

STATE OF TEXAS §
 §
 COUNTY OF FORT BEND §

TAX ABATEMENT AGREEMENT
 by and between
FORT BEND COUNTY
 and
TYCO VALVES & CONTROLS, LP

This Tax Abatement Agreement (hereinafter, "Agreement") is executed by and between **FORT BEND COUNTY, TEXAS**, hereinafter referred to as "County," acting by and through its Commissioners Court, and **TYCO VALVES & CONTROLS, LP**, a wholly owned indirect subsidiary of Tyco International Ltd., hereinafter referred to as "Owner," of the Real Property located within the Reinvestment Zone No. 21, established by the City of Stafford, Ordinance No. 964, adopted June 1, 2011, attached hereto as Exhibit A and incorporated herein for all purposes.

1. **Authorization**

- a. This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the TEXAS TAX CODE as it exists on the effective date of this Agreement, and;
- b. The Amended Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones created by Fort Bend County, Texas, which was approved by the Fort Bend County Commissioners Court on March 1, 2011. County has determined that the request for Tax Abatement presented by Owner conforms with the criteria established in the Guidelines for Tax Abatement.
- c. No official of County has an interest in the property subject to this Agreement.

2. **Definitions:**

As used in this Agreement, the following terms shall have the meanings set forth below:

- a. The "**Certified Appraised Value or Value**" means the value certified as of January 1 of each year of this Agreement regarding the property within City of Stafford Reinvestment Zone No. 21 by the Fort Bend County Central Appraisal District.
- b. "**Improvements**" means the expansion of a 200,000 sq. ft. building, adding approximately 92,475 sq. ft. to be used as a warehouse and manufacturing/production facility, located on the Real Property, including any sidewalks, parking lots, roads, outdoor lighting, landscaping and other improvements to serve the building, all as approximately shown in Exhibit B, attached to and incorporated into this Agreement by reference.

- c. **“Real Property”** means the approximate 11.7060 acre tract of real property as described in Ordinance No. 964, which created Reinvestment Zone No. 21 located within the City of Stafford, described in Exhibit “A” attached hereto and incorporated by reference herein for all purposes.
- d. **“Abatement”** means the full or partial exemption from ad valorem taxes of certain property in City of Stafford Reinvestment Zone No. 21 designated for economic development purposes.
- e. **“Eligible Property”** means an Abatement may be extended to fixed machinery and equipment, necessary to the operation and administration of the facility. Eligible Property is subject to abatement under the same terms as Improvements only if specifically included in Paragraph 5(c).
- f. **“Ineligible Property”** means land, existing improvements, tangible personal property that the Fort Bend Central Appraisal District classifies as inventory or supplies, real property used primarily to provide retail sales or services to the public, real property used for residential purposes, tangible personal property classified as furnishings, tangible personal property located in the reinvestment zone prior to the execution date of the tax abatement agreement, real property with a productive life of less than 10 years, or any other property for which abatement is not allowed by state law.
- g. **“Owner”** means **Tyco Valves & Controls, L.P.**, the Owner of the Real Property subject to this Agreement, or other person or entity to which this Agreement is assigned, with prior written approval of the Fort Bend County Commissioners Court.
- h. **“County”** means the County of Fort Bend, Texas.
- i. **“District”** means Fort Bend Central Appraisal District.

3. **Subject Property:**

City of Stafford Reinvestment Zone No. 21 is an area located in Fort Bend County, Texas, being legally described in Exhibit “A” attached hereto and incorporated herein for all purposes. The Fort Bend Central Appraisal District has established the base-year values for the subject property as of January 1, 2011.

4. **Responsibility of Owner:**

In consideration of receiving the tax abatement granted herein, Owner represents and agrees:

- a. Construction of the Improvements shall be completed on or before December 31, 2013. Owner shall provide Tax Assessor/Collector a certified statement

evidencing a minimum of \$14,000,000 in project costs with respect to the design and construction of the Improvements and Eligible Property within sixty (60) days after their completion.

