Abatement Period" means the ten (10) year time period that begins on the Effective Date of Abatement.

"Agreement" means this Tax Abatement Agreement between the City of Houston and Brittmoore Founders District, GP, LLC.

"Agreement Effective Date" means the date upon which City Council approves this Agreement.

"Base Year" means the calendar year beginning on January 1, 2019.

"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 execution of the agreement. The Base Year Value does not include the value of the 120,000 square-foot property improvement commonly known as The Cannon facility.

"Chapter 44" means Article IV, Tax Abatement, of the Code, as amended.

"City" means the City of Houston, Texas.

"City Council" means the City Council of the City of Houston, Texas.

"Code" means the Code of Ordinances of the City of Houston, Texas, as amended.

"Department" means the City's Office of the Mayor, Economic Development, or its successor.

"Director" means the Chief Development Officer of the Department or his or her designee, or any person who may be designated in writing by the Mayor to perform the functions delegated to the Director in this Agreement, but only for so long as the designations remain in effect.

"Effective Date of Abatement" means January 1, 2020 or the January, immediately following the date upon which the Initial Phase passes final inspection by the City or its certificate of occupancy is issued by the City, whichever is applicable

"Eligible Property" means real property located in the Zone that meets the criteria of Section 44-122 of the Code.

"EXHIBIT 1" attached to this Agreement and made a part hereof includes a legal description and a map of the Zone.

"EXHIBIT 2" attached to this Agreement and made a part hereof lists the street addresses and the respective HCAD tax account numbers of the taxable property currently and to be located in the Zone.

"EXHIBIT 3" attached to this Agreement and made a part hereof describes the Abated Property.

"EXHIBIT 4" attached to this Agreement and made a part hereof includes financial information, e.g. a project summary and economic impact analysis, related to the Abated Property.

"Facility" means a residential facility as defined in Section 44-121 of the Code.

"HCAD" means the Harris County Appraisal District.

"Improvements" means buildings, structures, fixed machinery and equipment, site improvements, office space and related fixed improvements necessary to the operation and administration of the Facility, and tangible personal property that are developed, constructed, or installed in the Zone by or on behalf of the Owner and its affiliates subsequent to the Agreement Effective Date.

"Initial Phase" means the 121,341 square foot building and related site and other improvements at 1334 Brittmoore Road, Houston, TX 77043.

"Ordinance" means City Ordinance No. 2019-1021 adopted on 12/11, 2019<sup>1</sup> creating the Zone.

"Mixed-Use facility," as that term is defined in Section 44-121 of the Code, means a facility used or to be used for more than one of the types of facilities as further defined by the Code.

"Owner" means the abatement recipient, Brittmoore Founders District, LLC, a limited liability corporation authorized to transact business in the State of Texas, and its wholly owned subsidiaries, which owns or will own the real and/or personal property against which the ad valorem taxes levied will be partially abated pursuant to Chapter 44 of the Code.

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<sup>1</sup> City Secretary to insert ordinance number and date adopted by City Council.

"Permanent Employee" means an individual who is an employee of the abatement recipient or an affiliate of the abatement recipient works a minimum of 35 hours in a seven-day period, and reports to work in the reinvestment zone, excluding any contract employee, seasonal employee or part-time employee Permanent Employee shall also include an employee of the abatement recipient's or an affiliate of the abatement recipient's tenant and/or sub-tenant in the Zone, except as provided in Section 5(m).

"Property Approved For Variance" means Initial Phase and the pavilion at 1300 Brittmoore, Houston, TX 77043, and related site and other improvements.

"Real Property" means the land in the Zone and all improvements existing prior to the Agreement Effective Date, which land is or will be owned by the Owner. The Real Property is more specifically described on **EXHIBIT 1**.

"Recapture" means the City's reclamation and recovery of tax abatement funds from the Owner due to the Owner's failure to meet or be in compliance with the hiring goal for any applicable year.

"Tax Code" means the Texas Tax Code, as amended.

"Variance" means the variances requested by the Company in a letter to the City dated November 8, 2019 and presented to City Council for consideration on December 11, 2019.

"Zone" means the Brittmoore Founders District, GP, LLC Reinvestment Zone, which is more particularly described in **Exhibit "B"**.

## **2. Authorization**

This Agreement is authorized by Chapter 44, Article IV of the Code, which establishes the property tax abatement program for properties in designated reinvestment zones, and by the Ordinance.

## **3. Property**

The taxable real property to be improved under this Agreement is located as 1260 thru 1336 Brittmoore Road, Houston, Harris County, Texas 77043. The real property is more fully described in **EXHIBIT A** attached hereto and made a part hereof for all purposes. The street addresses and HCAD tax account numbers of the Real Property and the Improvements to be located on the real property are more fully described and are listed in **EXHIBIT B** attached hereto and made a part hereof for all purposes.

## **4. Representations and Warranties**

(a) The Owner represents that it owns or will own the Real Property. If the Owner does not own the Real Property on the Agreement Effective Date, the Owner

agrees to acquire the Real Property not later than December 31, 2019. The Owner further agrees that if it fails to acquire the Real Property by December 31, 2019 (to be evidenced by a deed or other conveyance to Owner that is filed for record in the Office of the County Clerk of Harris County, Texas), then this Agreement shall automatically be null, void, and of no further effect.

(b) The Owner represents that the execution and delivery of this Agreement has been duly authorized by all requisite actions of its partners that are necessary for it to have force and effect and that the person signing this Agreement on behalf of the Owner has been and is authorized to do so.

(c) The Owner represents and warrants that construction or installation of the Improvements described in **EXHIBIT 3** will begin after the Agreement Effective Date, except for Property Approved For Variance. The Owner represents that the Real Property is comprised of approximately twenty-two (22) acres of land.

(d) The Owner represents that, to the best of the knowledge of Mark Toon, Managing Partner, and any other employee of the Owner who has participated in the negotiation or internal analysis of this Agreement, no interest in the Real Property or the Improvements is held or leased by a member of the City Council or a member of the City's Planning Commission.

(e) The Owner represents and warrants that it will invest a minimum of \$150,000,000.00 in constructing and installing the Improvements in the Zone by December 31, 2023.

