

AGENDA ITEM 47**Discuss and take appropriate action regarding tax abatement for Harimasa, L.L.C.**

John Nelson, the Director of the Taylor Economic Development Corporation, and Frank Salvato, the City Manager of the City of Taylor, addressed the court regarding Harimasa, L.L.C in Taylor. Harimasa, L.L.C. will be a new company in Williamson County. This investment will cost \$10,000,000.00, and create approximately 85 jobs.

Moved: **Commissioner Limmer**

Seconded: **Commissioner Hays**

Motion: To approve tax abatement for Harimasa, L.L.C.

Vote: **5 - 0**

< Attachment >

THE STATE OF TEXAS

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COUNTY OF WILLIAMSON

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TAX ABATEMENT AGREEMENT

This Tax Abatement Agreement ("Agreement") is entered into by and between WILLIAMSON COUNTY, TEXAS, (the "County") duly acting herein by and through its County Judge, and Harimasa, L.L.C. ("Harimasa") a Texas Limited Liability Company, hereinafter referred to as "Owner".

RECITALS

WHEREAS, the City of Taylor, Texas, (the "City") has adopted a Resolution granting Owner a tax abatement pursuant to Chapter 312 of the Texas Tax Code; and

WHEREAS, the contemplated use of the Premises (as hereinafter defined) and Improvements (as hereinafter defined) as well as the terms of this Agreement are consistent with encouraging development in the County in compliance with the requirements of Chapter 312 of the Texas Tax Code; and

WHEREAS, the Improvements constitute a major investment that will substantially increase the appraised value of property within the City and the County and will contribute to the retention or expansion of primary and secondary employment within the County; and

WHEREAS, the County finds that there will be no substantial adverse effects on the provision of governmental services or on their tax basis and that the planned use of the Premises will not constitute a hazard to public safety, health, or welfare;

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. Property subject to Agreement. The property to be the subject of this Agreement shall be that property which is more fully described in Exhibit "A" which is made a part hereof and shall be hereinafter referred to as the "Premises".

2. "Construction of Improvements. This tax abatement is expressly contingent upon the Owner improving the Premises by constructing a building and equipping the building with personal property it deems necessary to operate the building, with total expenditures for building and equipment expected to be at least \$10,000,000.00, and to be substantially complete by January 1, 2005. Owner shall have an additional amount of time to complete construction in the event that any completion obligations are impeded by any "force majeure". For this purpose, "force majeure" shall mean any act of God, civil commotion, governmental or de facto governmental action, fire, explosion, or strike unless caused by acts or omissions of the Owner or any affiliate thereof. "Force majeure" shall also include any delay in equipping the building with any personal property to the extent that the personal property consists of Specialized Equipment, and to the extent that such delay is not caused by acts or omissions of the Owner. "Specialized Equipment" refers to unique and specially manufactured tangible personal property that is purchased by the Owner from an unrelated party for installation and operation on the Property.

3. Completion of Improvements. The Owner agrees and covenants that it will diligently and faithfully in a good and workmanlike manner pursue the completion of the Improvements as a good and valuable consideration of this Agreement. Owner further covenants and agrees that all construction of the Improvements will be in accordance with all applicable state and local laws and regulations or valid waiver thereof. Owner shall thereafter, from the date a Certificate of Occupancy is issued until the expiration of this Agreement, continuously operate and maintain the Premises as a Harimasa facility.

4. Portion of taxes abated. Subject to the terms and conditions of this Agreement, and subject to the rights of the holders of any outstanding bonds of the County, a portion of ad valorem real property taxes from the Premises otherwise owed to the County shall be abated. County hereby acknowledges that they are not aware of any terms or conditions of any outstanding bonds which would invalidate this Agreement. The abatement shall be an amount equal to the below-stated percentages assessed upon the increased value of the Premises and Improvements over the value in the year in which this Agreement is executed, in accordance with the terms of this Agreement and all applicable state and local regulations. The percentages of abatements are as follows:

Tax Year 2005	100% abatement
Tax Year 2006	80% abatement
Tax Year 2007	60% abatement
Tax Year 2008	40% abatement
Tax Year 2009	20% abatement

These abatements shall be for five (5) tax years beginning 2005.

5. Right of inspection. The Owner further agrees that the County, its agents and employees shall have the right to enter upon the Premises at any reasonable time to inspect the Improvements in order to determine whether the construction of the Improvements is in accordance with this Agreement and all applicable Federal, state, and local laws, ordinances, and regulations or valid waiver thereof. After completion of the Improvements, the County shall have the continuing right to enter upon and inspect the Premises at any reasonable time to determine whether the Premises are thereafter maintained and operated in accordance with this Agreement and all applicable Federal, state; and local laws, ordinances, and regulation. If the County determines that a violation of a Federal, state or local law, ordinance or regulation exists on the Premises, the County may, in addition to any other authorized enforcement action, provide to the Owner a written notice of such violation. For the purposes of this Agreement, the Owner shall have ten (10) days from the date of the notice to cure or remedy such violation. If the Owner fails or refuses to cure or remedy the violation within the ten (10) days period, the Owner is subject to the forfeiture, at the discretion of the County, of any right to any tax abatement for a portion of the period or the entire period covered by this Agreement. In addition, the failure or refusal to cure or remedy the aforesaid violation shall be considered a default of this Agreement under paragraph 7.

