

# Rico's Products Company, Inc.

**Location: 3011 Pinewood Dr**

**Property Owner: Ricos Products Company LLC**

**830 Presa St**

**San Antonio TX 78210**

**About the Project**

Ricos Products Company purchased an existing 100,000 square foot building within the Great Southwest Industrial District, making a \$6.2 million investment through the building purchase, renovations, and the addition of new manufacturing equipment. Known as the originators of concession nachos, Ricos relocated into this facility to accommodate its expanding snack food manufacturing businesses.

**Goals of the Project**

Expansion relocation, employment, occupy and upgrade existing industrial space

**Current Status**

Due to an administrative error at TAD, where Rico's was left off their abatement list, Rico's did not receive an abatement for FY16. This resulted in the agreement being amended to convert the first year of the agreement to a Chapter 380 agreement, in which the City will rebate Rico's the equivalent of the levy which would have been abated if not for the error. Once they paid the FY16 tax bill, the amount that would have been abated was rebated instead. It is being shown here as an abatement for continuity of reporting. The FY16 tax levy paid reflects the rebate netted out of what was originally paid to City of Arlington.

**Benefit to City**

60 jobs created; minimum 7-year benefit of \$137,000 in added real and business personal property tax revenue

<b>Reinvestment Zone</b>	37
<b>Ordinance</b>	13-038
<b>Year Approved by Council</b>	2013
<b>Base Year</b>	2013
<b>Beginning Year</b>	2015
<b>Ending Year</b>	2021
<b>Duration</b>	7 years
<b>Base Year Value</b>	\$ 2,400,000 real property
<b>Property Tax Account Number(s)</b>	RE 03694143 and BPP 13877887
<b>Total Abatement Allowed</b>	70%
<b>Total Estimated Investment by Company</b>	\$ 8,200,000

**Criteria Evaluated** Complete eligible property improvements resulting in added taxable value above the base year value by at least \$2.5m at 3011 Pinewood Drive by January 1, 2015  
 Create at least 45 new jobs no later than January 1, 2015  
 Exceed Arlington's median wage

**Incentives Allowed** 60% if Added Taxable Value of \$2.5m over the Base Year Value is achieved, and 45 new jobs are created by January 1, 2015  
 10% additional annually if median wage of persons employed at the Premises exceed Arlington's median wage

Year	Abatement Percentage Allowed on Eligible Property	Appraised Value	Percentage of Total Value Abated	Abated Value	Abated Levy	Jobs Reported	Average Salary	Levy Abated as % of Total Tax Liability
2015 (FY16)	70%	6,285,467	31%	1,946,705	12,615	50	\$ 35,605	6%
2016 (FY17)								
2017 (FY18)								
2018 (FY19)								
2019 (FY20)								
2020 (FY21)								
2021 (FY22)								
<b>TOTAL</b>				<b>\$</b>	<b>12,615</b>			

**Levy Paid by Taxing Entity**

Year	City of Arlington (024)	Tarrant County (220)	Tarrant County Hospital District (224)	Tarrant County College District (225)	Arlington ISD (901)	Mansfield ISD (908)	Kennedale ISD (914)	Total Annual Tax Bill
2015 (FY16)	40,376	21,589	18,636	12,225	115,545	-	-	208,371
2016 (FY17)	-	-	-	-	-	-	-	-
2017 (FY18)	-	-	-	-	-	-	-	-
2018 (FY19)	-	-	-	-	-	-	-	-
2019 (FY20)	-	-	-	-	-	-	-	-
2020 (FY21)	-	-	-	-	-	-	-	-
2021 (FY22)	-	-	-	-	-	-	-	-
	<b>\$ 40,375.88</b>	<b>\$ 21,588.73</b>	<b>\$ 18,636.39</b>	<b>\$ 12,225.44</b>	<b>\$ 115,544.87</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 208,371.31</b>

**Ordinance No. 13-038**

**An ordinance establishing Reinvestment Zone Number Thirty-Seven; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; and becoming effective upon second reading**

WHEREAS, the City Council of the City of Arlington, Texas, desires to promote the development or redevelopment of a certain area within its jurisdiction by the establishment of a Reinvestment Zone for commercial-industrial tax abatement; and

WHEREAS, on April 7, 2009, the City Council of the City of Arlington, Texas passed Resolution No. 09-079 authorizing staff, following a briefing to City Council regarding creation of the zone, to give notice required by law to call public hearings relative to creation of reinvestment zones for tax abatement; and

WHEREAS, on May 21, 2013, staff briefed City Council on the creation of Reinvestment Zone Number Thirty-Seven; and

WHEREAS, a public hearing was held at which time interested persons were entitled to speak and present evidence for or against the designation of the property described in Exhibit "A" as Reinvestment Zone Number Thirty-Seven, and notice of such public hearing was published in a newspaper of general circulation in the City of Arlington not later than the seventh day before the date of the scheduled hearing; and

WHEREAS, the City Council of the City of Arlington has established guidelines and criteria governing tax abatement agreements and has stated that the City elects to become eligible to participate in tax abatement; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That all of the recitals contained in the preambles of this ordinance are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

2.

The City Council, after conducting a public hearing and having considered all relevant evidence and testimony, has made the following findings and determinations based on such evidence and testimony:

- A. That a public hearing on the designation of Reinvestment Zone Number Thirty-Seven has been properly called, held and conducted, and that notice of such hearing was published in accordance with the law; and
- B. That the boundaries of Reinvestment Zone Number Thirty-Seven should be the proposed area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and
- C. That the improvements sought to be made in Reinvestment Zone Number Thirty-Seven are feasible and practical and would be a benefit to the land to be included in the Zone and to the City of Arlington following the expiration of an executed Tax Abatement Agreement; and
- D. That the proposed area of land to be designated Reinvestment Zone Number Thirty-Seven is reasonably likely, as a result of this designation, to contribute to the retention or expansion of primary employment or to attract major investment in the Zone that would be a benefit to the property, thereby contributing to the economic development of the City of Arlington.

3.

In accordance with State law, the City of Arlington hereby officially creates Reinvestment Zone Number Thirty-Seven for commercial-industrial tax abatement, which Zone shall hereafter encompass only that certain area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and such Reinvestment Zone shall be officially designated as Tax Abatement Reinvestment Zone Number Thirty-Seven of the City of Arlington, Texas.

4.

The designation of Reinvestment Zone Number Thirty-Seven of the City of Arlington, Texas shall expire Five (5) years after the effective date of its designation and may be renewed.