(f) The Owner represents and warrants that by June 30, 2020, the Owner and its affiliates and/or tenants or subtenants, collectively will employ, and will continue to employ throughout the Abatement Period, at least one hundred and five (105) Permanent Employees in the Zone. The Owner further represents and warrants that by January 1, 2023 the Owner and its affiliates and/or tenants or subtenants collectively will employ, and will continue to employ throughout the Abatement Period, at least four hundred and four (404) Permanent Employees in the Zone whose employment position on the Effective Date of Agreement either does not exist or exists outside the State of Texas.

(g) The Owner has demonstrated that the tax abatement incentive is critical to the development of this project and without such incentive, the project is not financially feasible.

(h) The Owner represents and warrants that it will operate the Facility as described in **EXHIBIT D**.

(i) The Owner represents and warrants that the Improvements will be constructed, installed, and operated in accordance with all applicable federal, state, and local environmental laws and regulations.

(j) This Agreement may be amended to include additional Real Property to the Zone, subject to the approval of the Houston City Council.

## 5. Terms of the Agreement

(a) The Owner shall cause the Improvements to be developed, constructed and installed substantially in conformity with the description, plans, and specifications described in **EXHIBIT C** and applicable provisions of the City of Houston Building Code ("Building Code"). In case of any conflict between **EXHIBIT C** and the Building Code, the Building Code shall prevail. In addition, during the Abatement Period, the Owner shall comply with Chapter 42 of the Code, if applicable (platting regulations), and all other laws and regulations applicable to the construction and installation of the Improvements. The Owner will provide evidence that it will:

- i. Advertise new job postings new job postings with the City of Houston's Community Re-Entry Network Program;  
Will have agreements in place with applicable General Contractors that they will provide a minimum of ten (10) hours of OSHA-approved safety training for construction workers employed by the project.
- i. Will have agreements in place with applicable General Contractors that they will employ and assign a safety representative that has completed a minimum of thirty (30) hours of OSHA-approved supervisor safety training to each construction site.
- ii. Recruit and employ employees that are enrolled in employment re-entry programs, including but not limited to Houston's Community Re-entry Network Program.
- iii. Make good faith efforts to ensure that no less twenty-five percent (25%) of the total labor force for construction and non-construction job requirements is obtained by hiring individuals who live in a census tract with an average income lower than that of the city average, based on the most recent five-year American Community Survey estimate. .
- iv. Make good faith efforts to ensure that a minimum of twenty-five (25%) of the total labor force for construction and non-construction job requirements is obtained by hiring individuals who live in the same census tract as the project, or who live in an adjacent census tract.
- v. Make good faith efforts to hire and employ a minimum of thirty percent (30%) of the construction workforce from graduates of local Department of Labor-certified apprenticeship programs.
- vi. Establish and expand collaborations with Houston Community College (HCC), Spring Branch Independent School District (SBISD), and other community education partners to create programs to create an entrepreneurial culture, more fully described in Attachment A



- vii. Provide six (6) or more proactive and participatory educational programs and experiential opportunities for students and educators.
- viii. Provide complementary use of certain facilities and amenities at the Founders District for events that promote entrepreneurship, further the brand and purpose of the Founders District, and enrich career and technical learning.
- ix. Provide a Letter of Intent to Lone Star College to develop knowledge-based programs, events, and skills training for high-demand, upward-mobility employment and entrepreneurial opportunities across multiple industry sectors, including the Work America Capital ("WAC") portfolio of companies.

(b) The Owner shall allow the City reasonable access to records verifying any term of the Agreement, as defined and described in this Section, to ensure compliance with the Agreement.

(c) Upon completion of the construction and installation of the Improvements, the Owner shall use the Facility or cause the Facility to be used for the proposed uses specified in this paragraph during the Abatement Period; provided, however, the Director may approve a change from those proposed uses, if the Director determines that the change is consistent with Chapter 44 and with the City's general purpose of encouraging development or redevelopment of the Zone during the Abatement Period. The proposed use of the Facility (unless the Director approves a change in use) is to create a 32-acre mixed-use entrepreneurial hub for startups, technology firms, and other high-growth businesses. The proposed improvements will be comprised of office space, co-working space, a regional community events center, restaurants, retail stores, multi-family housing, athletic facilities, and park amenities as described in **EXHIBIT 4**.

(d) The Owner commits that no less than twenty percent (20%) of the project's residential units developed shall be for residents with income levels between sixty percent (60%) and one hundred twenty percent (120%) of the area median income (AMI) as established by the Code and further defined by the federal Housing and Urban Development (HUD) criteria for the duration of the tax abatement Agreement. On an annual basis throughout the term of the agreement, the Owner will provide records of the lease/rental rates and the tenant application with evidence of income to the Director to demonstrate compliance to this section.

(e) The Owner shall maintain the Improvements in accordance with applicable City codes throughout the Abatement Period.

(f) The Owner shall allow City employees to have access to the Facility for the purpose of inspecting the Improvements to ensure that the Improvements are completed, installed, and maintained in accordance with the terms of this Agreement. All inspections will be made only after giving the Owner at least twenty-four (24) hours advance notice

and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one (1) or more representatives of the Owner and in accordance with the Owner's safety and security procedures. The above shall not act as a limitation on the City's ability to otherwise perform any inspections or to otherwise enter the Facility pursuant to the Code, the Building Code, or otherwise.

(g) The Owner shall provide and cause its affiliates to provide City employees reasonable access to any relevant records requested and necessary for the purpose of conducting an audit of the Facility to ensure compliance with this Agreement. Any such audit shall be made only after giving the Owner at least seven (7) days advance notice and will be conducted in such a manner as to not unreasonably interfere with the operation of the Facility. Documents and materials provided by the Owner or its affiliates to the City in connection with any audit or other inspections under this Agreement which contain information that is, or which themselves are, confidential or proprietary to Owner shall not be removed from the Facility nor shall the information contained in them be used or disclosed by the City other than for the sole purpose of determining the Owner's compliance with the terms and conditions of this Agreement, unless disclosure is otherwise required by state or federal law. In the event that the City receives any request for information pursuant to the Texas Open Records Act or similar provision of federal law, the City agrees to promptly give the Owner notice of that request. If the Owner, for itself or one or more of its affiliates, advises the City that it believes that the right of the City to withhold said information from disclosure is allowed by the Texas Open Records Act or other applicable state or federal statute, rule or regulation, the City agrees to withhold the information or to immediately request an opinion from the Texas Attorney General or other appropriate public official with authority under law to render such decision on the right of the City to withhold said information. If the decision rendered is to the effect that disclosure is not required to be made, then the City agrees to withhold disclosure of said information unless thereafter authorized by the Owner to be disclosed. The City agrees that during any period after request but before the rendering of a decision by the Texas Attorney General or other appropriate public official regarding the obligation of the City to make disclosure of information deemed confidential, proprietary or both by the Owner, it will not disclose the requested information unless ordered to do so by a court of competent jurisdiction.