6. Events of default. In the event that (1) the Improvements for which an abatement has been granted are not completed in accordance with this Agreement or (2) Owner allows its ad valorem taxes owed the County to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of any such ad valorem taxes; or (3) Owner breaches any of the terms or conditions of this Agreement, then this Agreement shall be in default. In the event that the Owner defaults in its performance of (1), (2), or (3) above, then the County shall give the Owner written notice of such default and if the Owner has not cured such default within thirty (30) days of said written notice, this Agreement may be terminated by the County by written notice to Owner. Such notice shall be in writing and shall be delivered by personal delivery or certified mail to:

Mr. Jaime L. Garcia
Harimasa, L.L.C.
3200 Northern Cross Blvd.
Fort Worth, Texas 76137

As liquidated damages in the event of default and in accordance with Section 312.205, Tax Code, V.A.T.S., as amended, all taxes which otherwise would have been paid to the County without the benefit of abatement (without the addition of penalty, but interest will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Tax Code) shall become a debt owned by Owner to the County and shall be due, owing and paid to the County within sixty (60) days of the expiration of the above mentioned applicable cure period. The County shall have all remedies for the collection of the recaptured tax revenue as provided generally in the Tax Code for the collection of delinquent property taxes.

7. Authorization. This Agreement was authorized by action of the County Commissioners at its regularly scheduled meeting on the 18TH day of November, 2003, authorizing the County Judge to execute the Agreement on behalf of the County.

8. Miscellaneous provisions.

a) County representations. The County represents and warrants that the Premises do not include any property that is owned by a member of their respective boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of, this Agreement.

b) Agreement binds successors. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto.

c) Assignment. This Agreement cannot be assigned by Owner unless written permission is first granted by the County, which permission shall not be unreasonably withheld. Owner may assign its rights under this Agreement to an entity which is wholly owned by Owner. No assignment shall be approved if the assignor or assignee is indebted to the County for ad valorem taxes, sales taxes or other obligations.

d) Owner acting independently. It is understood and agreed between the parties that Owner, in performing its obligations hereunder, is acting independently, and

the County assumes no responsibilities or liabilities in connection therewith to third parties

e) Owner's Indemnity. During the term of this Agreement, Owner agrees to indemnify and hold County harmless from any and all kinds of claims, losses, damages, injuries, suits, or judgments which may accrue to Owner, County, or third parties arising from Owner's breach of this Agreement.

f) Venue. This Agreement is performable in Williamson County, Texas, and venue for any suit arising hereunder shall be in Williamson County, Texas.

WILLIAMSON COUNTY, TEXAS

By: John C. Doerfler 11-18-03
JOHN C. DOERFLER
County Judge

HARIMASA, L.L.C.
a Texas Limited Liability Company

By: Jaime L. Garcia
Jaime L. Garcia
Senior Vice President and General
Manager of Leo's Foods, Inc.

Exhibit A

Land situated near FM 112 and Loop 427

The City of Taylor and/or the Taylor Economic Development Corporation (TEDC) agree to convey to Harimasa a tract of land situated near FM 112 and Loop 427, Taylor, Williamson County, Texas hereinafter the "Property". Said Property shall be approximately a 50 acre tract, less such acreage which shall be required to construct a rail spur to said property and which Harimasa will convey to the City of Taylor to satisfy the requirements of the Texas Capital Fund contract. The Property shall be out of and a part of that certain 87.797-acre tract located in the Parthinia Coursey Survey, Abstract No. 131, Williamson County, Texas, such 87.797 being more particularly described in the survey marked and attached hereto as Exhibit B. The exact location of the Property shall be agreed upon by the parties. Upon selection of the exact Property location, TEDC shall secure the survey and legal description of the Property and the parties shall thereafter sign a copy of the Property field notes and attach same hereto at Exhibit C. Said Exhibit C after being attached hereto shall be incorporated herein and become a part of this agreement.

AGENDA ITEM 48

Discuss and take appropriate action on the next phase of wetlands preliminary design for Brushy Creek Trail.

Moved: **Commissioner Heiligenstein**

Seconded: **Commissioner Hays**

Motion: To authorize the next phase of wetlands preliminary design for Brushy Creek Trail by K. Frieze & Associates.

Vote: **4 – 0.** **Commissioner Limmer** was absent from the dais.

< Attachment >