5.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or

affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

6.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

7.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

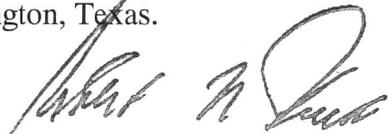
8.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

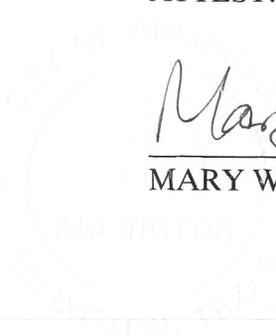
9.

This ordinance shall become effective upon second reading.

PRESENTED AND GIVEN FIRST READING on the 6th day of August, 2013, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 20th day of August, 2013, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
\_\_\_\_\_  
ROBERT N. CLUCK, Mayor

ATTEST:

  
*Mary W. Supino*

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY *Jay Doegey*

THE STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

**Tax Abatement Agreement**

THIS Agreement is executed by and between **RICOS PRODUCTS COMPANY, INC.**, an entity duly authorized to do business in the State of Texas, acting by and through its authorized officer (hereafter referred to as “**OWNER**”), and the **CITY OF ARLINGTON, TEXAS**, a home-rule city and municipal corporation of Tarrant County, Texas, acting by and through its City Manager or his designee, (hereafter referred to as “**CITY**”).

WITNESSETH:

- WHEREAS, the City Council of CITY has resolved that the CITY may elect to participate in tax abatements; and
- WHEREAS, the City Council of CITY, in accordance with the law, has adopted a Policy Statement for Tax Abatements; and
- WHEREAS, prior to executing this Agreement, the CITY has adopted a Policy Statement consistent with this Agreement; and
- WHEREAS, the Policy Statement constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the CITY; and
- WHEREAS, the City Council passed Ordinance No. 3038 establishing Reinvestment Zone Number Thirty-Seven in the City of Arlington, Texas, being a commercial-industrial reinvestment zone for tax abatement as authorized by Texas Tax Code Chapters 311 and 312 (hereafter referred to as “the Code”); and
- WHEREAS, the use of the Premises (as hereafter defined), the Eligible Property (as hereafter defined) and the other terms hereof are consistent with encouraging development within Reinvestment Zone Number Thirty-Seven, and are in compliance with the Policy Statement and the Ordinance and similar guidelines and criteria adopted by CITY and all applicable law; and
- WHEREAS, the City Council finds that the terms of this Agreement meet applicable guidelines and criteria adopted by the City Council; and
- WHEREAS, a copy of this Agreement has been furnished, in the manner prescribed by the Code, to the presiding officers of the governing bodies of each of the taxing units in which the Premises to be subject to the Agreement is located; and

WHEREAS, the City Council finds that it is in the public interest to provide the tax abatement; NOW THEREFORE,

The CITY and OWNER, for and in consideration of the mutual premises and promises contained herein, do hereby agree, covenant and contract as set forth below:

**I.**  
**Definitions**

- A. “Added Taxable Value” is defined as the value of the Eligible Property above the Base Year Value, as appraised by the Tarrant Appraisal District.
- B. “Base Year Value” is defined as the tax year 2013 taxable value of OWNER’s real property located at the Premises in Reinvestment Zone Number Thirty-Seven, on January 1, 2013, as finally determined by Tarrant Appraisal District.
- C. “Business Operations” refers to OWNER’s business located at 3011 Pinewood Drive, Arlington, Texas 76010 and is defined as snack food manufacturing and distribution and related ancillary operations.
- D. “Business Personal Property Improvements” are defined as tangible personal property (except inventory or supplies) delivered to, installed or located on the Premises in connection with OWNER’s Business Operations as defined herein, under OWNER’s name as reported by the Tarrant County Appraisal District.
- E. “Eligible Property” is defined as Real and Business Personal Property Improvements as provided in **Exhibit “A”** erected or affixed to the Premises after this agreement is signed and through January 1, 2015. **Exhibit “A”** is attached hereto and incorporated herein for all purposes.
- F. “Job” is defined as a permanent, full-time equivalent employment position that results in employment of an employee (not independent contractor) of OWNER within the City of Arlington of at least 1,820 hours per position in a year.
- G. The “Median Wage” for Arlington will be determined by the Median Earnings for Workers as reported by the most recent release of the American Community Survey available at the time application is submitted to CITY. To qualify, an applicant’s median wage must exceed the figure determined by multiplying the reported Margin of Error for Median Earnings for Workers times 1.20 and adding this figure to the reported estimate of Median Earnings for Workers. If Margin of Error is not reported, the figure that an applicant’s median wage must exceed will be determined by taking the difference between the reported High Estimate and Estimate and multiplying the difference by 1.20 and adding this figure to the Estimate.

- H. “Premises” are defined as the real property (land and improvements) located at 3011 Pinewood Drive, described by metes and bounds in **Exhibit “B”** which existed on January 1, 2013, Reinvestment Zone Number Thirty-Seven, that is owned by and operated by OWNER. **Exhibit “B”** is attached hereto and incorporated herein for all purposes.
- I. “Real Property Improvements” are defined as improvements to the Premises and shall include buildings, structures or fixtures erected or affixed to land.
- J. “Reinvestment Zone Number Thirty-Seven” is defined as the real property located in the City of Arlington and described by City of Arlington Ordinance No.13-038, attached hereto as **Exhibit “C”**.

**II.**  
**General Provisions**

- A. The Premises are not in an improvement project financed by tax increment bonds.
- B. The Premises are not owned or leased by any member of the City Council or any member of the Planning and Zoning Commission of CITY.
- C. It is acknowledged and agreed by the parties that the completion of the Eligible Property Improvements is consistent with the purposes of encouraging development or redevelopment of the Reinvestment Zone.

**III.**  
**Improvement Conditions and Requirements**

- A. OWNER shall improve the Premises by completing the Eligible Property described in **Exhibit “A”** by January 1, 2015.
- B. OWNER’s completion of the Eligible Property described in **Exhibit “A”** of this Agreement must result in Added Taxable Value above the Base Year Value (“Added Value”) of at least Two Million Five Hundred Thousand Dollars (\$2,500,000) not later than January 1, 2015.
- C. OWNER will create at least 45 new Jobs not later than January 1, 2015 and shall maintain those Jobs for the term of the agreement.
- D. OWNER shall operate and maintain on the Premises the Eligible Property described in **Exhibit “A”** for the term of the agreement.
- E. All proposed Eligible Property shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations.

- F. OWNER covenants and certifies that OWNER does not and will not knowingly employ an undocumented worker as that term is defined by section 2264.001(4) of the Texas Government Code. In accordance with section 2264.052 of the Texas Government Code, if OWNER is convicted of a violation under 8 U.S.D. Section 132a(f), OWNER shall repay to the CITY the full amount of taxes abated under Section IV of this Agreement, plus 10% per annum from the date the abatement was made. Repayment shall be paid within 120 days after the date following such conviction that OWNER receives notice of violation from the CITY as provided by 2264.101(c) of the Texas Government Code, OWNER shall not be liable for a violation by a subsidiary, affiliate, or franchisee of OWNER or by a person with whom OWNER contracts.

