

ORDINANCE NO. 15,703

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AND THE CITY CLERK TO ATTEST TO A CHAPTER 212 AGREEMENT WITH TINCI MATERIALS TEXAS LLC; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

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

Section 1: That the City Council of the City of Baytown, Texas, hereby authorizes and directs the Mayor and City Clerk of the City of Baytown to execute and attest to the Chapter 212 Agreement attached hereto, marked Exhibit "A" and incorporated herein for all intents and purposes.

Section 2: This ordinance shall take effect immediately from and after its passage by the City Council of the City of Baytown.

INTRODUCED, READ, and PASSED by the affirmative vote of the City Council of the City of Baytown, this 8th day of February, 2024.



LAURA ALVARADO, Mayor, Pro Tem

ATTEST:


ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

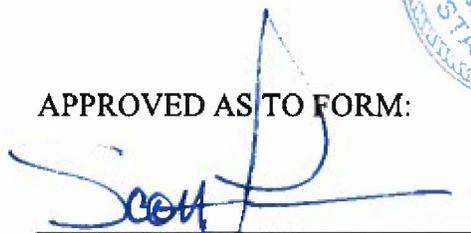

SCOTT LEMON, City Attorney

EXHIBIT "A"

**TEXAS LOCAL GOVERNMENT CODE SECTION 212.172
EXTRATERRITORIAL JURISDICTION NON-ANNEXATION AGREEMENT
BETWEEN
CITY OF BAYTOWN, TEXAS
AND
TINCI MATERIALS TEXAS LLC**

EXTRATERRITORIAL JURISDICTION NON-ANNEXATION AGREEMENT

This Extraterritorial Jurisdiction Non-Annexation Agreement (this "Agreement") is entered into by and between THE CITY OF BAYTOWN, TEXAS ("City"), and Tinci Materials Texas LLC, a limited liability company ("Company"), in accordance with Section 212.172 of the Texas Local Government Code ("Section 212.172") and is executed on the dates of execution of this Agreement as set forth immediately above the respective signatures of City and Company below, but this Agreement shall be effective at 11:59 p.m. on _____ (the "Effective Date"). City and Company are hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Company owns the parcels of land more particularly described in Exhibit A (collectively, the "Land"); and

WHEREAS, the entirety of the Land is located within the Extraterritorial Jurisdiction of City; and

WHEREAS, Company or its Affiliates may own other land now or in the future located within the Extraterritorial Jurisdiction; and

WHEREAS, City recognizes the positive economic impact that Company's activities on the Land bring to City and the Extraterritorial Jurisdiction through development and diversification of the economy, reduction of unemployment and underemployment through the creation of new jobs, and the attraction of new businesses; and

WHEREAS, Section 212.172 authorizes City to make a written contract with an owner of land that is located in City's extraterritorial jurisdiction to guarantee the continuation of the extraterritorial status of such land and its immunity from annexation by City for a period of up to forty-five (45) years, and to agree to other terms regarding payment in lieu of taxes, land usage, development, and regulation; and

WHEREAS, Company has sought certainty from City as to limited city future taxes due and future annexation of the Land and any Additional Land, and in consideration of the positive economic impact that Company's activities on the Land bring to City and the Extraterritorial Jurisdiction, City intends that the Land not be annexed during the term of this Agreement, that the extraterritorial status of the Land be continued during the term of this Agreement, and that the Land and any business, activities, facilities, improvements, operations or personnel thereon not be subject to any of City's rules, regulations, ordinances and other actions during the term of this Agreement; and

WHEREAS, in consideration of the benefits provided to Company pursuant to this Agreement, Company has agreed to make payments to City as more fully provided herein.

NOW, THEREFORE, in consideration of the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Company agree as follows:

ARTICLE I
DEFINITIONS

The recitals to this Agreement are hereby incorporated for all purposes. As used herein, the following terms shall have the following meanings:

“Act of Default” or “Default” means a failure to timely, fully, and completely comply in any material respect with one or more requirements, obligations, performance criteria, duties, terms, conditions or warranties in this Agreement.

“Affiliate” of any specified person or entity means any other person or entity which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under direct or indirect common control with such specified person or entity. For purposes of this definition “control” when used with respect to any person or entity means the right to direct the management or operations of such Person or entity, directly or indirectly, whether through the ownership (directly or indirectly) of securities, by contract or otherwise, and the terms “controlled” and “under direct or indirect common control with” have meanings correlative to the foregoing.

“Agreement” has the meaning assigned to such term in in the Preamble of this Agreement.

“Annual Payment Amount” means for each of the Tax Years of the Term of this Agreement beginning in 2027, a reduced property tax payment owed by Company on improvements to the Covered Land to City equal to: (i) the Taxable Value for such Tax Year multiplied by (ii) the Effective Tax Rate for such Tax Year.

“Calculation Dispute” has the meaning assigned to such term in Section 5.1.

“City” has the meaning assigned to such term in in the Preamble of this Agreement.

“City’s Calculation” has the meaning assigned to such term in Section 5.1.

“City’s Recalculation” has the meaning assigned to such term in Section 5.3.