(h) The Owner shall not assign this Agreement without the written approval of the Director, which approval shall not be unreasonably withheld. If the proposed assignee is an affiliated entity of the Owner, then the Director may consent to the assignment if the Owner is in compliance with all terms of this Agreement. In addition, any assignment must comply with the provisions of Section 44-134 and Section 44-136 of the Code.

(i) Not later than February 1<sup>st</sup> of each year during the Abatement Period, the Owner shall provide the Director and the Chief Appraiser of HCAD a statement of the number of Permanent Employees the Owner and its affiliates collectively employ in the Zone. The employee count submitted shall correspond to the employee count reported by the Owner in its "Employer's Quarterly Report" to the Texas Workforce Commission, excluding employees of the Owner's tenants and subtenants.. The employee count submitted by the Owner shall be used to determine abatement eligibility for that year and

be subject to audit, if requested by the Director, pursuant to the provisions of subsection (h) of Section 44-133 of the Code. The Owner, if requested by the Director, shall have an independent audit prepared of the employment/employee count documentation and shall submit the audit to the Director for use in complying with the requirements of this subsection.

(j) This Agreement may be amended at any time upon the mutual written consent of all Parties hereto subject to approval by the City Council.

(k) Not later than April 15<sup>th</sup> or such other date as required by HCAD, whichever date is earlier, of each year during of the Abatement Period, the Owner shall file the appropriate form with HCAD to qualify for the tax abatement granted under this Agreement for that year. In addition, not later than April 15<sup>th</sup> or such other date as required by HCAD, whichever date is earlier, of each year during the Abatement Period, the Owner shall render to HCAD the value of all taxable personal property, including the tangible personal property included in the Improvements, located in the Zone on the preceding January 1<sup>st</sup>.

(l) On or before January 1<sup>st</sup> of each year the Agreement is in effect, the Owner shall provide the Director a sworn statement that includes a delineation of the number of permanent employees, contract employees and part-time employees of the Owner and its affiliates as of the immediately preceding December 1<sup>st</sup>, who report to work in the Zone at each site covered by the Agreement..

(m) Contract employees and part-time employees may be used to comply with the Owner's contractual obligation to create/retain jobs on a Full-time Equivalency Basis for any number of jobs; provided that Full-time Equivalent Jobs shall only be used to satisfy the Owner's contractual obligation for Permanent Employees if the Owner maintains a minimum of twenty-five (25) Permanent Employees who work within the Zone. "Full-Time Equivalency Basis" is defined as the total annual paid work hours for all employees within an organization divided by 2,088 or any adjustment to this number as reflected in the Adopted City of Houston Annual Budget (each individually a "Full-Time Equivalent Job"), and as amended hereafter. The annual paid work hours for a fulltime employee working a full year (26.1 pay periods) are 2,088, including holidays, vacation, and sick leave.

(n) Commencing January 1, 2020, and on or before January 31<sup>st</sup> of each subsequent year during the Abatement Period, the chief financial officer, or equivalent, of the Owner shall provide the Director a sworn statement that the Owner is and has been in compliance with all provisions of this Agreement in the prior year.

(o) A chief financial officer, or equivalent, of the Owner who cannot make the sworn statement required by paragraph (m) above on any January 1<sup>st</sup> shall provide the Director with a written statement identifying any provision of the Agreement with which the Owner is not or has not been in full compliance.

(p) Failure by the chief financial officer, or equivalent, of the Owner to timely provide the Director with either the sworn statement required by paragraph (m) above or

the statement required by paragraph (n) above will result in automatic default under this Agreement for which no notice of default or opportunity to cure shall be required.

(q) The Owner shall have the option and right at any time during the Abatement Period, to give the City written notice (a "Termination Notice") that the Owner has elected to terminate this Agreement and its right to tax abatement on the Improvements effective as of the year in which the Termination Notice is given by the Owner; provided, however, at the time the Termination Notice is given by the Owner, no event of default shall exist which has not been cured. Upon the giving of a Termination Notice by the Owner and subject to the proviso of the preceding sentence, this Agreement and all rights and obligations of the Parties shall cease and terminate and the Owner shall not be entitled to any tax abatement pursuant to this Agreement for the year in which the Termination Notice is given by the Owner and for all years remaining in the Abatement Period.

## **6. Tax Abatement**

(a) The Base Year Value is \$16,520,950.00.

(b) In consideration of the Owner's commitment to invest at least \$150,000,000.00 in the Improvements in the Zone, the City agrees to grant the Owner a ninety percent (90%) abatement of the ad valorem taxes on the Improvements in the Zone during the Abatement Period. In addition, the abatement of the ad valorem taxes granted by this Agreement is specifically subject to the rights of the holders of outstanding bonds of the City as of the effective date of this Agreement. The Abatement Period begins on the Effective Date of Abatement. In no case shall the Abatement Period, inclusive of the construction period for later phases, exceed ten (10) years from the Effective Date of Abatement.

(c) From the Agreement Effective Date to the Effective Date of Abatement, ad valorem taxes levied on ineligible property, as that term is defined in Section 44-127(e) of the Code, including the Real Property, shall be fully payable.

(d) From the Effective Date of Abatement to the end of the Abatement Period:

(1) Ad valorem taxes levied on "ineligible property," as that term is defined in Section 44-127(e) of the Code, including the Real Property, shall be fully payable.

(2) Ad valorem taxes levied on the Base Year Value of "eligible property," as that term is defined in Section 44-127(d) of the Code, shall be fully payable.

(3) Ten percent (10%) of the ad valorem taxes levied on the Improvements, as determined each year, shall be fully payable.

(e) The City shall enter into only one (1) tax abatement agreement for the Mixed-Use Facility described in this Agreement during the existence of the Zone.