#### **IV.**

#### **Abatement Allowed**

- A. If the Improvement Conditions and Requirements set forth in Section III are met, CITY agrees to exempt from taxation sixty percent (60%) of the Added Taxable Value of the Eligible Property. The exemption shall be for a period as follows, from the tax year beginning January 1, 2015 through and including the tax year beginning January 1, 2021.
- B. OWNER shall be eligible to receive an additional 10% abatement annually each year the median wage of the persons employed at the Premises exceed the CITY'S Median Wage as defined in Section I.
- C. Should the taxable value of the Premises fall below the Base Year Value, then the abatement shall apply only to the taxable value of the Eligible Property minus the difference between the Base Year Value and the taxable value of the Premises, if such amount exceeds the Base Year Value.

#### **V.**

#### **Reports, Audits and Inspections**

- A. Annual Certification and Reports - Pursuant to state law, OWNER shall certify annually to taxing units that OWNER is in compliance with the terms of the tax abatement agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the agreement, as follows:
1. Certification -- OWNER shall complete and certify a Tax Abatement Certification to be provided by CITY for each year of the tax abatement agreement, to be due annually not later than April 1. This certification shall include reports on Eligible Property values and costs, a narrative description of the project's progress, and other submittals required by the tax abatement agreement.

2. Eligible Property Reports -- At a minimum, OWNER shall make available on request the following information annually on all Eligible Property for which OWNER seeks tax abatement:
  - a. Property description;
  - b. Asset number;
  - c. For property located on Premises, the date on which the property was acquired and/or paid for; and
  - d. Cost.
  
3. Eligible Property Reports for Projects in Progress -- For projects in progress for which fixed asset numbers have not been assigned, the Eligible Property report shall provide information in sufficient detail to identify the Eligible Property to be installed on the Premises. At a minimum, this information shall include:
  - a. Description of materials, machinery and equipment;
  - b. Vendor name, invoice date, invoice number and invoice amount; and
  - c. Payment date for property located on Premises.
  
4. Reports on Equipment Replaced or Removed -- Additionally, OWNER agrees to provide CITY, on request, information on Eligible Property for which OWNER has received tax abatement and which has been replaced or removed from the Premises. At a minimum, this information shall include:
  - a. Property description;
  - b. Asset number; and
  - c. Approximate date of disposal.
  
5. Report Upon Project Completion -- Within one-hundred eighty (180) days of completion of the Eligible Property, and in no event later than June 29, 2015, OWNER shall provide CITY with a final Eligible Property Report that shall describe all Eligible Property for which the owner is granted tax abatement. The report may contemplate a reconciliation of the general ledger to the personal property rendition to satisfy this requirement.

6. Additional Reports -- Additionally, throughout the term of this agreement, OWNER shall furnish CITY any additional records and information reasonably requested to support the reports required by this agreement.
- B. Right to Audit Books and Records - CITY shall have the right to audit the books and records related to the Eligible Property and supporting the Eligible Property reports. CITY shall notify OWNER in advance in writing of their intent to audit in order to allow OWNER adequate time to make such books and records available.
- C. Inspection - At all times throughout the term of this Agreement, CITY and the Tarrant Appraisal District (TAD) shall have reasonable access to the Premises for the purpose of inspecting the Premises to ensure that the Eligible Property is constructed, installed, maintained and operated in accordance with the terms of this Agreement. All inspections shall be conducted in a manner as to not unreasonably interfere with the installation of the Eligible Property or the operation of the Premises. The inspections shall be conducted within a reasonable time period after notice by CITY or TAD to OWNER, provided, however, that all inspections shall be made with one (1) or more representative(s) of OWNER present and in accordance with the safety standards of OWNER.

## **VI.** **Use of Premises**

The Premises at all times shall be used in a manner that is consistent with CITY's zoning ordinances and consistent with the general purpose of encouraging development within Reinvestment Zone Number Thirty-Seven.

## **VII.** **Breach and Recapture**

- A. Breach - A breach of this Agreement may result in termination or modification of this Agreement and recapture by CITY of taxes which otherwise would have been paid since the execution of this Agreement to CITY without the benefit of the Abatement, as set forth in Sections VII(B) and VII(C). Penalty and interest on recaptured taxes will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas. Recaptured taxes shall become due sixty (60) days following notice of breach and after the expiration of any cure period as provided in Section VII(B). The following conditions shall constitute a breach of this Agreement:
  1. OWNER terminates the use of the Premises for an industrial building and related activities at any time during the duration of the Agreement; or
  2. OWNER fails to meet the Conditions and Requirements as specified in Section III above; or

3. OWNER allows its ad valorem taxes on any property located within the City of Arlington owed to CITY to become delinquent.
- B. Notice of Breach - In the event that CITY makes a reasonable determination that OWNER has breached this Agreement, then CITY shall give OWNER written notice of such default. OWNER has sixty (60) days following receipt of said written notice to reasonably cure such breach, or this Agreement may be terminated by CITY, and recapture of abated taxes made may occur. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail to OWNER at its address provided in Section IX of this Agreement. It shall be the duty of CITY to determine whether to require recapture and payment of abated taxes made and to demand payment of such.
- C. Recapture - During the term of this Agreement, should OWNER commit a breach of this Agreement according to items A(1), (2) or (3) of this Section VII, CITY may terminate this Agreement and recapture all taxes abated under this Agreement up to the time of breach, subject to Section IV(A&B) herein.
- D. Tax Lien Not Impaired - It is expressly agreed and acknowledged between the parties to this Agreement that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the property established by Section 32.01 of the Tax Code of the State of Texas. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the property, including any taxes abated and subject to recapture under this Agreement. Any such lien may be fully enforced pursuant to the provisions of the Code. For purposes of this Subsection, "property" refers to the Premises and Eligible Property described herein.

#### **VIII.**

#### **Effect of Sale or Lease of Property**

The abatement granted by this Agreement shall not be assignable to any new owner of all or a portion of the Premises or Eligible Property unless such assignment is approved in writing by the CITY with approval of the City Council, which approval shall not be unreasonably withheld.

#### **IX.**

#### **Notice**

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail postage prepaid or by hand delivery:

OWNER: Ricos Products Company, Inc.  
Attention: Jeremy Powledge, Chief Financial Officer  
830 South Presa  
San Antonio, Texas 78210

CITY: City of Arlington  
Attention: Economic Development Manager  
Post Office Box 90231  
Arlington, Texas 76004-3231

**X.**

**City Council Authorization**

This Agreement was authorized by resolution of the City Council authorizing the City Manager or his designee to execute this Tax Abatement Agreement on behalf of the CITY.