“Commencement of Construction” means, with respect to each Added Value Project, the first date on which all of the following have occurred, such date being no later than January 1, 2026: (i) Owner has received all necessary licenses, permits and clearances as, in each case, Company reasonably considers necessary so that physical construction of such Added Value Project may begin, and (ii) physical work of a significant nature has started on the construction of such Added Value Project (including, at a minimum, the installation or erection of fixed improvements to real property); provided, however, that such physical work of a significant nature shall not include any preliminary activities such as, but not limited to, pre-construction planning, engineering or design, clearing any portion of the land, dismantling and/or removing any existing facility on the land, testing or drilling to determine soil conditions, grading or excavation to change the contour of any portion of the land (as distinguished from excavation for footings and foundations), erecting fences, and construction of temporary roads to provide access to the site or used solely for employee, contractor and visitor vehicles (as distinguished from permanent roads integral to the operation or maintenance of such Added Value Project upon the completion of construction).

“Company” has the meaning assigned to such term in in the Preamble of this Agreement.

“Covered Land” means, at any time and from time to time during the Term, the Land and any Additional Land, collectively.

“Developed Property” means any land (other than any Covered Land) (i) that is located within the Extraterritorial Jurisdiction, (ii) that is owned by Company and/or any of its Affiliates, and (iii) on which Commencement of Construction of an Added Value Project has occurred.

“Effective Date” has the meaning assigned to such term in in the Preamble of this Agreement.

“Effective Tax Rate” means for the Term of this Agreement, (i) the property tax per \$100 of taxable value adopted and published by City for the time being in force for such Tax Year multiplied by (ii) the Payment Rate to the City of Baytown for such corresponding Tax Year as below:

Tax Year	Discount	Payment Rate to City of Baytown
2027 - 2029	100.00%	0%
2030	65.28%	34.72%
2031	64.79%	35.21%
2032	64.29%	35.71%
2033	63.77%	36.23%
2034 - 2036	63.24%	36.76%
2037 - 2041	48.53%	51.47%
2042 - 2046	26.47%	73.53%

“Extraterritorial Jurisdiction” means the extraterritorial jurisdiction (as defined in Chapter 42 of the Texas Local Government Code or any successor provision) of City as it exists as of the Effective Date, as the same may be expanded after the Effective Date.

“Extraterritorial Jurisdiction Services Agreement” has the meaning assigned to such term in Section 4.4.

“Final Determination” means (i) a decision, judgment, decree or other order of a court or other governmental authority (including the Harris County Appraisal Review Board or the Chambers County Appraisal Review Board, as applicable) with appropriate jurisdiction, which has become final and non-appealable; (ii) a final and binding settlement or compromise with a governmental authority (including the Harris County Appraisal District or the Chambers County Appraisal District, as applicable) with appropriate jurisdiction; or (iii) any other final disposition, including by reason of the expiration of the applicable statute(s) of limitations or by mutual agreement of the Parties.

“First Notice” has the meaning assigned to such term in Section 8.2.

“Land” has the meaning assigned to such term in the Recitals of this Agreement.

“Mortgage” has the meaning assigned to such term in Section 9.19.

“Mortgagee” has the meaning assigned to such term in Section 9.19.

“Party” and “Parties” have the respective meanings assigned to such terms in the Preamble of this Agreement.

“Pending Appeal” has the meaning assigned to such term in Section 5.3.

“Prevailing Party” has the meaning assigned to such term in Section 9.3.

“Recalculation Dispute” has the meaning assigned to such term in Section 5.3.

“Section 212.172” has the meaning assigned to such term in in the Preamble of this Agreement.

“Tax Year” has the meaning assigned to such term in Section 1.04(13) of the Texas Tax Code or any successor provision (i.e., the calendar year).

“Taxable Value” shall have the meaning assigned to such term in Section 1.04(10) of the Texas Tax Code or any successor provision, and for the avoidance of doubt, the determination of the Taxable Value of any property for purposes of this Agreement shall reflect and take into account any exemption (including the exemption for pollution control property under Section 11.31 of the Texas Tax Code or any successor provisions), special appraisal, or other property tax benefit available under applicable law; provided, however, that notwithstanding the foregoing, in no event shall any such determination reflect or otherwise take into account any exemption, abatement, limitation or other reduction in value (i) provided for in any agreement between Company and/or any of its Affiliates, on the one hand, and any Taxing Unit other than City, on the other hand, for the purpose of providing an economic development property tax incentive, including any tax abatement agreement entered into under Chapter 312 of the Texas Tax Code (or any successor provisions thereto) or any agreement entered into under Chapter 313 of the Texas Tax Code (or any successor provisions thereto), or (ii) allowed by any Taxing Unit other than City where such Taxing Unit has or had the option under Texas law to determine whether such exemption, abatement, limitation or other reduction in value would be allowed by such Taxing Unit (examples of Texas law providing a Taxing Unit with such an option include the exemption under each of Section 11.251 and Section 11.253 of the Texas Tax Code). For clarification purposes, the Taxable Value (and thus the Annual Payment based on Taxable Value) specifically excludes the Land Market Value of the Land as determined by the Chambers County Appraisal District, and such Taxable Value shall only include the Buildings and Other Improvements and Personal Property rendered by Company.

“Taxing Unit” has the meaning assigned to such term in Section 1.04(12) of the Texas Tax Code or any successor provision.

“Term” has the meaning assigned to such term in Article II.

**“ARTICLE II
TERM**

The term of this Agreement (the “Term”) will begin on the Effective Date and shall continue until and end at 11:59 p.m. on December 31, 2046, unless this Agreement is earlier terminated as provided elsewhere herein.