- b. The combined certified appraised value of the Improvements and Eligible Property on January 1 of each year that taxes are abated under this Agreement must have a minimum value of \$6,000,000. Failure to meet the requirements of this section will invalidate the tax abatement for the year this requirement was not satisfied.
- c. Owner has, as of the effective date of this Agreement, the financial resources to implement the above representations.
- d. Owner will participate in the continuing economic development process in Fort Bend County by becoming a Regular Member of the Greater Fort Bend Economic Development Council for a minimum period coinciding with the term of this Agreement. The fees for Owner's Regular Membership are currently and shall remain \$2,000 per annum for the duration of this Agreement.
- e. **OWNER SHALL BE RESPONSIBLE FOR NOTIFYING THE DISTRICT OF THE ABATEMENT, INCLUDING FILING WITH THE DISTRICT ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.**
- f. **OWNER SHALL BE RESPONSIBLE FOR REQUESTING AN ASSIGNMENT OF THIS AGREEMENT IN THE EVENT THE REAL PROPERTY THE SUBJECT OF THIS AGREEMENT IS SOLD OR ASSIGNED. FAILURE OF OWNER TO NOTIFY THE TAX ASSESSOR-COLLECTOR OF ANY SALE OF THE REAL PROPERTY THE SUBJECT OF THIS AGREEMENT SHALL RESULT IN DEFAULT OF THIS AGREEMENT.**

5. **Value and Term of Abatement:**

- a. This Agreement shall be effective on the date executed by County or Owner, whichever is later and shall terminate (unless earlier terminated in accordance with the terms hereof) on December 31, 2023. In no event shall this agreement extend beyond December 31, 2023. This Agreement shall terminate upon the completion of the abatements, unless earlier

terminated as provided elsewhere herein. Owner's obligation upon default to pay to County any taxes abated under this Agreement shall not terminate until the abated taxes are paid.

b. In each year this Agreement is in effect, the amount of abatement shall be an amount equal to the percentage indicated below of the taxes assessed upon the Improvements and Eligible Property as defined in Section 2(e).

c. Subject to the limitations imposed by law and conditioned upon the representations outlined in Section 4 herein above, there shall be granted and allowed hereunder a property tax abatement for the following years and in the following amounts on the Value of Improvements and Eligible Property:

<u>Tax Year</u>	<u>Percentage Abatement</u>
2014	75%
2015	75%
2016	75%
2017	75%
2018	75%
2019	75%
2020	75%
2021	75%
2022	75%
2023	75%

d. In the event Owner completes the Improvements prior to December 31, 2012 a tax abatement of seventy-five percent (75%) will commence on January 1 of the full tax year immediately following the year construction is completed and extend for ten years thereafter. Upon completion of the construction of the Improvements, Owner shall provide the form attached as Exhibit C to County with a copy of the form to the Greater Fort Bend Economic Development Council and County shall forward the completed form to the District, provided all other requirements of this Agreement have been satisfied by Owner. County hereby authorizes the Tax Assessor/Collector to complete the form attached as Exhibit C on behalf of County.

e. The abatement granted shall not apply to the value of the Real Property, increases, in the value of the Real Property, inventory or Ineligible Property as defined in Paragraph 2(f) above.

f. All Improvements shall be completed in accordance with applicable laws, ordinances, rules or regulations in effect at the time such Improvements are erected.

g. The Fort Bend Central Appraisal District's determination of values shall be used to determine the value of the property subject to this Agreement. If Owner protests the District's valuation of the property, the valuation placed on the property after the protest is resolved under state law shall be used.

h. On or before September 1 of each year of this Agreement, Owner shall certify in writing to Fort Bend County Tax Assessor/Collector that Owner is in compliance with each term of this Agreement.

6. **Taxability:**

During the period that this tax abatement is effective, taxes shall be payable as follows:

- a. The Value of Real Property, and Ineligible Property shall be fully taxable, including inventory;
- b. The Value of existing Improvements and Eligible Property shall be determined in the base year by the Fort Bend Central Appraisal District.