**XI.**

**Severability**

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

**XII.**

**Estoppel Certificate**

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of OWNER, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the abatement in effect and such other matters reasonably requested by the party(ies) to receive the certificates.

**XIII.**

**Owner's Standing**

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

**XIV.**  
**Applicable Law**

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State's District Court of Tarrant County, Texas. This Agreement is performable in Tarrant County, Texas.

**XV.**  
**Indemnification**

**It is understood and agreed between the parties that the OWNER, in performing its obligations hereunder, is acting independently, and CITY assumes no responsibility or liability to third parties in connection therewith, and OWNER agrees to indemnify and hold harmless CITY from any such responsibility or liability. It is further understood and agreed among the parties that CITY, in performing its obligations hereunder, is acting independently, and the OWNER assumes no responsibility or liability to third parties in connection therewith, and CITY agrees to the extent allowed by law to indemnify and hold harmless OWNER from any such responsibility or liability.**

**XVI.**  
**Force Majeure**

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the requirements of this Agreement is delayed by reason of war, Act of God, fire or other casualty of a similar nature.

**XVII.**  
**No Other Agreement**

This Agreement embodies all of the agreements of the parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified or supplemented only by an instrument or instruments in writing executed by the parties.

**XVIII.**  
**Recordation of Agreement**

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Tarrant County, Texas.

**XIX.**

**Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses**

In performing this Agreement, OWNER agrees to use diligent efforts to purchase all goods and services from Arlington or Tarrant County businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons or organizations proposed for work on this Agreement, the OWNER agrees to consider this policy and to use their reasonable and best efforts to select and employ such companies and persons for work on this Agreement.

**XX.**

**Headings**

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

**XXI.**

**Successors and Assigns**

The parties to this Agreement each bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.

No successor, executor, administrator or assign is valid in the place of the parties to this Agreement without the written consent of CITY and such consent shall not be unreasonably withheld.

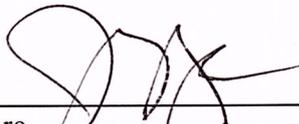
**XXII.**

**Termination**

This Agreement shall terminate, in accordance with the terms of this Agreement, unless extended by written agreement of the parties or a written instrument signed by all parties evidencing a delay by force majeure; however, in no event shall the abatement exceed 10 years.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

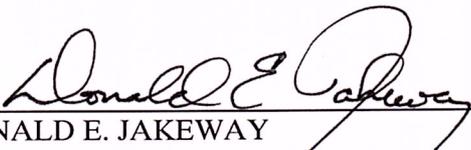
**RICOS PRODUCTS COMPANY, INC.**

BY   
Signature Jeremy Rowledge  
Type or Printed Title \_\_\_\_\_  
Date 8/27/13

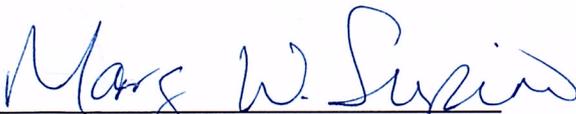
WITNESS:

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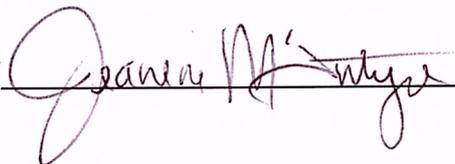
**CITY OF ARLINGTON, TEXAS**

BY   
DONALD E. JAKEWAY  
Deputy City Manager  
Date 9-4-13

ATTEST:

  
\_\_\_\_\_  
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY   
\_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

**RICOS PRODUCTS COMPANY, INC.**  
**Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Jeremy Powledge, known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **RICOS PRODUCTS COMPANY, INC.**, an entity duly authorized to do business in the State of Texas, and as the CFO thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 27<sup>th</sup> day of August, 2013.



1-22-2014  
My Commission Expires

Michelle Scott Carter  
Notary Public in and for  
The State of Texas  
Michelle Scott Carter  
Notary's Printed Name

THE STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

**CITY OF ARLINGTON, TEXAS**  
**Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **DONALD E. JAKEWAY**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **CITY OF ARLINGTON, TEXAS**, a municipal corporation of Tarrant County, Texas, and as the **Deputy City Manager** thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 9<sup>th</sup> day of September, 2013.

9/11/13  
My Commission Expires

Ann P. Jeng  
Notary Public in and for  
The State of Texas  
Ann P. Jeng  
Notary's Printed Name

## **Exhibit "A"**

### **ELIGIBLE PROPERTY**

#### **Ricos Products Company, Inc. Manufacturing Plant Building improvement and Project Description**

The Pinewood building purchase includes a \$2.1M improvement investment of the existing 100,100 square foot building. The improvements include the customization of the 3,000 square foot office space, the warehouse and manufacturing area of the building. This project in the amount of \$4.6M includes the following investment:

##### **Real Property Improvements:**

- Production room with accommodations for chip and popcorn lines
- Chemical and clean rooms
- Packaging room
- Kitchen build out
- Maintenance room build out
- Warehouse build out
- Penetrations of existing tilt walls for new doors and window openings
- Roof supports for HVAC equipment
- Concrete repair – misc. and drains
- New 277/480 electrical distribution with coordination
- New lighting design
- Modification of existing dock doors
- Rework of parking lot and load docks

##### **Business Property Improvements:**

- Purchase of JC Ford 1,500 lb./hour chip line
- Purchase of JC Ford packaging component of chip line
- Purchase of various office equipment



**Exhibit "C"**

**Ordinance 13-\_\_\_\_  
creating  
Reinvestment Zone Thirty-Seven**

Ordinance No. \_\_\_\_\_

**An ordinance establishing Reinvestment Zone Number Thirty-Seven; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; and becoming effective upon second reading**

WHEREAS, the City Council of the City of Arlington, Texas, desires to promote the development or redevelopment of a certain area within its jurisdiction by the establishment of a Reinvestment Zone for commercial-industrial tax abatement; and

WHEREAS, on April 7, 2009, the City Council of the City of Arlington, Texas passed Resolution No. 09-079 authorizing staff, following a briefing to City Council regarding creation of the zone, to give notice required by law to call public hearings relative to creation of reinvestment zones for tax abatement; and

WHEREAS, on May 21, 2013, staff briefed City Council on the creation of Reinvestment Zone Number Thirty-Seven; and

WHEREAS, a public hearing was held at which time interested persons were entitled to speak and present evidence for or against the designation of the property described in Exhibit "A" as Reinvestment Zone Number Thirty-Seven, and notice of such public hearing was published in a newspaper of general circulation in the City of Arlington not later than the seventh day before the date of the scheduled hearing; and

WHEREAS, the City Council of the City of Arlington has established guidelines and criteria governing tax abatement agreements and has stated that the City elects to become eligible to participate in tax abatement; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That all of the recitals contained in the preambles of this ordinance are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

2.