**ARTICLE III
INTENTIONALLY DELETED**

**ARTICLE IV
LAND ANNEXATION AND USAGE**

4.1 Immunity from Annexation. Pursuant to its authority under Section 212.172, City covenants, agrees and guarantees that, without regard to City’s right and power under existing or subsequently enacted law, and subject to Company’s compliance with the applicable terms of this Agreement, the Covered Land shall remain in the Extraterritorial Jurisdiction and shall be immune from annexation (whether partial, whole, full purpose, limited purpose or otherwise), and shall not be annexed by City or any other competent authority, during the Term.

4.2 Immunity from City Rules and Regulations. City and Company agree that during the Term, with respect to the Covered Land, any use or development thereof, and any business, activities, facilities, improvements, operations or personnel thereon, City shall not require or attempt to require compliance with, or otherwise extend or enforce or attempt to extend or enforce, any of its rules, regulations, ordinances, restrictions or authority. Without limiting the generality of the foregoing, City agrees that during the Term:

(A) it shall not regulate the use of any building or property within Covered Land for business, industrial, residential, or other purposes;

(B) it shall not extend, by ordinance or otherwise, to the Covered Land any rules or regulations:

(i) governing plats, lot size, subdivisions of land, general plans, zoning or development plats,

(ii) with respect to payment or performance bonds with regard to construction of improvements,

(iii) prescribing or imposing any building, electrical, plumbing, inspection code or similar or related code or codes, permits, standards or equipment requirements with respect to the Covered Land, or any facilities, improvements or operations thereon,

(iv) requiring Company or any of its Affiliates to either dedicate land for park purposes or contribute to a special fund to be used for neighborhood parks or any other purpose, or

(v) that seek to exercise, in any manner whatsoever, any arrangement and control over the conduct of business or construction or operation of improvements thereon;

(C) it shall not impose, or seek to collect, any fees, assessments, or penalties associated with impact fees, building permits, or park fees upon any of the Covered Land, and

(D) it shall not implement or adopt any ordinance, rule, regulation or code that has the effect of imposing upon any of Covered Land the substance of any of the provisions of Section 212.172(b)(2)–(4) of the Texas Local Government Code (or any successor provisions).

Notwithstanding the foregoing, the Parties acknowledge that an Extraterritorial Jurisdiction Services Agreement between City and Company may require Company's compliance with certain rules or regulations directly relating to City's provision of services to Company thereunder.

The Parties expressly acknowledge that the Covered Land may be subject to generally applicable regulatory oversight by federal, state, and other governmental agencies having jurisdiction, but not including City. If City has any concern regarding the application of any such regulatory oversight to any portion of the Covered Land, City shall provide at least thirty (30) days prior written notice to Company detailing City's concern prior to contacting or coordinating with any such agency regarding such regulatory concern. Notwithstanding the foregoing, or anything to the contrary in this Agreement, in no event shall failure by any Landowner to comply with federal, state or local statutes, laws, ordinances, rules or regulations applicable to any portion of the Covered Land constitute a default by Company or any of its Affiliates under this Agreement or entitle City to exercise any remedies under this Agreement with respect to such failure.

4.3 Survival of Immunity. The immunities contained in Section 4.1 and Section 4.2 are a contractual obligation authorized by Section 212.172 and shall be effective during the Term notwithstanding any changes to regulatory controls applicable to the Extraterritorial Jurisdiction which may be authorized in the future by state law.

4.4 City Services. During the Term, City shall have no obligation to extend to the Covered Land or any improvements or operations thereon, any utility, fire protection, or other City services, except for services that are being provided to Company on the date hereof, or as City and Company shall otherwise agree (any such agreement, and any amendment or successor agreement thereto, an "Extraterritorial Jurisdiction Services Agreement").

4.5 Reserved

4.6 Reserved

4.7 Certain Covenants of City. As a material and fundamental inducement to Company to execute and enter into this Agreement and agree to pay the Annual Payment Amounts, City covenants and agrees with and for the benefit of Company as follows:

(A) (1) City agrees that it shall not, at any time on or after the Effective Date and through the expiration of the Term, voluntarily, involuntarily, or otherwise, transfer, release, swap, or reduce any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this

Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction, whether pursuant to Chapter 42 of the Texas Local Government Code or otherwise, and shall not, at any time on or after the Effective Date and through the expiration of the Term, voluntarily, involuntarily, or otherwise, enter into an agreement with any municipality or any third party resulting in the transfer, release, swap, or reduction of any of the Extraterritorial Jurisdiction. Without limiting the generality of the foregoing, if (i) any attempt is made by another municipality to annex any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction, (ii) any attempt is made by another municipality to include within the extraterritorial jurisdiction of such municipality any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction, or (iii) any incorporation of any new municipality should attempt to include within the boundaries or extraterritorial jurisdiction of such municipality any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction, City, in collaboration with Company, shall promptly and jointly seek a temporary and permanent injunction against such annexation, inclusion or incorporation, and City and Company shall take any other legal action necessary or advisable under the circumstances to prevent such annexation, inclusion or incorporation. The cost of the legal action shall be borne equally by City and Company; provided, however, that the fees of any special legal counsel shall be paid by the Party retaining same.