(f) Property within the Zone this is owned or leased at any time during the term of the Agreement by a member of the city council or by a member of the planning commission is ineligible and excluded from tax abatement.

## **7. Default and Recapture**

### **(a) Events of Default**

The Owner shall be in default under this Agreement if any of the following occur at any time from the Agreement Effective Date until the expiration of the Abatement Period or such earlier date on which this Agreement may otherwise expire or otherwise be terminated:

(1) The Mixed-Use Facility is completed and is occupied, but subsequently is wholly vacated or abandoned for any reason other than the occurrence of a fire, explosion, or other casualty or accident or natural disaster;

(2) The Owner fails to timely comply with job creation, investment or payment requirements stated in this Agreement;

(3) The Owner fails to timely comply with any material term of this Agreement;

(4) The Owner fails to timely file any required report or statement or to give any required notice pursuant to this Agreement; or

(5) Employees or designated representatives of the City determine pursuant to an inspection under Section 44-132 of the Code that the Owner has not complied with this Agreement.

### **(b) Events of Recapture**

(1) The Owner and its affiliates and/or tenants or subtenants, collectively fail to meet the Permanent Employee hiring goal of at least one hundred and five (105) Permanent Employees by June 30, 2020, as represented and warranted under Section 4(f) of this agreement;

(2) The Owner and its affiliates and/or tenants or subtenants, collectively fail to meet the Permanent Employee hiring goal of at least four hundred and four (404) Permanent Employees by January 1, 2023, as represented and warranted under Section 4(f) of this agreement; or

(3) The Owner and its affiliates and/or tenants or subtenants, collectively fall short of meeting the total hiring goals by a margin greater than ninety-nine (99) Permanent Employees by the end of the tax abatement period.

### **(c) Notice**

(1) If the Director determines that an event of default has occurred, the Director shall notify the Owner in writing at the address stated in the Agreement, and if the condition of default is not cured within thirty (30) days from the date of the notice, then the City may take any one or more of the following actions set forth in Section 7(e) of this Agreement; provided, however, that the City shall only be required to give a thirty (30) day notice of default for failure to comply with job creation or investment requirements. The Owner's failure to comply with job creation or investment requirements is an "incurable default". Within such thirty (30) day notice period, the Owner shall be entitled to question the accuracy of the City's determination of the incurable default but shall not be entitled to cure the default. After the thirty (30) day notice period, if the City concludes that its determination of the incurable default is correct ("noticed incurable default"), then the City shall be entitled to pursue any one or more of the remedies set forth in Section 7(e) of the Agreement.

(2) If the Owner is in default under Section 7(a) of this Agreement, the Owner shall notify the City within thirty (30) days of the default and if the default is one that can be cured hereunder, (and is not an incurable default), such default shall be cured within thirty (30) days following the date of the notice of default. If the Owner fails to cure the curable default within such thirty (30) day period, then the City may pursue any one or more of the remedies listed in Section 7(e) of this Agreement.

**(d) Cure**

(1) In curing an event of default based on any of the items set forth in Section 7(a) of this Agreement, and assuming the event of default is curable and is not an "incurable default", the Owner shall provide sufficient evidence to the Director that the default has been cured within sixty (60) days following the date of the notice of default. Sufficient evidence shall include the providing of the information not timely provided and/or providing evidence of the completion of the act(s) not timely performed. The City shall have the right to ask for additional information to confirm the adequate cure of any default.

**(e) City Remedies for Default and Recapture**

(1) In the event of a noticed Incurable Default or a curable default which has not been cured after notice and an opportunity to cure was given, no tax abatement shall be allowed for the calendar year in which the default occurs (and thereafter) and the City shall have the right to pursue any one or more of the following remedies: terminate the Agreement; terminate the Owner's right to any future abatement under the Agreement without terminating the Agreement; pursue any and all remedies allowed under the Agreement; and pursue any and all remedies allowed under Texas law.

(2) In addition to the foregoing, in the event of a noticed Incurable Default or a curable default which has not been cured after notice and an opportunity to cure has been given, the City, in its sole discretion, may recover all or any part of the taxes abated at

any time under the Agreement. The Owner shall pay to the City all such previously abated taxes within thirty (30) days of the City's written demand therefor. Any taxes or economic incentive not paid timely shall bear interest at the rate of twelve percent (12%) annually.

(3) If the Owner and its affiliates and/or tenants or subtenants, collectively fail to meet the hiring goal of at least one hundred and five (105) Permanent Employees by June 30, 2020, as represented and warranted under Section 4(f) of the Agreement, then the City shall recapture one percent (1%) of the taxes abated per fifteen-employee (15-employee) shortfall up to a maximum recapture amount of five percent (5%) of the taxes abated.

(4) If the Owner and its affiliates and/or tenants or subtenants, collectively fail to meet the hiring goals of at least four hundred and four (404) Permanent Employees by January 1, 2023, as represented and warranted under Section 4(f) of the Agreement, by a total shortfall that is greater than ninety-nine (99) Permanent Employees by January 1, 2023, then the Owner shall not be eligible to receive any of the taxes abated for 2023. If, in any following year during the Abatement Period, the Owner fails to meet the hiring goal of at least four hundred and four (404) Permanent Employees by a total shortfall that is greater than ninety-nine (99) Permanent Employees, the Owner will not be eligible to receive any of the taxes abated for the year in which the shortfall occurred.

(6) Notwithstanding the foregoing, the Director and the City Attorney are hereby authorized to negotiate and enter into amendments and revisions to the Agreements under which there are noticed Incurable Defaults or curable defaults which have not been cured after notice and opportunity to cure has been given. In the foregoing circumstances, the Parties are also authorized to negotiate and enter into any other and further agreements they determine best protect the City's interests.

**(f) City's Right to Recover**

(1) The City's right and authority to pursue any default and to recover abated taxes granted under this Section 7 shall survive the amendment, revision, expiration, or termination of this Agreement.

**8. Administration**

(a) The Chief Appraiser of HCAD shall annually determine the taxable value of the Improvements listed in **EXHIBIT 3**. Each year, the Owner shall furnish the City with such information as may be necessary for calculating the amount of tax abatement granted under this Agreement. Once the taxable values of the Improvements have been established and the amount of the tax abatement calculated, the Chief Appraiser of HCAD shall notify the affected jurisdictions that levy taxes on the Improvements of the amounts of the taxable values of the Improvements.