The City Council, after conducting a public hearing and having considered all relevant evidence and testimony, has made the following findings and determinations based on such evidence and testimony:

- A. That a public hearing on the designation of Reinvestment Zone Number Thirty-Seven has been properly called, held and conducted, and that notice of such hearing was published in accordance with the law; and
- B. That the boundaries of Reinvestment Zone Number Thirty-Seven should be the proposed area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and
- C. That the improvements sought to be made in Reinvestment Zone Number Thirty-Seven are feasible and practical and would be a benefit to the land to be included in the Zone and to the City of Arlington following the expiration of an executed Tax Abatement Agreement; and
- D. That the proposed area of land to be designated Reinvestment Zone Number Thirty-Seven is reasonably likely, as a result of this designation, to contribute to the retention or expansion of primary employment or to attract major investment in the Zone that would be a benefit to the property, thereby contributing to the economic development of the City of Arlington.

3.

In accordance with State law, the City of Arlington hereby officially creates Reinvestment Zone Number Thirty-Seven for commercial-industrial tax abatement, which Zone shall hereafter encompass only that certain area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and such Reinvestment Zone shall be officially designated as Tax Abatement Reinvestment Zone Number Thirty-Seven of the City of Arlington, Texas.

4.

The designation of Reinvestment Zone Number Thirty-Seven of the City of Arlington, Texas shall expire Five (5) years after the effective date of its designation and may be renewed.

5.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or

(2)

affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

6.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

7.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

8.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

9.

This ordinance shall become effective upon second reading.

PRESENTED AND GIVEN FIRST READING on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays at a regular meeting of the City Council of the City of Arlington, Texas.

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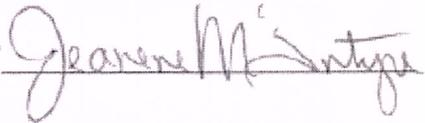
ROBERT N. CLUCK, Mayor

ATTEST:

---

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY 



THE STATE OF TEXAS     §  
  §     First Amended and Restated Tax  
  §     Abatement and 380 Grant Agreement  
COUNTY OF TARRANT   §

THIS Agreement is executed by and between **RICOS PRODUCTS COMPANY, INC.**, an entity duly authorized to do business in the State of Texas, acting by and through its authorized officer (hereafter referred to as “**OWNER**”), and the **CITY OF ARLINGTON, TEXAS**, a home-rule city and municipal corporation of Tarrant County, Texas, acting by and through its City Manager or his designee, (hereafter referred to as “**CITY**”).

WITNESSETH:

WHEREAS, CITY has found that providing a program of incentives to OWNER in exchange for OWNER’s construction of a new industrial building will promote local economic development and stimulate business and commercial activity and retain jobs within the City of Arlington (hereafter referred to as “PROGRAM”); and

WHEREAS, the CITY has determined that the PROGRAM will directly establish a public purpose and that all transactions involving the use of public funds and resources in establishment and administration of the PROGRAM contain controls likely to ensure that the public purpose is accomplished; and

WHEREAS, Chapter 380 of the Local Government Code provides statutory authority for establishing and administering the PROGRAM provided herein; and

WHEREAS, the City Council of CITY has resolved that the CITY may elect to participate in tax abatements; and

WHEREAS, the City Council of CITY, in accordance with the law, has adopted a Policy Statement for Tax Abatements; and

WHEREAS, prior to executing this Agreement, the CITY has adopted a Policy Statement consistent with this Agreement; and

WHEREAS, the Policy Statement constitutes appropriate guidelines and criteria governing tax abatement agreements to be entered into by the CITY; and

WHEREAS, the City Council passed Ordinance No. 13-038 establishing Reinvestment Zone Number Thirty-Seven in the City of Arlington, Texas, being a commercial-industrial reinvestment zone for tax abatement as authorized by Texas Tax Code Chapters 311 and 312 (hereafter referred to as “the Code”); and

WHEREAS, the use of the Premises (as hereafter defined), the Eligible Property (as hereafter defined) and the other terms hereof are consistent with encouraging development within Reinvestment Zone Number Thirty-Seven, and are in compliance with the Policy Statement and the Ordinance and similar guidelines and criteria adopted by CITY and all applicable law; and

WHEREAS, the City Council finds that the terms of this Agreement meet applicable guidelines and criteria adopted by the City Council; and

WHEREAS, a copy of this Agreement has been furnished, in the manner prescribed by the Code, to the presiding officers of the governing bodies of each of the taxing units in which the Premises to be subject to the Agreement is located; and

WHEREAS, the City Council finds that it is in the public interest to provide the tax abatement; NOW THEREFORE,

The CITY and OWNER, for and in consideration of the mutual premises and promises contained herein, do hereby agree, covenant and contract as set forth below:

**I.**  
**Definitions**

- A. "Added Taxable Value" is defined as the value of the Eligible Property above the Base Year Value, as appraised by the Tarrant Appraisal District.
- B. "Base Year Value" is defined as the tax year 2013 taxable value of OWNER's real property located at the Premises in Reinvestment Zone Number Thirty-Seven, on January 1, 2013, as finally determined by Tarrant Appraisal District.
- C. "Business Operations" refers to OWNER's business located at 3011 Pinewood Drive, Arlington, Texas 76010 and is defined as snack food manufacturing and distribution and related ancillary operations.
- D. "Business Personal Property Improvements" are defined as tangible personal property (except inventory or supplies) delivered to, installed or located on the Premises in connection with OWNER's Business Operations as defined herein, under OWNER's name as reported by the Tarrant County Appraisal District.
- E. "Eligible Property" is defined as Real and Business Personal Property Improvements as provided in **Exhibit "A"** erected or affixed to the Premises after this agreement is signed and through January 1, 2015. **Exhibit "A"** is attached hereto and incorporated herein for all purposes.

- F. “Job” is defined as a permanent, full-time equivalent employment position that results in employment of an employee (not independent contractor) of OWNER within the City of Arlington of at least 1,820 hours per position in a year.
- G. The “Median Wage” for Arlington will be determined by the Median Earnings for Workers as reported by the most recent release of the American Community Survey available at the time application is submitted to CITY. To qualify, an applicant’s median wage must exceed the figure determined by multiplying the reported Margin of Error for Median Earnings for Workers times 1.20 and adding this figure to the reported estimate of Median Earnings for Workers. If Margin of Error is not reported, the figure that an applicant’s median wage must exceed will be determined by taking the difference between the reported High Estimate and Estimate and multiplying the difference by 1.20 and adding this figure to the Estimate.
- H. “Premises” are defined as the real property (land and improvements) located at 3011 Pinewood Drive, described by metes and bounds in **Exhibit “B”** which existed on January 1, 2013, Reinvestment Zone Number Thirty-Seven, that is owned by and operated by OWNER. **Exhibit “B”** is attached hereto and incorporated herein for all purposes.
- I. “Real Property Improvements” are defined as improvements to the Premises and shall include buildings, structures or fixtures erected or affixed to land.
- J. “Reinvestment Zone Number Thirty-Seven” is defined as the real property located in the City of Arlington and described by City of Arlington Ordinance No.13-038, attached hereto as **Exhibit “C”**.