(2) Notwithstanding the foregoing, if City is required by law to transfer, release, swap, or reduce any of the Extraterritorial Jurisdiction with the effect of removing from the Extraterritorial Jurisdiction any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction, Company and the owner of such portion may initiate a voluntary petition to City to include such portion within City's Extraterritorial Jurisdiction, and City shall consent to such voluntary petition to the fullest extent permitted by law.

(3) Should, for any reason, any such portion be prevented from being included within City's Extraterritorial Jurisdiction, then (i) City shall immediately release Company and the owner of the applicable transferred, released, swapped, or reduced land from any further obligation to make payment of the Annual Payment Amount under this Agreement with respect to the transferred, released, swapped, or reduced land, and (ii) Company and such owner's remedy shall be to exercise its remedies under Section 4.7(C) of this Agreement with respect to the applicable transferred, released, swapped, or reduced land; and this Agreement shall not be terminated.

(B) City shall not adopt, implement, or impose any fees, charges, or taxes of any kind (including any interest, penalties, fines, or additional amounts in respect thereof) applicable to any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time,

within the Extraterritorial Jurisdiction. However, if City adopts, implements, or imposes any fees, charges, or taxes of any kind (including any interest, penalties, fines, or additional amounts in respect thereof) applicable to all land within its Extraterritorial Jurisdiction (including the Covered Land and any and all other tracts or parcels of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction), Company and/or one or more of its Affiliates, as applicable, shall be entitled to offset an amount equal to such fees, charges, and/or taxes (including any interest, penalties, fines, or additional amounts in respect thereof) against its Annual Payment Amount. Such offset shall be applied to the Annual Payment Amount for the duration of the requirement to pay the fee, charge, or tax.

(C) If the agreements of City in Section 4.7(A) or Section 4.7(B) are unlawful or unenforceable for any reason and either (1) City transfers, releases, swaps, or reduces any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction and as a result thereof, directly or indirectly, any fees, charges or taxes (including any interest, penalties, fines, or additional amounts in respect thereof) are imposed upon any portion of any of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction, or (2) City adopts or implements any fees, charges or taxes (including any interest, penalties, fines, or additional amounts in respect thereof) with regard to any portion of the Covered Land or any other tract or parcel of land acquired or owned by Company or any of its Affiliates that is not then subject to this Agreement and is, at the applicable time, within the Extraterritorial Jurisdiction, then, in either case (and without limitation of the rights and remedies available pursuant to Section 8.1 below), Company and/or one or more of its Affiliates, as applicable, affected thereby, shall have the right to offset the amount of such fees, charges and taxes (including any interest, penalties, fines, or additional amounts in respect thereof) paid by Company and/or one or more of its Affiliates, as applicable, against payments of the Annual Payment Amount due from Company and/or one or more of its Affiliates, as applicable, (and thereafter becoming due) until such Company and/or one or more of its Affiliates, as applicable, has recouped the amount of such fees, charges and taxes (including any interest, penalties, fines, or additional amounts in respect thereof) through such offset.

ARTICLE V **PAYMENTS**

5.1 Annual Calculation Statements; Disputes. On or before December 1st of each of the Tax Years 2027 through and including 2046, City shall deliver to Company a written statement setting forth the calculation of the Annual Payment Amount due from Company for such Tax Year (the "City's Calculation"). For each of such Tax Years, Company shall have forty-five (45) days after receipt of the City's Calculation to dispute the City's Calculation by providing written notice to City (a "Calculation Dispute"). Company's notice of a Calculation Dispute shall contain the reason for the dispute and a calculation of Company's determination of the Annual Payment Amount for such Tax Year. City and Company shall meet in person within fifteen (15) days after receipt by City of such notice of a Calculation Dispute to attempt to resolve any disparities. If Company does not provide notice of a Calculation Dispute within forty-five (45) days following receipt of the City's Calculation, the City's Calculation shall be deemed approved and binding

upon City and Company, in the absence of manifest error. During the Term of this Agreement, City agrees that Company shall owe no other property tax payment on the Covered Land or property improvements on the Covered Land to City other than the Annual Payment Amount, which constitutes Company's entire tax obligations owed to City.

5.2 Payment by Company. Subject to the provisions of Section 5.3, with respect to each of the Tax Years 2027 through and including 2046, Company shall remit to City the Annual Payment Amount, as defined above, due with respect to such Tax Year on or before the later of (i) the January 31 immediately following the end of such Tax Year, (ii) sixty (60) days after City delivers to the Owner the City's Calculation with respect to such Tax Year, and (iii) in the case of a Calculation Dispute, fifteen (15) days after such Calculation Dispute is resolved.