7. **Event of Default:**

- a. County may declare Owner in default of this Agreement if Owner: **(1)** fails to substantially comply with any obligations under the this Agreement (excluding, however, paragraphs 4(b)); **(2)** allows County ad valorem taxes on the Subject Property, or any property located thereon, to become delinquent; or **(3)** vacates any of the Improvements subject to the Agreement before the term of the Abatement without prior written approval from County.
- b. County shall notify Owner of any default in writing specifying the default. The Owner shall have thirty (30) days from the date of the notice to cure any default. If Owner fails to cure the default, County may terminate this Agreement or reduce the abatement terms by written notice.
- c. If this Agreement is terminated by County due to Owner's default, Owner agrees that it is liable for and will pay to County within thirty (30) days of the termination of this Agreement:
 - i. The amount of all property taxes abated under this Agreement.
 - ii. Interest on the abated amount at the rate provided for in the TEXAS TAX CODE for delinquent taxes; and
 - iii. Penalties on the amount abated in the year of default, at the rate provided for in the TEXAS TAX CODE for delinquent taxes.

- d. County shall have a lien against Owner and the Real Property and Improvements for the taxes and interest owed because of the recapture of taxes under this paragraph during the time period beginning on the date such payment obligation accrues and continuing until the date paid.

8. **Administration and Inspection:**

- a. This Agreement shall be administered on behalf of Fort Bend County by the Fort Bend County Tax Assessor/Collector or her designee. Owner shall allow employees or other representatives of County, who have been designated by the Tax Assessor/Collector for the specific purpose of ensuring compliance with this Agreement, to have access to the Reinvestment Zone during the term of the Agreement. All inspections shall be made only after twenty-four (24) hours prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction and/or operation of the facility. A representative of Owner may accompany the inspector at Owner's sole discretion.

- b. Upon completion of the contemplated construction, County shall annually evaluate the facility to ensure compliance with the terms and provisions of this Agreement and shall report possible defaults to Owner.

- c. The Chief Appraiser of the Fort Bend County Appraisal District shall annually determine (1) the taxable value under the terms of this abatement of the Real Property, Improvements, and other property otherwise located at or about Owner's premises subject to this Agreement and (2) the full taxable value without abatement of the Real Property, Improvements, and other property otherwise located at or about Owner's premises. The Chief Appraiser shall record both abatement taxable value and full taxable value in the appraisal records. In the event termination of this Agreement results in the recapture of abated taxes, the full taxable value figure listed in the appraisal records shall be used to compute the amount of abated taxes.

- d. Owner shall furnish the Chief Appraiser annually such information requested by the Chief Appraiser and as provided for under Chapter 22 of the TEXAS TAX CODE as may be necessary for the administration of the abatement. Such information shall also be provided to County Tax Assessor/Collector in preparation of its annual evaluation for compliance with the terms and provisions of this Agreement.

9. **Assignment:**

a. This Agreement may not be assigned without prior written consent of County. No assignment shall be effective or approved if either County has declared a default hereunder which has not been cured or the new Owner/assignee is delinquent in the payment of ad valorem taxes owed to County. Approval shall not be unreasonably withheld.

b. Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of the original tax abatement agreement only.

10. **Indemnity:**

It is understood and agreed between the parties that Owner, in performing its obligations hereunder, is acting independently, and County assumes no responsibilities or liabilities in connection therewith to third parties. **OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS COUNTY AND THE CENTRAL APPRAISAL DISTRICT FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF ANY OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY AND DUTY TO DEFEND SHALL NOT APPLY TO THAT PORTION OF LIABILITIES RESULTING FROM THE INTENTIONAL CONDUCT OR NEGLIGENCE OF COUNTY OR TAXING UNITS, THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. OWNER'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEY'S FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO COUNTY'S OR TAXING UNIT'S, OR THEIR REPRESENTATIVES, INTENTIONAL CONDUCT OR NEGLIGENCE. OWNER SHALL BE RESPONSIBLE FOR ALL FEES INCURRED BY COUNTY IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION SO LONG AS DEFENSE COUNSEL AND COURSES OF ACTION ARE DETERMINED SOLELY BY OWNER. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT COUNTY FROM INCURRING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION AND OWNER SHALL NOT BE RESPONSIBLE FOR ANY SUCH COSTS AND OR FEES SO INCURRED.**

11. **Force Majeure:**

If by reason of force majeure Owner is unable to perform any obligation of this Agreement, it shall give notice of the force majeure to County in writing within ten (10) calendar days after Owner first becomes aware of the occurrence relied upon. By doing so, the obligation of Owner to the extent and for the period of time affected by the force majeure, shall be suspended. Owner shall endeavor to remove or overcome the inability with all reasonable effort. For purposes of this provision, "force majeure" shall mean acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment, or the failure of the system or water supply system; or any other cause not reasonably within the control of Owner.