(b) Upon completion of construction or installation of each phase of Improvements, the Director shall annually evaluate the Facility to ensure compliance with this Agreement and prepare a report of any violations of this Agreement.

**9. Compliance with Applicable Government Regulations**

Except as specifically provided herein, nothing in this Agreement shall be construed to alter or affect the obligation of the Owner to comply with any ordinance, rule or regulation of the City, or the laws and regulations of the State of Texas and the United States.

**10. Merger**

The Parties agree that this Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

**11. Notices**

All notices shall be in writing and unless hand-delivered, shall be sent by U.S. Mail certified, return receipt requested. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

**To the Owner:**        **BRITTMOORE FOUNDERS DISTRICT, GP, LLC**  
Attn: \_\_\_\_\_  
TITLE  
ADDRESS

**To the City:**        Mailing Address:  
  
Chief Development Officer  
Office of the Mayor, Economic Development  
P. O. Box 1562  
Houston, Texas 77251

Physical Address:  
  
Chief Development Officer  
Office of the Mayor, Economic Development  
901 Bagby, 4th Floor  
Houston, Texas 77002

Each Party may designate a different address by giving the other Party written notice ten (10) days in advance of such designation.

This Agreement has been executed by the Parties in multiple originals, each having full force and effect.

[Execution page follows]





**[ABATEMENT RECIPIENT]  
(a [FORM OF ENTITY])**

**CITY OF HOUSTON, TEXAS**

By: \_\_\_\_\_  
Mayor

\_\_\_\_\_

**ATTEST:**

**ATTEST/SEAL:**

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

\_\_\_\_\_  
City Secretary

**COUNTERSIGNED:**

\_\_\_\_\_  
City Controller

**DATE COUNTERSIGNED:**

\_\_\_\_\_

**APPROVED:**

\_\_\_\_\_  
Chief Development Officer,  
Office of the Mayor, Economic  
Development

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Senior Assistant City Attorney  
L.D. File No.

## EXHIBIT 1

### LEGAL DESCRIPTION OF PROPERTY

#### 1260, 1270 Brittmoore Road

##### FIELD NOTES OF 4.6222 ACRES OF LAND

All of that certain 4.6222 acres of land out of Lot 3 8, MOORE ACRES, according to the map or plat thereof recorded in Volume 10, Page 69 of the Harris County Map Records (H.C.M.R.), and being comprised of that certain called 4.0074 acres of land (Tract I) and that certain called 0.6148 acre of land (Tract II) conveyed to Brittmoore Ventures, Ltd., as described in the deed recorded under Clerk's File No. V711198 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), and being more particularly described by metes and bounds as follows:

COMMENCING at a point situated in the east right-of-way line of Brittmoore Road (based on a width of 80 feet at this point according to said MOORE ACRES and those certain deeds recorded in Volume 1913, Pages 12, 16, 24 and 25 of the Harris County Deed Records (H.C.D.R.) and Volume 1916, Page 559 of the H.C.D.R.) located at the southwest corner of a called 0.7713 acre of land conveyed to Dr. Matt M. Dikeman and wife, Sarah W. Dikeman, as described in the deed recorded under Clerk's File No. J158839 of the H.C.O.P.R.R.P., and being situated in the north line of Church Lane (60 feet wide; North 30 feet being described in the deed recorded in Volume 2441, Page 409 of the H.C.D.R.);

THENCE North 00 deg. 15 min. 30 sec. West, along and with said east right-of-way line of Brittmoore Road, at a distance of 160.00 feet pass the northwest corner of said 0.7713 acre tract and the southwest corner of a called 4.6204 acres of land (Tract 1) conveyed to Jandoor (Multi) LLC, as described in the deed recorded under Clerk's File No. 20140213693 of the H.C.O.P.R.R.P., same being the south line of said Lot 38 and the north line of Lot 36, MOORE ACRES, continuing in all a total distance of 350.00 feet to a 5/8 inch iron rod with cap set for the southwest corner and POINT OF BEGINNING of the herein described tract of land, same being the southwest corner of said 4.0074 acres and the northwest corner of said 4.6204 acres, from which a found 1/2 inch iron rod bears witness North 58 deg. West, a distance of 2.28 feet;

THENCE North 00 deg. 15 min. 30 sec. West, continuing along and with the east right-of-way line of Brittmoore Road, at a distance of 101.00 feet pass the westernmost northwest corner of the 4.0074 acres, same being the southwest corner of said 0.6148 acre tract, continuing in all a total distance of 190.00 feet to a 1/2 inch iron rod with cap found at the common northwest corner of the 0.6148 acre tract and the herein described tract of land, same being the southwest corner of a called 8.0467 acres of land

conveyed to Panther Brittmoore, LLC, as described in the deed recorded under Clerk's File No. RP-2017-406021 of the H.C.O.P.R.R.P., said 1/2 inch iron rod with cap also being situated in the north line of Lot 3 8 and the south line of Lot 40, MOORE ACRES;

THENCE South 89 deg. 23 min. 18 sec. East, departing the east right-of-way line of Brittmoore Road, along and with the north line of Lot 38 and the common south line of said 8.0467 acres and Lot 40, at a distance of 300.93 feet pass the northeast corner of the 0.6148 acre tract and the northernmost northwest corner of the 4.0074 acres, continuing in all a total distance of 1,061.77 feet to a one (1) inch iron pipe found at the common northeast corner of the 4.0074 acres and the herein described tract of land, same being the southeast corner of the 8.0467 acres and situated in the west line of a 50 feet wide strip of land conveyed to Houston Lighting & Power Company, as described in the deed recorded in Volume 3491, Pages 263 and 265 of the H.C.D.R.;

THENCE South 00 deg. 13 min. 22 sec. West, along and with said west line of the 50 feet wide strip of land, a distance of 196.87 feet to a 5/8 inch iron rod with cap found at the common southeast corner of the 4.0074 acres and the herein described tract of land, same being the northeast corner of said 4.6204 acres;  
THENCE along and with the north line of the 4.6204 acres, the following courses and distances:

North 89 deg. 24 min. 3 8 sec. West, a distance of 318.85 feet to a 5/8 inch iron rod found for corner;