5.3 Effect of Appeal or Other Adjustment on Annual Payment Amount. If at the time City prepares the City's Calculation for any of the Tax Years 2027 through and including 2046 there are any administrative or judicial protests, appeals, or other proceedings pending with respect to all or any portion of the Added Value for such Tax Year or with respect to any aspect of the determination of the Effective Tax Rate (a "Pending Appeal"), City shall prepare the City's Calculation with respect to such Tax Year, and any Calculation Dispute with respect thereto shall be resolved, on the basis of the Added Value for such Tax Year as most recently certified by the Harris County Appraisal District and/or the Chambers County Appraisal District, as applicable, and the property tax rate per \$100 of taxable value adopted by City (any Annual Payment Amount so calculated and resolved for such Tax Year in the case of any Pending Appeal is referred to herein as the "Preliminary Annual Payment Amount"). Upon the occurrence of a Final Determination of any such Pending Appeal, City shall promptly recalculate the amount of the Annual Payment Amount due from Company for such Tax Year to reflect any change in such certified Added Value or such property tax rate per \$100 of taxable value adopted by City, as the case may be, resulting from such Final Determination and shall deliver to Company a written statement setting forth such recalculation and the amount, if any, by which the Annual Payment Amount so recalculated exceeds the Preliminary Annual Payment Amount (as appropriately adjusted, if applicable, to reflect any previous payment(s) resulting from any previous recalculation(s) of the Annual Payment Amount under this Section 5.3), or the Preliminary Annual Payment Amount (as so adjusted, if applicable) exceeds the Annual Payment Amount so recalculated, as the case may be (the "City's Recalculation"). Company shall have forty-five (45) days after receipt of the City's Recalculation to dispute the City's Recalculation by providing written notice to City (a "Recalculation Dispute"). Company's notice of a Recalculation Dispute must contain the reason for the dispute and a calculation of Company's determination of the Annual Payment Amount for such Tax Year. City and Company shall meet in person within fifteen (15) days after receipt by City of such notice of a Recalculation Dispute to attempt to resolve any disparities. If Company does not provide notice of a Recalculation Dispute within forty-five (45) days following receipt of the City's Recalculation, the City's Recalculation shall be deemed approved and binding upon City and Company, in the absence of manifest error. If:

- (i) the Annual Payment Amount so recalculated (and, if applicable, resolved) exceeds the Preliminary Annual Payment Amount (as so adjusted, if applicable), then Company shall pay the amount of such excess, without interest or penalty, to City on or before the later of (i) sixty (60) days after City delivers to Company the City's

Recalculation with respect to such Tax Year, and (ii) in the case of a Recalculation Dispute, fifteen (15) days after such Recalculation Dispute is resolved; and

(ii) the Preliminary Annual Payment Amount (as so adjusted, if applicable) exceeds the Annual Payment Amount so recalculated (and, if applicable, resolved), then City shall pay the amount of such excess, without interest or penalty, to Company on or before the later of (i) sixty (60) days after City delivers to Company the City's Recalculation with respect to such Tax Year, and (ii) in the case of a Recalculation Dispute, fifteen (15) days after such Recalculation Dispute is resolved.

ARTICLE VI
INTENTIONALLY DELETED

ARTICLE VII
REPRESENTATIONS

7.1 Representations of City. City hereby represents and warrants to Company that as of the Effective Date:

(A) City is a duly created and existing municipal corporation and home rule municipality of the State of Texas under the laws of the State of Texas and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement.

(B) City has the power, authority and legal right under the laws of the State of Texas to enter into and perform this Agreement and the execution, delivery and performance hereof (i) will not, to the best of its knowledge, violate any applicable judgment, order, law or regulation, and (ii) do not constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon any assets of City under, any agreement or instrument to which City is a party or by which City or its assets may be bound or affected.

(C) This Agreement has been duly authorized, executed and delivered by City and constitutes a legal, valid and binding obligation of City, enforceable in accordance with its terms except to the extent that such enforceability may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws of general application in effect from time to time relating to or affecting the enforcement of creditors' rights.

(D) The execution, delivery and performance of this Agreement by City do not require the consent or approval of any person that has not been obtained.

7.2 Representations of Company. Company hereby represents and warrants to City that as of the Effective Date:

(A) Company is duly organized and existing and in good standing as a limited liability company under the laws of the State of Texas and is in good standing in the State of Texas. Company is registered with the Texas Secretary of State and authorized to transact business in the State of Texas.

(B) Company has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof (i) will not, to the best of its knowledge, violate any applicable judgment, order, law or regulation applicable to Company, and (ii) do not constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon any assets of Company under, any agreement or instrument to which Company is a party or by which Company or its assets may be bound or affected.

(C) This Agreement has been duly authorized, executed and delivered by Company and constitutes a legal, valid and binding obligation of Company, enforceable in accordance with its terms except to the extent that such enforceability may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws of general application in effect from time to time relating to or affecting the enforcement of creditors' rights.

(D) The execution, delivery and performance of this Agreement by Company do not require the consent or approval of any person that has not been obtained.

ARTICLE VIII

DEFAULT

8.1 City Default. Upon the occurrence of an Act of Default by City under this Agreement or any other agreement agreed by the Parties from time to time (including City's breach or attempted breach of its covenants and agreements contained in ARTIVLE IV), Company and its Affiliates affected by such Default shall be entitled to the rights and remedies set forth in this Agreement. For the avoidance of doubt, City shall be responsible for all Company's rights under this Agreement, without prejudice to the rights allowable under the law, ((i) for a period of thirty (30) days following written notice of such failure or default describing in reasonable detail the particulars relating thereto ("Company's Notice") from Company to City; (ii) then Company shall have the right to institute suit for and collect and requirement to enforce a judgement against City for such right covenant by City and (iii) Company shall be entitled to suspend pay any Annual Payment Amount until City Default be remedied.