**II.**  
**General Provisions**

- A. The Premises are not in an improvement project financed by tax increment bonds.
- B. The Premises are not owned or leased by any member of the City Council or any member of the Planning and Zoning Commission of CITY.
- C. It is acknowledged and agreed by the parties that the completion of the Eligible Property Improvements is consistent with the purposes of encouraging development or redevelopment of the Reinvestment Zone.

**III.**  
**Improvement Conditions and Requirements**

- A. OWNER shall improve the Premises by completing the Eligible Property described in **Exhibit “A”** by January 1, 2015.

- B. OWNER's completion of the Eligible Property described in **Exhibit "A"** of this Agreement must result in Added Taxable Value above the Base Year Value ("Added Value") of at least Two Million Five Hundred Thousand Dollars (\$2,500,000) not later than January 1, 2015.
- C. OWNER will create at least 45 new Jobs not later than January 1, 2015, and shall maintain those Jobs for the term of the agreement.
- D. OWNER shall operate and maintain on the Premises the Eligible Property described in **Exhibit "A"** for the term of the agreement.
- E. All proposed Eligible Property shall conform to the applicable building codes, zoning ordinances and all other ordinances and regulations.
- F. OWNER covenants and certifies that OWNER does not and will not knowingly employ an undocumented worker as that term is defined by section 2264.001(4) of the Texas Government Code. In accordance with section 2264.052 of the Texas Government Code, if OWNER is convicted of a violation under 8 U.S.D. Section 132a(f), OWNER shall repay to the CITY the full amount of taxes abated under Section IV of this Agreement, plus 10% per annum from the date the abatement was made. Repayment shall be paid within 120 days after the date following such conviction that OWNER receives notice of violation from the CITY as provided by 2264.101(c) of the Texas Government Code, OWNER shall not be liable for a violation by a subsidiary, affiliate, or franchisee of OWNER or by a person with whom OWNER contracts.

**IV.**  
**Abatement & Grant**

- A. If the Improvement Conditions and Requirements set forth in Section III are met, CITY agrees to exempt from taxation sixty percent (60%) of the Added Taxable Value of the Eligible Property. The exemption shall be for a period as follows, from the tax year beginning January 1, 2016, through and including the tax year beginning January 1, 2021.
  - 1. OWNER shall be eligible to receive an additional 10% abatement annually each year the median wage of the persons employed at the Premises exceed the CITY'S Median Wage as defined in Section I.
  - 2. Should the taxable value of the Premises fall below the Base Year Value, then the abatement shall apply only to the taxable value of the Eligible Property minus the difference between the Base Year Value and the taxable value of the Premises, if such amount exceeds the Base Year Value.

- B. If the Improvement Conditions and Requirements set forth in Section III are met CITY agrees to make a one-time grant payment in the amount of \$12,614.65. Such grant payment shall be made by the CITY to OWNER on or before February 29, 2016.

V.

**Reports, Audits and Inspections**

- A. Annual Certification and Reports - Pursuant to state law, OWNER shall certify annually to taxing units that OWNER is in compliance with the terms of the tax abatement agreement, and shall provide taxing units with reports and records reasonably necessary to support each year of the agreement, as follows:
1. Certification -- OWNER shall complete and certify a Tax Abatement Certification to be provided by CITY for each year of the tax abatement agreement, to be due annually not later than April 1. This certification shall include reports on Eligible Property values and costs, a narrative description of the project's progress, and other submittals required by the tax abatement agreement.
  2. Eligible Property Reports -- At a minimum, OWNER shall make available on request the following information annually on all Eligible Property for which OWNER seeks tax abatement:
    - a. Property description;
    - b. Asset number;
    - c. For property located on Premises, the date on which the property was acquired and/or paid for; and
    - d. Cost.
  3. Eligible Property Reports for Projects in Progress -- For projects in progress for which fixed asset numbers have not been assigned, the Eligible Property report shall provide information in sufficient detail to identify the Eligible Property to be installed on the Premises. At a minimum, this information shall include:
    - a. Description of materials, machinery and equipment;
    - b. Vendor name, invoice date, invoice number and invoice amount; and
    - c. Payment date for property located on Premises.

4. Reports on Equipment Replaced or Removed -- Additionally, OWNER agrees to provide CITY, on request, information on Eligible Property for which OWNER has received tax abatement and which has been replaced or removed from the Premises. At a minimum, this information shall include:
    - a. Property description;
    - b. Asset number; and
    - c. Approximate date of disposal.
  5. Report Upon Project Completion -- Within one-hundred eighty (180) days of completion of the Eligible Property, and in no event later than June 29, 2015, OWNER shall provide CITY with a final Eligible Property Report that shall describe all Eligible Property for which the owner is granted tax abatement. The report may contemplate a reconciliation of the general ledger to the personal property rendition to satisfy this requirement.
  6. Additional Reports -- Additionally, throughout the term of this agreement, OWNER shall furnish CITY any additional records and information reasonably requested to support the reports required by this agreement.
- B. Right to Audit Books and Records - CITY shall have the right to audit the books and records related to the Eligible Property and supporting the Eligible Property reports. CITY shall notify OWNER in advance in writing of their intent to audit in order to allow OWNER adequate time to make such books and records available.
- C. Inspection - At all times throughout the term of this Agreement, CITY and the Tarrant Appraisal District (TAD) shall have reasonable access to the Premises for the purpose of inspecting the Premises to ensure that the Eligible Property is constructed, installed, maintained and operated in accordance with the terms of this Agreement. All inspections shall be conducted in a manner as to not unreasonably interfere with the installation of the Eligible Property or the operation of the Premises. The inspections shall be conducted within a reasonable time period after notice by CITY or TAD to OWNER, provided, however, that all inspections shall be made with one (1) or more representative(s) of OWNER present and in accordance with the safety standards of OWNER.

## VI. Use of Premises

The Premises at all times shall be used in a manner that is consistent with CITY's zoning ordinances and consistent with the general purpose of encouraging development within Reinvestment Zone Number Thirty-Seven.

