

THE STATE OF TEXAS)
)
COUNTY OF TARRANT)

TAX ABATEMENT AGREEMENT
BETWEEN THE CITY OF MANSFIELD, TEXAS, AND
RMA HOLDINGS, LLC

This Tax Abatement Agreement (“Agreement”) is entered into by and between the City of Mansfield, Texas, a Texas home rule municipality (“City”), and RMA Holdings, LLC a limited Texas liability company (“RMA”). City and RMA are sometimes hereafter referred to individually as a “party” and collectively as the “parties”.

W I T N E S S E T H:

WHEREAS, Section 312.002(a) of the Texas Tax Code requires the City to pass a resolution indicating the City’s desire to become eligible to participate in tax abatement agreements; and

WHEREAS, on or about May 9, 2016, the City adopted Resolution No. RE-3245-16 electing to become eligible to participate in tax abatement agreements, in accordance with Section 312.002(a) of the Texas Tax Code, and subsequently has timely reaffirmed its tax abatement agreement policies; and

WHEREAS, the City has also adopted and/or reaffirmed tax abatement guidelines and criteria, in accordance with Section 312.002 of the Texas Tax Code (hereinafter referred to as the “City’s Tax Abatement Guidelines and Criteria”); and

WHEREAS, the City’s Tax Abatement Guidelines and Criteria constitute appropriate guidelines and criteria governing tax abatement agreements to be entered into by the City, as contemplated by Chapter 312 of the Texas Tax Code, as amended; and

WHEREAS, on or about _____, the City Council of the City of Mansfield, Texas, adopted Ordinance No. _____ establishing a Tax Abatement Reinvestment Zone in the City of Mansfield, Texas, as authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code; and

WHEREAS, RMA owns a 17.5acre tract north of FM 917 and between 2nd Avenue and the planned extension of Antler Drive and has a three year option to purchase the +/- 12.0 acres immediately adjacent to the north within the corporate limits of the City of Mansfield (“City”) both depicted on Exhibit “A” (hereafter referred to as the “Property”), where it intends to construct and operate a 450,000 square feet freezer, refrigerator and dry storage warehouse space; and

WHEREAS, RMA intends to make a new Capital Investment in the Property of at least Sixty Seven Million Four Hundred Six Thousand Nine Hundred Thirty Eight Dollars (\$67,406,938.00) to construct the Facility, which will result in the creation of additional Primary Jobs at the Property (all as hereinafter defined); and

WHEREAS, this abatement of taxes will maintain and enhance the economic and employment base of the City, thereby benefiting the City, in accordance with the Tax Abatement Guidelines and Criteria and the Property Redevelopment and Tax Abatement Act; and

WHEREAS, the City Council of the City of Mansfield, Texas, finds that the contemplated use of the Property, and the improvements to the Property as set forth in this Agreement, and the other terms hereof are consistent with encouraging development of said Reinvestment Zone in the City of Mansfield, Texas, in accordance with the purposes for its creation, and are in compliance with the City's Tax Abatement Guidelines and Criteria, and Chapter 312 of the Texas Tax Code; and

WHEREAS, the RMA acknowledges and agrees that the tax abatements granted by this Agreement are contingent upon its compliance with this Agreement in accordance with the terms and conditions set forth herein; and

WHEREAS, this Agreement was approved by the City Council of the City of Mansfield, Texas, at a regularly scheduled meeting, consistent with Section 312.207(a) of the Texas Tax Code, as amended.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. FINDINGS INCORPORATED

All the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Agreement as if copied in their entirety.

SECTION 2. TERM

This Agreement shall be effective as of the Effective Date and end on the last day of the Tax Abatement Period, unless terminated earlier by the parties as provided below.

SECTION 3. DEFINITIONS

The following words shall have the following meanings when used in this Agreement:

Act. "Act" means Chapter 312 of the Texas Tax Code, the Property Redevelopment and Tax Abatement Act, as amended.

Ad Valorem Taxes. “Ad Valorem Taxes” means the ad valorem taxes attributable to the Property and all improvements including the Facility and business personal property, excluding ad valorem taxes attributable to the mineral estate associated with the Property.