8.2 Company Default. In the event Company fails to pay to City by the date prescribed by Section 5.2 the full Annual Payment Amount owed to City, or fails to perform in any material respect any other covenant or agreement in this Agreement, and such failure continues (i) for a period of thirty (30) days following written notice of such failure describing in reasonable detail the particulars relating thereto ("Notice") from City to Company; (ii) such failure or default without reason, then City shall have the right to institute suit for and collect and enforce a judgement against Company for such payment and City shall have the option to terminate this

Agreement. Should this Agreement be terminated as provided in this Section 8.2, City may, to the extent permissible under then-current state law, impose and/or designate the Covered Land as to which this Agreement has been terminated as an industrial district, and may pursue annexation of such Covered Land to the fullest extent permissible under then-current state law.

ARTICLE IX

MISCELLANEOUS PROVISIONS

9.1 No Personal Liability. To the maximum extent permitted under the laws of the State of Texas, no director, officer, employee or agent of City or Company or any of its Affiliates shall be personally responsible for, or have any liability arising under or growing out of, this Agreement.

9.2 Binding Effect; Assignment. This Agreement will be binding on and inure to the benefit of the Parties and their respective successors and assigns and shall be deemed covenants running with the Covered Land and inure to the benefit of each successor in title to Company or any of its Affiliates to any part of the Covered Land (including any Mortgagee that may acquire title to any part thereof by reason of foreclosure of the Mortgage held by it or acceptance of a deed in lieu of foreclosure); provided, however, that, as aforesaid in Section 4.5, the right to add land as Additional Land (and to receive a Property Supplement) is personal to Company and its Affiliates. Nothing in this Agreement shall prohibit Company (or, as applicable, any of Company's Affiliates), from selling, transferring, conveying, exchanging or otherwise disposing or divesting all or any portion of any of the Covered Land to another person or entity (including any of Company's Affiliates); and following any such sale, transfer, conveyance, exchange or other disposition or divestiture this Agreement shall continue to be applicable to such portion of the Covered Land; provided, however, that Company shall remain liable and responsible for payment of all Annual Payment Amounts owed to City under this Agreement and for compliance with and performance of all of Company's covenants and agreements contained in this Agreement prior to the occurrence of the aforementioned sale, transfer, conveyance, exchange or other disposition or divestiture. As a matter which does not concern City, Company and any such person or entity may agree between or among themselves as to who shall be liable and responsible for payment of all or any portion of the Annual Payment Amounts owed to City under this Agreement and for compliance with and performance of all or any portion of Company's covenants and agreements contained in this Agreement.

9.3 Attorneys' Fees. If any legal action or proceeding is commenced between City and Company based on this Agreement, the Prevailing Party in the legal action will be entitled to recover its reasonable attorneys' fees and expenses incurred by reason of such action, to the extent allowed by law. The term "Prevailing Party" is defined to mean the Party who obtains a determination of wrongful conduct by the other Party, whether or not that Party obtains monetary, declaratory, injunctive, equitable or nominal relief.

9.4 Notice. All notices, consents, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) upon actual receipt or refusal of delivery or (b) if earlier, and whether or not actually received, (i) one (1) business day after deposit with a recognized overnight delivery service (such as DHL, Federal Express or UPS) for next business day delivery, properly addressed to the intended recipient, with delivery charges prepaid by, or billed to, the sender, or (ii) three (3) business days after deposit with the United States mail,

registered or certified mail, return receipt requested, postage prepaid, properly addressed to the intended recipient. Notwithstanding the foregoing, City and Company may from time to time agree upon other means of notice, as between City and Company. The initial notice addresses for the Parties are as follows:

City:

City of Baytown
Attention: City Manager
P.O. Box 424
Baytown, Texas 77522

Copy to:

City of Baytown
Attention: City Attorney
P.O. Box 424
Baytown, Texas 77522

Company:

Tinci Materials Texas LLC

Copy to:

Pagel, Davis & Hill, P.C.
Attention: Corbett Daniel Parker
1415 Louisiana Street – 22nd Floor
Houston, Texas 77002

Each Party may change its address for receipt of notices from time to time by at least ten (10) days prior written notice of such change to the other Party in accordance with this Section 9.4.

9.5 RESERVED.

9.6 Governing Law, Venue, and Waiver of Jury Trial. This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without regard to any of its conflicts of law principles. **EACH PARTY AGREES THAT ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATED IN ANY WAY TO THIS AGREEMENT SHALL BE BROUGHT SOLELY IN ANY STATE OR FEDERAL COURT SITTING IN THE CITY OF HOUSTON, TEXAS. EACH OF THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY CONSENTS TO THE JURISDICTION OF ANY SUCH COURT. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHTS THAT SUCH PARTY HERETO MAY HAVE TO ANY TRIAL BY JURY ON ANY ISSUE ARISING OUT OF ANY LITIGATION OR DISPUTES UNDER THIS AGREEMENT, SUCH PARTY INTENDING TO WAIVE AND FOREVER**

RELINQUISH ANY RIGHT UNDER APPLICABLE LAW PROVIDING FOR A RIGHT OF TRIAL BY JURY.

9.7 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected and it is also the intention of the Parties that, in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

9.8 No Third Party Beneficiaries. This Agreement is for the sole benefit of the Parties, their affiliates (including Company's Affiliates), and their respective successors and permitted assigns, and shall not inure to the benefit of any other person whomsoever (other than successors in title to any of the land within the Covered Land and affiliates of each Party (including Company's Affiliates) and their respective successors), it being the intention of the Parties that no third person (other than successors in title to any of the land within the (including Company's Affiliates) and the affiliates of each Party (including Company's Affiliates) and their respective successors) shall be deemed a third party beneficiary of this Agreement.