**VII.**  
**Breach and Recapture**

- A. **Breach** - A breach of this Agreement may result in termination or modification of this Agreement and recapture by CITY of grants paid to OWNER or taxes which otherwise would have been paid since the execution of this Agreement to CITY without the benefit of the Abatement, as set forth in Sections VII(B) and VII(C). Penalty and interest on recaptured taxes will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas. Recaptured grant payments or taxes shall become due sixty (60) days following notice of breach and after the expiration of any cure period as provided in Section VII(B). The following conditions shall constitute a breach of this Agreement:
1. OWNER terminates the use of the Premises for an industrial building and related activities at any time during the duration of the Agreement; or
  2. OWNER fails to meet the Conditions and Requirements as specified in Section III above; or
  3. OWNER allows its ad valorem taxes on any property located within the City of Arlington owed to CITY to become delinquent.
- B. **Notice of Breach** - In the event that CITY makes a reasonable determination that OWNER has breached this Agreement, then CITY shall give OWNER written notice of such default. OWNER has sixty (60) days following receipt of said written notice to reasonably cure such breach, or this Agreement may be terminated by CITY, and recapture of abated taxes made may occur. Notice of default shall be in writing and shall be delivered by personal delivery or certified mail to OWNER at its address provided in Section IX of this Agreement. It shall be the duty of CITY to determine whether to require recapture and payment of abated taxes made and to demand payment of such.
- C. **Recapture** - During the term of this Agreement, should OWNER commit a breach of this Agreement according to items A(1), (2) or (3) of this Section VII, CITY may terminate this Agreement and recapture all grants paid and taxes abated under this Agreement up to the time of breach, subject to Section IV(A&B) herein.
- D. **Tax Lien Not Impaired** - It is expressly agreed and acknowledged between the parties to this Agreement that nothing in this Agreement shall be deemed or construed to affect the lien for taxes against the property established by Section 32.01 of the Tax Code of the State of Texas. Such lien shall secure the payment of all taxes, penalties and interest ultimately imposed on the property, including any taxes abated and subject to recapture under this Agreement. Any such lien

may be fully enforced pursuant to the provisions of the Code. For purposes of this Subsection, "property" refers to the Premises and Eligible Property described herein.

**VIII.**  
**Effect of Sale or Lease of Property**

The abatement granted by this Agreement shall not be assignable to any new owner of all or a portion of the Premises or Eligible Property unless such assignment is approved in writing by the CITY with approval of the City Council, which approval shall not be unreasonably withheld.

**IX.**  
**Notice**

All notices called for or required by this Agreement shall be addressed to the following, or such other party or address as either party designates in writing, by certified mail postage prepaid or by hand delivery:

OWNER: Ricos Products Company, Inc.  
Attention: Jeremy Powledge, Chief Financial Officer  
830 South Presa  
San Antonio, Texas 78210

CITY: City of Arlington  
Attention: Economic Development Manager  
Post Office Box 90231  
Arlington, Texas 76004-3231

**X.**  
**City Council Authorization**

This Agreement was authorized by resolution of the City Council authorizing the City Manager or his designee to execute this First Amended and Restated Tax Abatement and 380 Grant Agreement on behalf of the CITY.

**XI.**  
**Severability**

In the event any section, subsection, paragraph, sentence, phrase or word is held invalid, illegal or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, sentence, phrase or word.

**XII.**  
**Estoppel Certificate**

Any party hereto may request an estoppel certificate from another party hereto, so long as the certificate is requested in connection with a bona fide business purpose. The certificate, which if requested will be addressed to a subsequent purchaser or assignee of OWNER, shall include, but not necessarily be limited to statements that this Agreement is in full force and effect without default (or if default exists the nature of same), the remaining term of this Agreement, the levels and remaining term of the abatement in effect and such other matters reasonably requested by the party(ies) to receive the certificates.

**XIII.**  
**Owner's Standing**

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

**XIV.**  
**Applicable Law**

This Agreement shall be construed under the laws of the State of Texas. Venue for any action under this Agreement shall be the State's District Court of Tarrant County, Texas. This Agreement is performable in Tarrant County, Texas.

**XV.**  
**Indemnification**

**It is understood and agreed between the parties that the OWNER, in performing its obligations hereunder, is acting independently, and CITY assumes no responsibility or liability to third parties in connection therewith, and OWNER agrees to indemnify and hold harmless CITY from any such responsibility or liability. It is further understood and agreed among the parties that CITY, in performing its obligations hereunder, is acting independently, and the OWNER assumes no responsibility or liability to third parties in connection therewith, and CITY agrees to the extent allowed by law to indemnify and hold harmless OWNER from any such responsibility or liability.**

**XVI.**  
**Force Majeure**

It is expressly understood and agreed by the parties to this Agreement that the parties shall not be found in default of this Agreement if any party's failure to meet the

requirements of this Agreement is delayed by reason of war, Act of God, fire or other casualty of a similar nature.

**XVII.**  
**No Other Agreement**

This Agreement embodies all of the agreements of the parties relating to its subject matter as specifically set out herein, supersedes all prior understandings and agreements regarding such subject matter, and may be amended, modified or supplemented only by an instrument or instruments in writing executed by the parties.

**XVIII.**  
**Recordation of Agreement**

A certified copy of this Agreement in recordable form shall be recorded in the Deed Records of Tarrant County, Texas.

**XIX.**  
**Procurement of Goods and Services from Arlington Businesses and/or Historically Underutilized Businesses**

In performing this Agreement, OWNER agrees to use diligent efforts to purchase all goods and services from Arlington or Tarrant County businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons or organizations proposed for work on this Agreement, the OWNER agrees to consider this policy and to use their reasonable and best efforts to select and employ such companies and persons for work on this Agreement.

**XX.**  
**Headings**

The headings of this Agreement are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

**XXI.**  
**Successors and Assigns**

The parties to this Agreement each bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the

successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement.

No successor, executor, administrator or assign is valid in the place of the parties to this Agreement without the written consent of CITY and such consent shall not be unreasonably withheld.

**XXII.**  
**Termination**

This Agreement shall terminate, in accordance with the terms of this Agreement, unless extended by written agreement of the parties or a written instrument signed by all parties evidencing a delay by force majeure; however, in no event shall the abatement exceed 10 years.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

**RICOS PRODUCTS COMPANY, INC.**

BY \_\_\_\_\_  
Signature Jeremy Powledge  
Type or Printed Title \_\_\_\_\_  
Date 2/4/16

WITNESS:  
  
\_\_\_\_\_

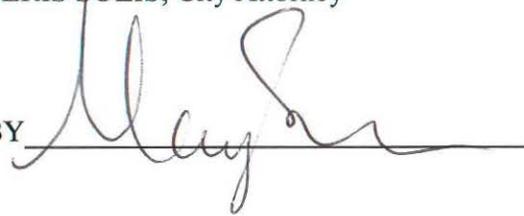
**CITY OF ARLINGTON, TEXAS**

BY J. Parajon  
JIM PARAJON  
Deputy City Manager  
Date 2/19/16

ATTEST:

  
\_\_\_\_\_  
MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
TERIS SOLIS, City Attorney

BY   
\_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF \_\_\_\_\_ §

**RICOS PRODUCTS COMPANY, INC.**  
**Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_ (*description of identity card or other document*)) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed same for and as the act and deed of **RICOS PRODUCTS COMPANY, INC.**, an entity duly authorized to do business in the State of Texas, and as the \_\_\_\_\_ thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 10 day of February, 2016.