Agreement. “Agreement” means this Tax Abatement Agreement, together with all exhibits and schedules attached to this Agreement.

Base Year Value. “Base Year Value” means the value of the Property as of January 1, 2016 as appraised by the Tarrant Appraisal District.

Capital Investment. “Capital Investment” means the actual cost incurred related to the construction of the Facility, including the actual construction costs of all buildings, renovations, site preparation, structures, infrastructure, offsite improvements (if any), utilities, landscaping and onsite improvements, including labor and materials, engineering costs, surveying costs, fees of consultants, permit and inspection fees, and business personal property and equipment located on the Property after the date of this Agreement that are subject to ad valorem taxes. It does not include insurance costs, legal fees and expenses, marketing costs or any interest paid to finance the cost of Capital Investment.

Certificate of Occupancy. “Certificate of Occupancy” means the document issued by the City for the Facility certifying each building’s compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupation.

Effective Date. “Effective Date” means the date of the later to execute this Agreement by and between the City and RMA.

Facility. “Facility” means the freezer, dry and cold storage warehouse located on the Property, comprised of at least 450,000 square feet, to be constructed in four phases, and include at least four (4) buildings.

FTE. “FTE” means any employee on a forty (40) hour or more per week schedule or the combination of two (2) or more employees on part-time schedules equaling at least forty (40) hours without regard to whether individuals in those positions are the same as those in previous counts.

RMA. “RMA” means RMA Holdings, LLC, a Texas limited liability company.

Person. "Person" means an individual or a corporation, partnership, trust, estate, unincorporated organization, association, or other legal entity.

Primary Jobs. “Primary Jobs” means FTE’s performing the type of jobs defined in Section 501.002 of the Texas Local Government Code.

Property. “Property” has the meaning set forth in the Recitals.

Tax Abatement Period. “Tax Abatement Period” means the period, in years, during which the Property is entitled to tax abatement pursuant to this Agreement. The Tax Abatement Period shall commence on January 1 of the year following the issuance of a Certificate of Occupancy for Phase I of the Facility and said period shall expire on the last day of the tenth (10th) calendar year thereafter.

Term. “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

SECTION 4. RMA OBLIGATIONS AND USE OF PROPERTY

(A) As a condition precedent to tax abatement pursuant to this Agreement and in consideration of the tax abatement granted herein, RMA agrees to the following:

(1) Make a total new Capital Investment in the Facility on or before June 30, 2022 in an amount of no less than Sixty Seven Million Four Hundred Six Thousand Nine Hundred Thirty Eight Dollars (\$67,406,938.00) and construct the Facility according to the following schedule:

(i) Phase I. By June 30, 2018 make a Capital Investment in the Property of at least Nineteen Million Six Hundred Fifty Nine Thousand Three Hundred Ninety Dollars (\$19,659,390.00) and obtain a Certificate of Occupancy for the first freezer building which shall be comprised of no less than 115,000 square feet.

(ii) Phase II. By June 30, 2020 make an additional Capital Investment in the Property of Fourteen Million Six Hundred Forty Seven Thousand Three Hundred Ninety Dollars (\$14,647,390.00) and obtain a Certificate of Occupancy for the second freezer building which shall be comprised of no less than 100,000 square feet, for a total Capital Investment of Thirty Four Million Three Hundred Six Thousand Seven Hundred Eighty Dollars (\$34,306,780.00).

(iii) Phase III. No later than June 30, 2021 make an additional Capital Investment in the Property of at least Fourteen Million Seven Hundred Ninety Four Thousand One Hundred Fifty Eight Dollars (\$14,794,158.00) and obtain a Certificate of Occupancy for the third freezer building which shall be comprised of no less than 100,000 square feet, for a total Capital Investment of Forty Nine Million One Hundred Thousand Nine Hundred Thirty Eight Dollars (\$49,100,938.00).

(iv) Phase III. No later than June 30, 2022 make an additional Capital Investment in the Property of at least Eighteen Million Three Hundred Six Thousand Dollars (\$18,306,000.00) and obtain a Certificate of Occupancy for the fourth freezer building which shall be comprised of no less than 150,000 square feet, for a total Capital Investment of Sixty Seven Million Four Hundred Six Thousand Nine Hundred Thirty Eight Dollars (\$67,406,938.00).