9.9 Relationship of the Parties. This Agreement shall not be construed or held to make the Parties partners in the conduct of any business or be deemed as establishing or creating any partnership or joint venture, joint enterprise, express or implied agency, or employer/employee relationship between the Parties.

9.10 Entire Agreement. This Agreement embodies the complete and final agreement of the Parties with respect to the subject matter of this Agreement and supersedes all oral or written, previous or contemporary, agreements between the Parties relating to matters in this Agreement. There are no unwritten oral agreements between the Parties with regard to the subject matter hereof.

9.11 Amendments; Waivers. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties. Waiver of any term, condition or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition or provision, or a waiver of any other term, condition or provision of this Agreement. No course of dealing on the part of the Parties, nor any failure or delay by any Party with respect to exercising any right, power or privilege of such Party under this Agreement shall operate as a waiver thereof.

9.12 Construction. The language in all parts of this Agreement shall in all cases be construed according to its fair meaning and shall not be strictly construed for or against any Party. The headings contained in this Agreement are for reference purposes only, are not to be considered a part hereof, and shall not affect in any way the meaning or interpretation of this Agreement. Unless the context otherwise requires: (i) the word "including" shall mean "including, but not limited to," and (ii) words used in the singular shall also denote the plural, and words used in the plural shall also denote the singular.

9.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together, shall constitute but one and the same instrument, and this Agreement shall become effective on the Effective Date when one or more counterparts have been signed by each of the Parties and delivered to the other Party.

9.14 Execution and Delivery. A copy of this Agreement that is signed and transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

9.15 Limitation on Certain Damages. Notwithstanding anything to the contrary in this Agreement, neither Party nor its affiliates (including Company's Affiliates) shall be liable under this Agreement to the other Party or its affiliates (including Company's Affiliates) for any special, punitive, indirect, consequential, exemplary, remote, speculative or similar damages, loss of value, loss of production, loss of financial advantage, loss of profit, or business interruptions, in each case, resulting from or arising out of this Agreement, however the same may be caused, whether or not advised of the possibility of same, and whether or not same are reasonably foreseeable.

9.16 Interpretation. Each of the Parties has been represented by counsel of its choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against either Party based on draftsmanship.

9.17 Subsequent Change. No subsequent change in the law regarding annexation or regulation by municipalities in the State of Texas shall affect the enforceability of any provisions of this Agreement, including the immunity from annexation of any of the Covered Land for the duration of the Term pursuant to the terms of this Agreement.

9.18 Additional Actions. The Parties each agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

9.19 Mortgagee Protection. Upon receipt by City of a written notice from Company that identifies one or more tracts or parcels of land within the Covered Land and sets forth the name and address of each holder (each a "Mortgagee") of a deed of trust lien or mortgage (each a "Mortgage") against such tract(s) or parcel(s) so identified and until such time as City is advised otherwise in writing by such Mortgagee that it no longer has or holds a Mortgage (or City is provided reasonable evidence that such Mortgagee no longer holds a Mortgage), any notice of default or breach hereof provided by City to Company shall also be provided to such Mortgagee. Further, City agrees to accept a cure of any such default by such Mortgagee and the cure thereof by such Mortgagee shall be with the same force and effect as if cured by Company.

9.20 Estoppels. Upon request of Company (or at the request of any Mortgagee), City shall provide to Company (or such Mortgagee or a prospective purchaser or successor in title), without charge and within thirty (30) days following such request, an estoppel certificate certifying to the

requestor (and any other parties requested by such requestor) that this Agreement is in full force and effect, and that Company is not in default under this Agreement, nor has any event occurred, with the passage of time would ripen into a default, (or stating such default(s), if any, that are claimed) by City, and setting forth such other factual information with regard to this Agreement as may reasonably be requested and is true and correct. Upon request by City to Company, Company shall provide to City, without charge and within thirty (30) days following such request, an estoppel certificate certifying to City (and any other parties City may designate) that this Agreement is in full force and effect, and that City is not in default under this Agreement, nor has any event occurred, with the passage of time would ripen into a default, (or stating such default(s), if any, that are claimed) by Company, and setting forth such other factual information with regard to this Agreement as may reasonably be requested and is true and correct.

9.21 Required Recordation. City will (i) file a copy of this Agreement in the real property records of Harris County, Texas, in compliance with Section 212.172(c)(4) of the Texas Local Government Code, and (ii) provide a copy of such recorded copy of this Agreement to Company.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

[SIGNATURE PAGES FOLLOW]

EXECUTED on February 8th, 2024, to be effective as of the Effective Date.

CITY OF BAYTOWN, TEXAS

By: *Laura Alvarado*
Name: Laura Alvarado
Title: Mayor Pro-Tem

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Laura Alvarado, Mayor Pro-Tem of the City of Baytown, Texas, known to me to be the person whose name is ascribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of the City of Baytown, Texas, for the purposes and considerations therein expressed, and the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 8th DAY OF February, 2024.