North 00 deg. 35 min. 03 sec. East, a distance of 11.46 feet to a point for corner, from which a found 5/8 inch iron rod with cap bears witness North 13 deg. East, a distance of 0.17 feet;

North 89 deg. 26 min. 11 sec. West, a distance of 288.13 feet to a 1 /2 inch iron rod with cap set for corner;

South 87 deg. 53 min. 06 sec. West, a distance of 13.19 feet to a 2 Yi inch galvanized fence corner post found for corner;

North 89 deg. 29 min. 15 sec. West, a distance of 254.84 feet to a PK nail with shiner set in concrete for corner;

South 89 deg. 31 min. 20 sec. West, a distance of 42.97 feet to a 1/2 inch iron rod with cap set for corner;

### **1314 Brittmoore Road**

All of that certain 8.0467 acres of land situated in the Christiana Williams Survey, Abstract No. 834, Harris County, Texas, being that same called 8.0409 acres of land conveyed to Laserweld Investments, L.P., as described in the deed recorded under

Clerk's File No. W569526 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), also being out of Lot 40, MOORE ACRES, according to the map or plat thereof recorded in Volume 10, Page 69 of the Harris County Map Records (H.C.M.R.), said 8.0467 acres being more particularly described as follows:

BEGINNING at a  $\frac{1}{2}$  inch iron rod with cap set in the east right-of-way line of Brittmoore Road (80 feet wide according to said plat of MOORE ACRES, and according to the deeds recorded in Volume 1913, Pages 12, 16, 24 and 25 of the Harris County Deed Records (H.C.D.R.) and Volume 1916, Page 559 of the H.C.D.R., located on the south line of said Lot 40 and the north line of Lot 38, MOORE ACRES;

THENCE North 01 deg. 46 min. 52 sec. West (called North 01 deg. 52 min. 25 sec. West) over and across Lot 40, along and with said east right-of-way line of Brittmoore Road, at a distance of 5.56 feet pass a  $\frac{5}{8}$  inch iron rod with cap found at the southwest corner of a 15 feet by 20 feet easement granted to City of Houston, as described in the instrument recorded under Clerk's File No. 20070481353 of the H.C.O.P.R.R.P., continuing in all a total distance of 329.84 feet to a point in the upper south line of a 50 feet wide strip (called 1.66 acres of land) conveyed to Houston Lighting & Power Company, as described in the deed recorded in Volume 3488, Page 360 of the H.C.D.R., said point being the northwest corner of the herein described tract of land, from which a found  $\frac{1}{2}$  inch iron rod with cap bears witness North 29 deg. East, a distance of 0.33 feet, and a found 1 inch iron pipe bears witness North 01 deg. 46 min. 52 sec. West, a distance of 50.0 feet;

THENCE North 88 deg. 54 min. 50 sec. East (called North 88 deg. 53 min. 50 sec. East) continuing over and across Lot 40, along and with said upper south line of the 50 feet wide fee strip, a distance of 1,062.10 feet (called 1,061.76 feet) to a  $\frac{5}{8}$  inch iron rod with cap set for the northeast corner of the herein described tract of land, same being an ell corner in the 50 feet wide fee strip;

THENCE South 01 deg. 44 min 43 East (called South 01 deg. 41 min. 25 sec. East), continuing over and across Lot 40, along and with the lower west line of the 50 feet wide fee strip, a distance of 330.31 feet to a one inch iron pipe found in the south line of Lot 40 and the north line of Lot 38 at the southeast corner of the herein described tract of land, same being the lower southwest corner of the 50 feet wide fee strip and the northwest corner of another 50 feet wide fee strip (called 0.218 acre of land) conveyed to Houston Lighting & Power Company, as described in the deed recorded in Volume 3491, Page 263 of the H.C.D.R.;

THENCE South 88 deg. 56 min. 22 sec. West (called South 88 deg. 55 min. 27 sec. West), along and with the common line of Lots 38 and 40, a distance of 1,061.90 feet (called 1,060.71 feet) to the POINT OF BEGINNING and containing within these metes and bounds 8.0467 acres of land (350,513 square feet) of land.

### **1334, 1336 Brittmoore Road**

All of that certain 9.2671 acres of land situated in the C. Williams Survey, Abstract No. 834, Harris County, Texas, being the residue of a called 17.294 acres of land conveyed to Insite Brittmoore Partners LP, as described in the deed recorded under Clerk's File No. 20150582525 of the Harris County Official Public Records of Real Property (H.C.O.P.R.R.P.), also being out of Restricted Reserve "A", Block I, C.C.N. PARK, a subdivision of 29.137 acres of land recorded in Film Code No. 386089 of the Harris County Map Records (H.C.M.R.), said 9.2671 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 3/4 inch iron pipe found at the common southwest corner of said 17.294 acres, said Reserve "A" and the herein described tract of land, same being situated in the north line of a 50 feet wide fee strip conveyed to Houston Lighting and Power Company, as described in the deed recorded in Volume 3491, Page 263, of the Harris County Deed Records (H.C.D.R.), and situated in the east right-of-way line of Brittmoore Road (80 feet wide according to the deeds recorded in Volume 1916, Page 557 and Volume 1927, Page 667, both of the H.C.D.R., and in Volume 10, Page 69 of the H.C.M.R.);

THENCE North OJ deg. 52 min. 25 sec. West, along and with said east right-of-way line of Brittmoore Road, a distance of 354.39 feet to a 1/2 inch iron rod with cap set for the southwest corner of a called 8.0270 acres of land conveyed to Bayou City Fellowship, as described in the deed recorded under Clerk's File No. RP-2017-77916 of the H.C.O.P.R.R.P., said 1/2 inch iron rod with cap also being the northwest corner of the herein described tract of land;

THENCE North 88 deg. 22 min. 21 sec. East, departing the east right-of-way line of Brittmoore Road, along and with the south line of said 8.0270 acres, over and through Reserve "A", a distance of 482.96 feet to a 1/2 inch iron rod with cap set for a common ell corner in the 8.0270 acres and the herein described tract of land;

THENCE North 00 deg. 09 min. 01 sec. West, continuing along and with the south line of the 8.0270 acres, and continuing over and through Reserve "A", a distance of 9.61 feet to a 1/2 inch iron rod with cap set for a common ell corner in the 8.0270 acres and the herein described tract of land;