(2) Create a minimum of one hundred ten (110) FTEs with a Primary Jobs component by June 30, 2022 and retain them for the Term of this Agreement according to the following schedule:

No later than	Number of Total Employees
06-30-2018	30
06-30-2020	55
06-30-2021	80
06-30-2022	110

(3) Render the Property and the Facility to the Tarrant County Appraisal District and remain current on all Ad Valorem Taxes for the Term of this Agreement;

(4) Provide documentation to the Corporation for the Capital Investment in a manner acceptable to the City; and

(5) Operate the Facility as a freezer and warehouse for the term of this Agreement.

SECTION 5. TAX ABATEMENT

(A) Subject to RMA's full compliance with all of its obligations in Section 4 and the other terms and conditions of this Agreement, a portion of the Ad Valorem Taxes otherwise owed to the City for the Property shall be abated. Said abatement of the Ad Valorem Taxes on the Property shall be based upon the increased value of the Property, as improved by the Facility, over the Base Year Value, and in accordance with the terms of this Agreement and all applicable federal, state, and local laws and regulations.

(1) Term. The Tax Abatement Period shall be ten (10) years (with the first year of tax abatement being the first tax year following the date on which the City issues a Certificate of Occupancy for Phase 1 of the Facility (*i.e.*, the Tax Abatement Period starts on January 1 of such following year).

(2) Abatement Amount. The tax abatement rate for each such year during the Tax Abatement Period shall be the following percentage of the portion of the value of Property that is subject to abatement, and such qualifications as are noted elsewhere in this Agreement:

Year of Tax Abatement Period	Abatement Percentage
1	50%
2	50%
3	50%
4	50%
5	50%
6	50%
7	50%
8	50%
9	50%
10	50%

(B) Notwithstanding any provision in this Agreement to the contrary, the Property shall not be entitled to tax abatement for more than ten (10) years. The tax abatement shall continue for the duration of the Tax Abatement Period and shall not be lost through Force Majeure events or circumstances beyond RMA's control, except in an event of default as described below.

SECTION 6. DEFAULT AND RECAPTURE PROVISION

(A) The City may declare a default hereunder if RMA: (1) fails, refuses, or neglects to comply with any of the terms, conditions, or representations of this Agreement and fails to cure during the cure period; or (2) allows ad valorem taxes owed to the City to become delinquent and fails either to cure during the cure period or to timely and properly follow the legal procedures for their protest or contest.

(B) If the City declares a default of this Agreement, this Agreement shall terminate (after notice and opportunity to cure as provided for herein), and the City, in such event, shall be entitled to recapture any and all property taxes which have been abated as a result of this Agreement. The City shall notify RMA of any default in writing in the manner prescribed herein. The notice shall specify the basis for the declaration of default, and RMA shall have thirty (30) days from the date of such notice to cure any default. If RMA fails to cure within the period herein specified, RMA shall be liable for and will pay to the City within sixty (60) days following the termination of this Agreement: (1) the amount of all property taxes abated under this Agreement; (2) interest on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes; and (3) penalties on the amount abated in the year of default at the rate provided for in the Texas Tax Code for delinquent taxes.

SECTION 7. RIGHT OF ACCESS FOR INSPECTION

The RMA further agrees that the City, its agents and employees, shall have reasonable right to access the Property during normal business hours and upon not less than two (2) business days written notice to RMA to inspect the Facility and other items subject to this Agreement in

order to ensure that the construction of the Facility is in accordance with this Agreement and all applicable federal, state, and local laws and regulations. After completion of the Facility, the City shall have the continuing right of reasonable access to the Property during normal business hours and upon not less than two (2) business days written notice to the RMA to inspect the Property to ensure that such are thereafter maintained and operated in accordance with this Agreement.