Angela Jackson
NOTARY PUBLIC FOR THE STATE OF TEXAS
Printed Name: Angela Jackson
My Commission Expires: June 12, 2024



EXECUTED on Feb. 6th 2024, to be effective as of the Effective Date.

TINCI MATERIALS TEXAS LLC

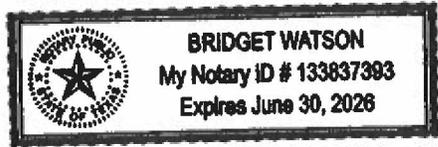
By: Haowen Chen
Name: ~~Yubin Xiao~~ Haowen Chen
Title: ~~General Manager~~ Head of Operation

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF Harris §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Haowen Chen, Head of Operation of Tinci Materials Texas LLC, known to me to be the person whose name is ascribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of Exxon Mobil Corporation for the purposes and considerations therein expressed, and the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 6th DAY OF Feb., 2024.



Bridget Watson
NOTARY PUBLIC FOR THE STATE OF TEXAS
Printed Name: Bridget Watson
My Commission Expires: June 30, 2026

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

A tract or parcel of land containing 95.388 acres, more or less, located in the John Ijams Survey, Abstract No. 15, CHAMBERS County, Texas, being a portion of the called 6555 acre tract of land described as "Tract 7" conveyed unto TGS Cedar Port Partners, L.P., by deed recorded in [Volume 1535, Page 85](#) of the Official Public Records of CHAMBERS County, Texas, said 95.388 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8-inch iron rod with cap found at the southeast corner of the called 47.212 acre tract conveyed unto CRP/DSP Cedar Port Terminal Owner, L.P., as recorded under Clerk's File No. 2022-183657 of the Official Public Records of Chambers County, Texas, located in the west line of the 100-foot wide Utility Corridor conveyed unto Chambers County Improvement District No. 1, as recorded under Clerk's File No. 2022-185793 of the Official Public Records of Chambers County, Texas, said 5/8-inch iron rod with cap marking the northeast corner of the herein described 95.388 acre tract, having a grid coordinate value of N=13,822,582.25 and E=3,269,323.18;

THENCE South 00 degrees 01 minutes 26 seconds West, along a line 100.00 feet west of and parallel with an interior line of said Tract 7, for a distance of 1,690.93 feet to a point for the southeast corner of the herein described 95.388 acre tract;

THENCE North 90 degrees 00 minutes 00 seconds West, for a distance of 2,515.87 feet, to a point for the southwest corner of the herein described 95.388 tract;

THENCE North 00 degrees 00 minutes 13 seconds East, for a distance of 759.83 feet, to a point for an angle corner in the south line of the 2.042 acre, Sales Tract "7B" Access Drive "3", conveyed unto Chambers County Improvement District No. 1, as recorded under Clerk's File No. 2022-183838 of the Official Public Records of Chambers County, Texas, and being an exterior corner of the herein described 95.388 acre tract;

THENCE South 90 degrees 00 minutes 00 seconds East, with the south line of said Sales Tract "7B" Access Drive "3", for a distance of 120.00 feet, to a point for the southeast corner of said Sales Tract "7B" Access Drive "3" and an interior corner of the herein described 95.388 acre tract;

THENCE North 00 degrees 00 minutes 00 seconds East, with the east line of said Sales Tract "7B" Access Drive "3", for a distance of 140.00 feet, to a point for the northeast corner of said Sales Tract "7B" Access Drive "3" and an interior corner of the herein described 95.388 acre tract;

THENCE North 90 degrees 00 minutes 00 seconds West, with the north line of said Sales Tract "7B" Access Drive "3", for a distance of 120.05 feet, to a point for an angle corner in the north line of said Sales Tract "7B" Access Drive "3" and an exterior corner of the herein described 95.388 acre tract;

THENCE North 00 degrees 00 minutes 15 seconds East, for a distance of 663.02 feet, to a point for an angle corner in the south line of the 1.916 acre Sales Tract "7B" Access Drive "2", conveyed unto Chambers County Improvement District No. 1, as recorded under Clerk's File No. 2022-183838 of the Official Public Records of Chambers County, Texas, and being the westerly northwest corner of the herein described 95.388 acre tract;

THENCE South 90 degrees 00 minutes 00 seconds East, with said south line of Sales Tract "7B" Access Drive "2", for a distance of 120.00 feet, to a point for the southeast corner of said Sales Tract "7B" Access Drive "2" and an interior corner of the herein described 95.388 acre tract;

THENCE North 00 degrees 00 minutes 00 seconds East, with the east line of said Sales Tract "7B"

Access Drive "2", for a distance of 71.79 feet, to a point for the southerly southwest corner of said 47.212 acre tract and the northerly northwest corner of the herein described 95.388 acre tract;

THENCE North 88 degrees 39 minutes 16 seconds East, with the south line of said 47.212 acre tract, for a distance of 2,397.19 feet, to the POINT OF BEGINNING of the herein described tract, containing 95.388 acres (or 4,155,080 square feet) of land, more or less.

NOTE: All bearings and coordinates are based on the Texas State Plane Coordinate System, North American Datum of 1983, South Central Zone (4204). Distances shown have surface values (U.S. Survey Feet) and acreage shown was calculated using surface values.

NOTE: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the above legal description of the area or quantity of land is not a representation that such area or quantity is correct, but is made only for informational and/or identification purposes and does not override Item 2 of Schedule B hereof.