01-22-2018  
My Commission Expires

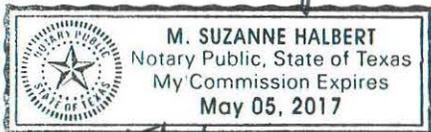
Michelle Scott Carter  
Notary Public in and for  
The State of Texas  
Michelle Scott Carter  
Notary's Printed Name

THE STATE OF TEXAS §  
§  
COUNTY OF TARRANT §

**CITY OF ARLINGTON, TEXAS**  
**Acknowledgment**

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **JIM PARAJON**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for and as the act and deed of the **CITY OF ARLINGTON, TEXAS**, a municipal corporation of Tarrant County, Texas, and as the **Deputy City Manager** thereof, and for the purposes and consideration therein expressed, and in the capacity therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 19th day of February, 2016.



05/05/17  
My Commission Expires

M. Suzanne Halbert  
Notary Public in and for  
The State of Texas  
M. SUZANNE HALBERT  
Notary's Printed Name

## **Exhibit "A"**

### **ELIGIBLE PROPERTY**

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The Pinewood building purchase includes a \$2.1M improvement investment of the existing 100,100 square foot building. The improvements include the customization of the 3,000 square foot office space, the warehouse and manufacturing area of the building. This project in the amount of \$4.6M includes the following investment:

##### **Real Property Improvements:**

- Production room with accommodations for chip and popcorn lines
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##### **Business Property Improvements:**

- Purchase of JC Ford 1,500 lb./hour chip line
- Purchase of JC Ford packaging component of chip line
- Purchase of various office equipment

## Exhibit "B"

### PROPERTY DESCRIPTION

The west ½ of Site 68, Great Southwest South, Great Southwest Industrial district, an addition to the City of Arlington, Tarrant County, Texas, according to plat recorded in Volume 388-58, Page 229, Deed Records of Tarrant County, Texas.



**Exhibit "C"**

**Ordinance 13-038  
creating  
Reinvestment Zone Thirty-Seven**

**Ordinance No. 13-038**

**An ordinance establishing Reinvestment Zone Number Thirty-Seven; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; and becoming effective upon second reading**

WHEREAS, the City Council of the City of Arlington, Texas, desires to promote the development or redevelopment of a certain area within its jurisdiction by the establishment of a Reinvestment Zone for commercial-industrial tax abatement; and

WHEREAS, on April 7, 2009, the City Council of the City of Arlington, Texas passed Resolution No. 09-079 authorizing staff, following a briefing to City Council regarding creation of the zone, to give notice required by law to call public hearings relative to creation of reinvestment zones for tax abatement; and

WHEREAS, on May 21, 2013, staff briefed City Council on the creation of Reinvestment Zone Number Thirty-Seven; and

WHEREAS, a public hearing was held at which time interested persons were entitled to speak and present evidence for or against the designation of the property described in Exhibit "A" as Reinvestment Zone Number Thirty-Seven, and notice of such public hearing was published in a newspaper of general circulation in the City of Arlington not later than the seventh day before the date of the scheduled hearing; and

WHEREAS, the City Council of the City of Arlington has established guidelines and criteria governing tax abatement agreements and has stated that the City elects to become eligible to participate in tax abatement; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That all of the recitals contained in the preambles of this ordinance are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

2.

The City Council, after conducting a public hearing and having considered all relevant evidence and testimony, has made the following findings and determinations based on such evidence and testimony:

- A. That a public hearing on the designation of Reinvestment Zone Number Thirty-Seven has been properly called, held and conducted, and that notice of such hearing was published in accordance with the law; and
- B. That the boundaries of Reinvestment Zone Number Thirty-Seven should be the proposed area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and
- C. That the improvements sought to be made in Reinvestment Zone Number Thirty-Seven are feasible and practical and would be a benefit to the land to be included in the Zone and to the City of Arlington following the expiration of an executed Tax Abatement Agreement; and
- D. That the proposed area of land to be designated Reinvestment Zone Number Thirty-Seven is reasonably likely, as a result of this designation, to contribute to the retention or expansion of primary employment or to attract major investment in the Zone that would be a benefit to the property, thereby contributing to the economic development of the City of Arlington.

3.

In accordance with State law, the City of Arlington hereby officially creates Reinvestment Zone Number Thirty-Seven for commercial-industrial tax abatement, which Zone shall hereafter encompass only that certain area of land more fully described in the property description attached hereto as Exhibit "A" and depicted on the map attached hereto as Exhibit "B"; and such Reinvestment Zone shall be officially designated as Tax Abatement Reinvestment Zone Number Thirty-Seven of the City of Arlington, Texas.

4.

The designation of Reinvestment Zone Number Thirty-Seven of the City of Arlington, Texas shall expire Five (5) years after the effective date of its designation and may be renewed.

5.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or

affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

6.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

7.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

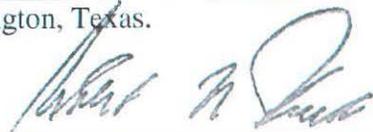
8.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

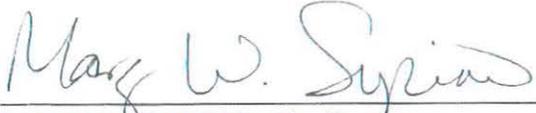
9.

This ordinance shall become effective upon second reading.

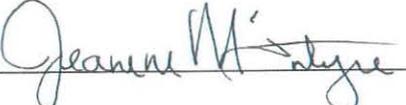
PRESENTED AND GIVEN FIRST READING on the 6th day of August, 2013, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 20th day of August, 2013, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

  
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ROBERT N. CLUCK, Mayor

ATTEST:

  
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MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:  
JAY DOEGEY, City Attorney

BY   
\_\_\_\_\_

**Exhibit "A"**

**PROPERTY DESCRIPTION**

The west ½ of Site 68, Great Southwest South, Great Southwest Industrial district, an addition to the City of Arlington, Tarrant County, Texas, according to plat recorded in Volume 388-58, Page 229, Deed Records of Tarrant County, Texas.

Exhibit "B"

MAP OF SUBJECT PROPERTY

3011 PINWOOD DRIVE, ARLINGTON, TEXAS