SECTION 8. ANNUAL CERTIFICATION

On or before April 1 of each year, the RMA shall each provide to City written certification that RMA is in compliance with each applicable term of this Agreement. Such certification shall be in a form reasonably satisfactory to the City, and shall include, at a minimum, information supporting the RMA's conclusions that it met (or expects to meet) each condition and requirement to abatement set forth in this Agreement. Any failure of the City to request or demand such certification shall not constitute a waiver of such certification or any future certification; provided, however, that if the City fails to request or demand such certification and RMA fails to provide such certification, the City shall give such party written notice of such failure and such party shall provide such certification within thirty (30) days of such party's receipt of such notice.

SECTION 9. CANCELLATION OR MODIFICATION OF AGREEMENT

The parties agree that the City may cancel or modify this Agreement if the RMA fails to comply with any of the provisions of this Agreement, subject to any cure provisions referenced in Section 6 and Section 8 herein.

SECTION 10. MISCELLANEOUS PROVISIONS

(A) Amendments. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

(B) Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Tarrant County, Texas. Exclusive venue for any action arising under this Agreement shall lie in the state district courts of Tarrant County, Texas.

(C) Assignment. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. RMA may assign all or part of its rights and obligations hereunder only upon prior written approval of the City.

(D) Binding Obligation. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. City warrants and represents that the individual executing this Agreement on behalf of City has full authority to execute this

Agreement and bind City to the same. RMA warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.

(E) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

(F) Filing. In order to receive the tax abatement pursuant to this Agreement, RMA understands it must file with the appraisal district an application for property tax abatement exemption between January 1 and April 30 of each year during the Term of this Agreement.

(G) Notices. Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the "Notice") is effective when in writing and (i) delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand, or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested, and addressed as follows:

if to RMA: RMA Holdings, LLC
1475 Post and Paddock Street
Grand Prairie, TX 75050
Attention: Monty Barnett, Robert Phillips

if to City: City of Mansfield
301 S. Main
Mansfield, TX 76063
Attention: Director of Economic Development

(H) Severability. In the event any provision of this Agreement shall be determined by any court of competent jurisdiction to be invalid or unenforceable, the Agreement shall, to the extent reasonably possible, remain in force as to the balance of its provisions as if such invalid provision were not a part hereof.

(I) Sovereign Immunity. No party hereto waives any statutory or common law right to sovereign immunity by virtue of its execution hereof.

(J) Undocumented Workers. RMA certifies that RMA does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, RMA is convicted of a violation under 8 U.S.C. § 1324a(f), RMA shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of ten percent (10%), not later than the 120th day after the date the City notifies RMA of the violation.

(K) Prevailing Party Attorney's Fees. In the event any person initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the

prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

(L) City Ordinances Applicable. The signatories hereto shall be subject to all applicable ordinances of the City, whether now existing or in the future arising.

(M) Force Majeure. It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, fire or other casualty, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

(N) Runs with the Land. The provisions of this Agreement shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and successors in title.

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

(P) Conflict. The provisions of the Act are incorporated herein by reference and the City and RMA agree to abide thereby. If there is a conflict between the requirements of the Act and this agreement, the Act shall control.

(Q) Bonds. Neither the Property nor the Facility are improvement projects financed by tax increment bonds. This Agreement is subject to the rights of the holders of outstanding bonds of the City.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, on this ____ day of _____, 2016.

{Signatures on following page}

CITY:

CITY OF MANSFIELD, TEXAS

David Cook, Mayor

Date: _____

ATTEST:

Jeanne Heard, City Secretary

RMA:

RMA HOLDINGS, LLC

By: Monty Barnett

Name: Monty Barnett

Title: Vice President

Date: 10-4-16

STATE OF TEXAS)
)
COUNTY OF TARRANT)

This instrument was acknowledged before me on the ____ day of _____, 2016, by David Cook, Mayor of the City of Mansfield, Texas, a Texas home rule municipality, on behalf of said City.

Notary Public, State of Texas

STATE OF Texas)
)
COUNTY OF Tarrant)

This instrument was acknowledged before me on the 4th day of October, 2016, by Monty Barrett the Vice President of RMA HOLDINGS, LLC, a Texas LLC.



N Phelps

Notary Public, State of Texas

Exhibit A