THENCE North 89 deg. 01 min. 47 sec. East, continuing along and with the south line of the 8.0270 acres, and continuing over and through Reserve "A", a distance of 629.83 feet to a 1/2 inch iron rod with cap set in the east line of Reserve "A" for the southeast corner of the 8.0270 acres and the northeast corner of the herein described tract of land, same being situated in the west line of Unrestricted Reserve "C", CLARBOROUGH PARK, a subdivision of 42.300 acres of land recorded in Volume 324, Page 98 of the H.C.M.R.;

THENCE South 01 deg. 41 min. 25 sec. East, along and with the common east line of the 17.294 acres and Reserve "A", same being said west line of Reserve "C", a distance of 366.96 feet to a one (1) inch iron pipe found at the common southeast corner of the 17.294 acres, Reserve "A" and the herein described tract of land;

THENCE South 88 deg. 53 min. 53 sec. West, along and with the common south line of the 17.294 acres and Reserve "A", same being the north line of said 50 feet wide fee strip, a distance of 1,111.92 feet to the POINT OF BEGINNING, and containing within these metes and bounds 9.2671 acres (403,674 square feet) of land.

EXHIBIT 2

BOUNDARY MAP OF PROPERTY

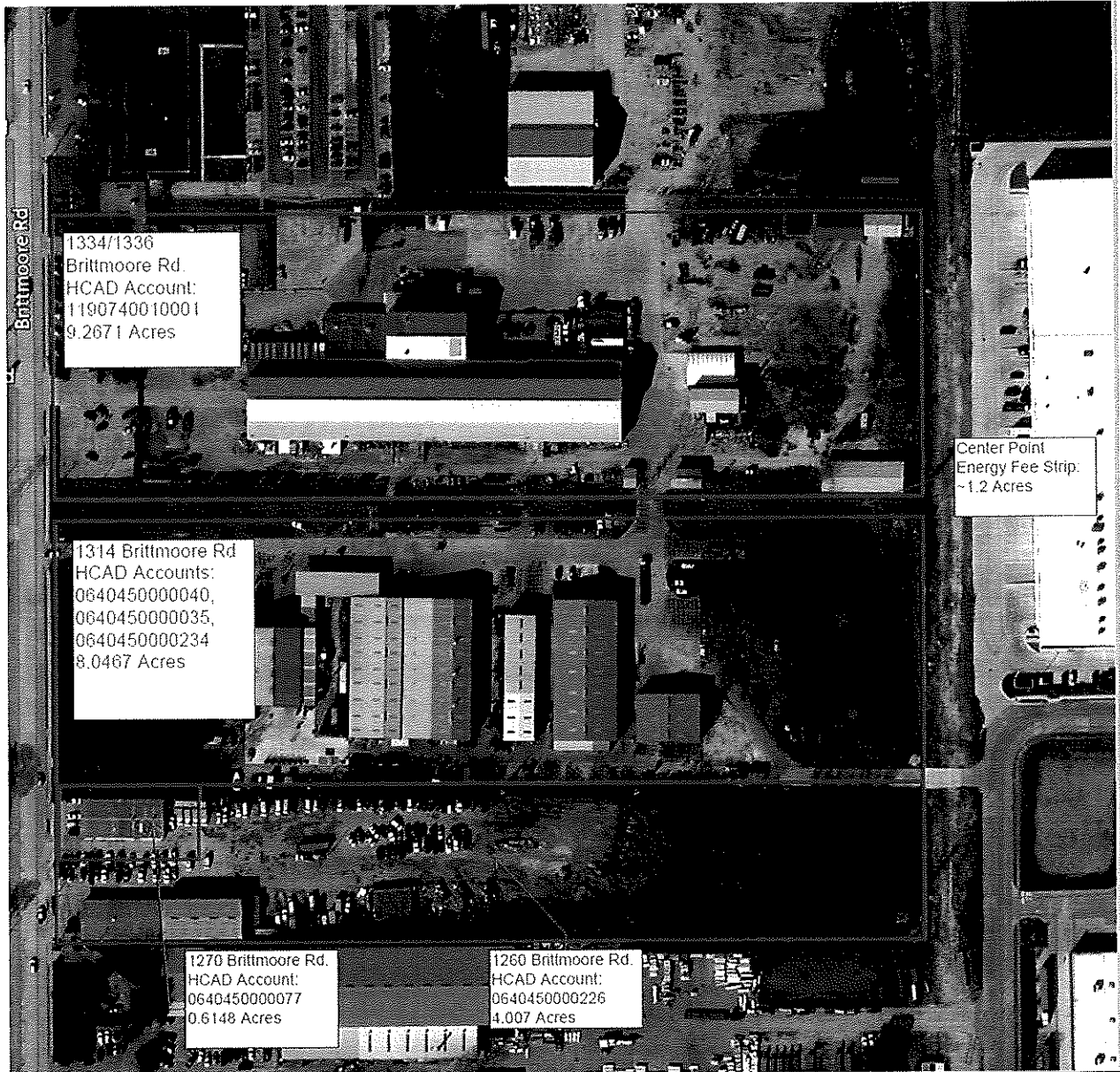




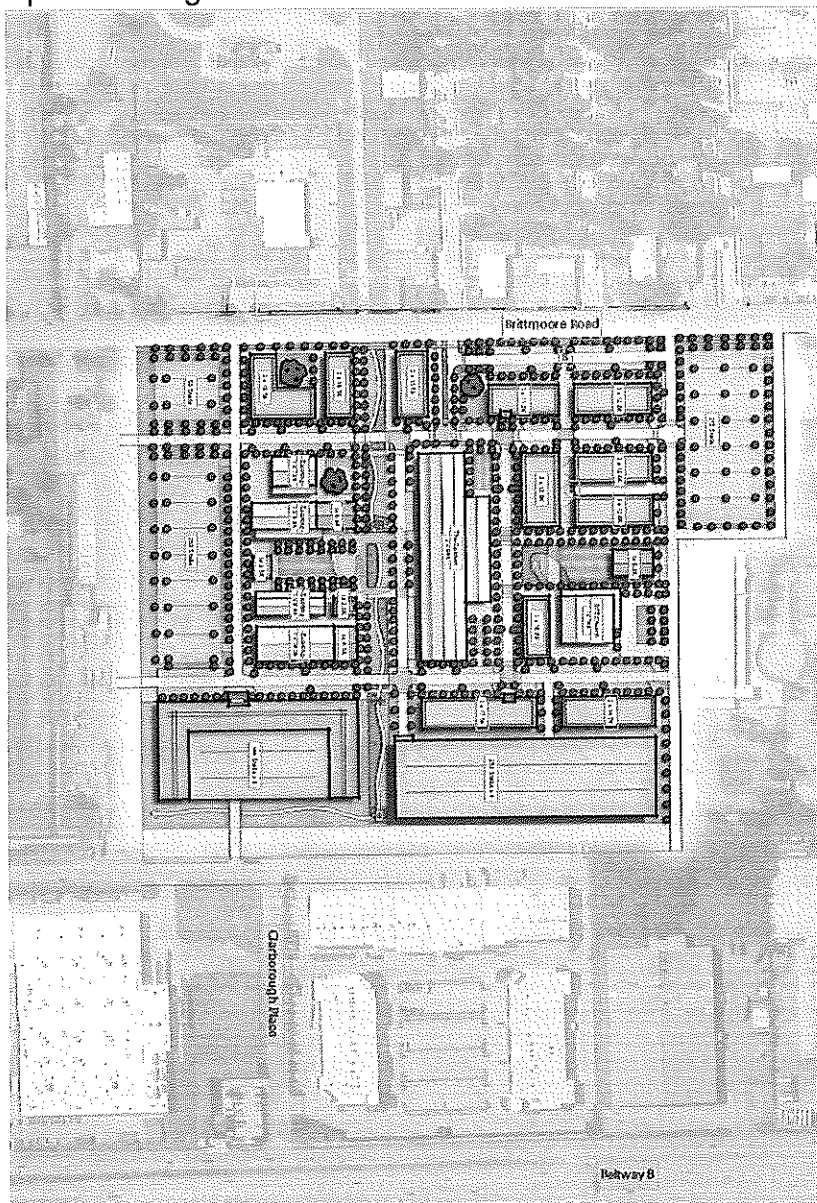
EXHIBIT 2

<b>Tax Account Number</b>	<b>Street Address</b>	<b>Legal Description</b>
0640450000226	1260 BRITTMOORE RD	TRS 38C & 38E MOORE ACRES
0640450000077	1270 BRITTMOORE RD	TRS 38D & 38E-1 MOORE ACRES
0640450000040	1314 BRITTMOORE RD	TR 40B MOORE ACRES
0640450000035	1314 BRITTMOORE RD	TR 40C (PC IMPS*0640450000234) MOORE ACRES
0640450000234	1314 BRITTMOORE RD	TR 40C (IMPS ONLY) (LAND*0640450000035) POLLUTION CONTROL MOORE ACRES
1190740010001	1334 BRITTMOORE RD	RES A BLK 1 C C N PARK
0640450000234	1336 BRITTMOORE RD	TR 40C (IMPS ONLY) (LAND*0640450000035) POLLUTION CONTROL MOORE ACRES

## EXHIBIT 3

### ABATED PROPERTY

The "Improvements" as that term is defined in the Tax Abatement Agreement to which this EXHIBIT 3 is attached, is composed of a mixed-use development, which may include, but is not limited to, office space, co-working space, restaurants, retail stores, a regional community events center, multi-family housing, athletic facilities, and park amenities. Exhibit 3 may be amended to reflect the final site plans, including, without limitation, the number of proposed units, mix of uses, or uses in square feet. Further, if changes are required to the buildings, sites, or other matters depicted on Exhibit 3 due to the City's plan review process, the Parties shall amend Exhibit 3 to reflect any required changes.



Land Use Summary	
Proposed office	+ 154,300 sq. ft.
Existing Cannon	+ 128,000 sq. ft.
<b>Total Office</b>	<b>± 282,300 sq. ft.</b>
1st Floor Retail	+ 162,400 sq. ft.
2nd Floor Retail	+ 38,000 sq. ft.
Existing Retail	+ 29,800 sq. ft.
<b>Total Retail</b>	<b>± 230,200 sq. ft.</b>
Proposed Church	+ 29,400 sq. ft.
Existing Church	+ 14,000 sq. ft.
<b>Total Retail</b>	<b>± 43,400 sq. ft.</b>
<b>Total Multifamily:</b>	<b>± 162,000 sq. ft.</b>
	+ 250 units
<b>Total Pavilion</b>	<b>± 8.8 sq. ft.</b>
<hr/>	
<b>Total Square Footage</b>	<b>± 726,700 sq. ft.</b>
<b>Total Land Area</b>	<b>± 32.00 acres</b>

Parking Summary	
Proposed Structure	1,000 stalls
Proposed Surface	471 stalls
Proposed Street	426 stalls
Multifamily	432 stalls
<b>Total Parking</b>	<b>2,329 stalls</b>

## EXHIBIT 4

### PROJECT SUMMARY AND ECONOMIC IMPACT ANALYSIS

#### PROJECT SUMMARY

Proposed improvements include:

- 180K sq. ft. of office space;
- 60K sq. ft. of co-working space;
- 180K sq. ft. of restaurants/retail;
- regional community events center;
- 250+ units of multi-family apartments to encourage a work-live lifestyle with large common areas, energy-efficient living, and state-of-the-art technology;
- athletic facilities and parks amenities

#### ECONOMIC IMPACT SUMMARY

Below is a summary from a complete Economic Impact Analysis Compiled by Data Impact Source

#### **Net Benefits for Local Taxing Districts Over the First Twenty Years of the Project's Operation**

	Benefits	Costs	Net Benefits
City of Houston	\$51,017,455	\$13,875,305	\$37,142,150
Harris County	\$11,156,598	\$2,024,995	\$9,131,602
Houston ISD	\$68,246,603	\$59,985,970	\$8,260,633
Houston Community College	\$3,000,589	\$0	\$3,000,589
Harris County Flood Control District	\$859,209	\$0	\$859,209
Port of Houston Authority	\$345,659	\$0	\$345,659
Harris County Hospital District	\$5,119,942	\$0	\$5,119,942
Harris County Department of Education	\$155,322	\$0	\$155,322
METRO	\$20,370,118	\$0	\$20,370,118
Houston-Harris County Sports Authority	\$93,059	\$0	\$93,059
Total	\$160,364,553	\$75,886,271	\$84,478,283