12. **Commissioners Court Approval:**

This Agreement is conditioned entirely upon the approval of the Commissioners Court by the affirmative vote of a majority of the members present at a duly scheduled meeting of the Commissioner's Court.

13. **Compliance with State and Local Regulations:**

(a) This Agreement shall not be construed to alter or affect the obligations of Owner to comply with any city ordinance or federal or state law or regulation.

(b) Owner and Owner's successors, executors, administrators, assigns, branches, divisions and departments certify that they do not and will not knowingly employ any undocumented workers. Owner shall repay the total amount of the public benefit (tax abatement) received, with interest at the rate and according to the terms of this Agreement, if Owner is convicted of a violation under 8 U.S.C. Section 1324a (f). Repayment will be due no later than the 120th day after the date County notifies Owner of the violation as provided in Section 7 of this Agreement.

14. **Changes in Tax Laws:**

The tax abatement provided in this Agreement is conditioned upon and subject to any changes in the state tax laws during the term of this Agreement.

15. **Miscellaneous:**

a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.

b. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

c. The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.

d. Any amendments of this Agreement shall be of no effect unless in writing and signed by both parties hereto.

e. If there is a conflict between this Agreement and any exhibit, the provisions of this Agreement shall prevail.

16. **Notices:**

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to Owner, County, or Tax Assessor at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner, County, or Tax Assessor at the following addresses:

To the **Tax Assessor/Collector:** The Honorable Patsy Schultz
Fort Bend County Tax Assessor-Collector
1317 Eugene Heimann Circle
Richmond, Texas 77469

To **Owner:** Tyco Valves & Controls, L.P.
3950 Greenbriar Road
Stafford, Texas 77477
Attn: John Ward, Plant Manager

To County: Fort Bend County
301 Jackson, Suite 719
Richmond, Texas 77469
Attention: County Judge

Copy County: Fort Bend County Attorney
301 Jackson, Suite 728
Richmond, Texas 77469

Either party may designate a different address by giving the other party ten (10) days written notice thereof. **Failure of Owner to provide County Tax Assessor/Collector thirty (30) days notice of a change of address may result in termination of this Agreement.**

17. Entire Agreement; Ordinance and Economic Impact Statement

This Agreement contains the entire Agreement among the parties and supersedes all other negotiations and agreements, whether written or oral. The terms and provisions of this Agreement (without its exhibits) shall control and prevail over the terms and provisions of Exhibit A and Exhibit B, and Exhibit C in case of conflict or ambiguity. Attached hereto are:

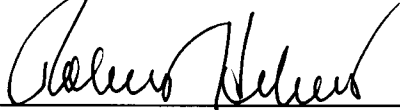
- a. Exhibit A – Ordinance No. 964 Designating Reinvestment Zone No. 21;
- b. Exhibit B – Design for Improvements;
- c. Exhibit C - Adjusted Tax Abatement Schedule

EXECUTION PAGE TO FOLLOW

18. **Execution**

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by County, and Owner as of the dates below stated. Owner warrants and represents that the individuals executing this agreement on behalf of Tyco Valves & Controls L.P. has full authority to execute this Agreement and bind Tyco Valves & Controls L.P. to the same.

FORT BEND COUNTY

By: 

Robert E. Hebert, County Judge

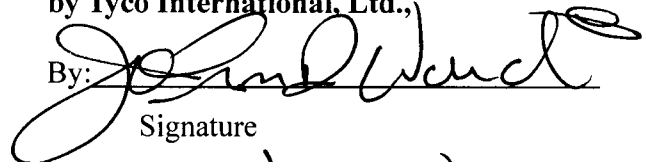
Date: June 28,

ATTEST: 

Dianne Wilson, County Clerk

Owner:

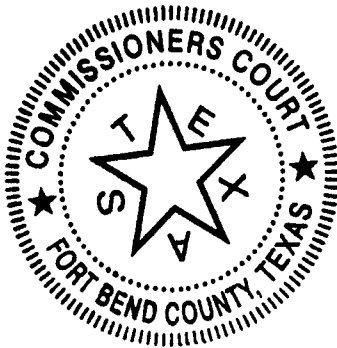
TYCO VALVES & CONTROLS LP
by Tyco International, Ltd.,

By: 
Signature

Printed Name: JOHN WARD

Title: PLANT MANAGER

Date: 6/22/11



ATTEST: 

Attachments:

Exhibit A – Ordinance No. 964 Designating Reinvestment Zone No. 21

Exhibit B – Preliminary Design for Improvements

Exhibit C – Adjusted Tax Abatement Schedule

Exhibit A

ORDINANCE NO. 9164

AN ORDINANCE CREATING CITY OF STAFFORD, TEXAS, REINVESTMENT ZONE NO. 21; A 11.7060 ACRE TRACT OF LAND, LOCATED AT 3950 GREENBRIAR DRIVE, WITHIN THE CITY OF STAFFORD, FORT BEND COUNTY, TEXAS; MAKING CERTAIN FINDINGS; REPEALING ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, on December 1, 2010, the City Council passed and approved "Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones Created within the City of Stafford;" and

WHEREAS, pursuant to those Guidelines, the City Council has received an application for creation of a reinvestment zone; and

WHEREAS, after the giving of proper notice, as required by law, the City Council held a public hearing where all interested persons were given an opportunity to speak and present evidence for and against the creation of Reinvestment Zone No. 21; and

WHEREAS, notice was given to all taxing entities where the proposed zone is to be located; and

WHEREAS, the City Council has determined that the improvements sought to be located in proposed Reinvestment Zone No. 21 are feasible and practical and would be a benefit to the land to be included in the Zone and to the City after the expiration of a tax abatement agreement; and

WHEREAS, the creation of Reinvestment Zone No. 21 will be reasonably likely, as a result of its creation, to contribute to the retention or expansion of primary employment or to attract major investment into the Zone that would benefit the property located therein and that will contribute to the economic development of the City of Stafford; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STAFFORD, TEXAS THAT:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

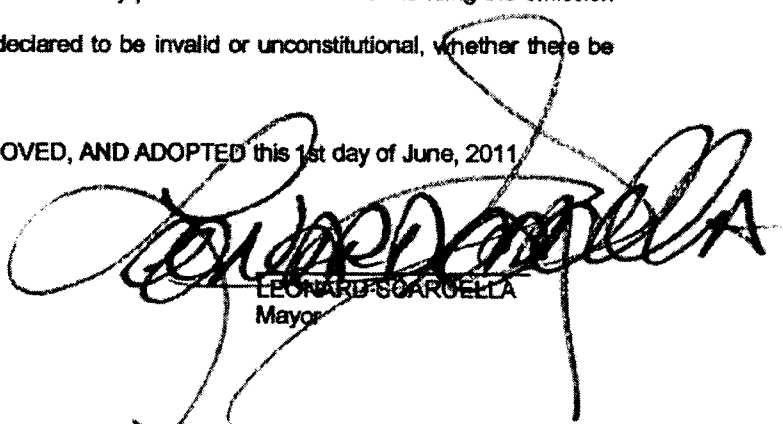
Section 2. Reinvestment Zone No. 21 is hereby created for the purpose of encouraging economic development through tax abatement. A metes and bounds description of the property that comprises said Reinvestment Zone No. 21 is attached hereto as Exhibit "A" and incorporated herein as though it was set forth in its entirety in this Ordinance. Improvements and personal property constructed, erected, or placed within Reinvestment Zone No. 21 as created hereby shall be eligible for commercial-industrial tax abatement.

Section 3. This designation shall be effective for a period of five (5) years, commencing on the date of adoption hereof. The expiration of the designation shall not affect an existing tax abatement agreement made under the provisions of the Texas Tax Code.

Section 4. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 5. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Stafford, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 1st day of June, 2011

A large, stylized handwritten signature in black ink, likely belonging to Leonard Scardella, the Mayor. The signature is written over the printed name and title.

LEONARD SCARDELLA
Mayor

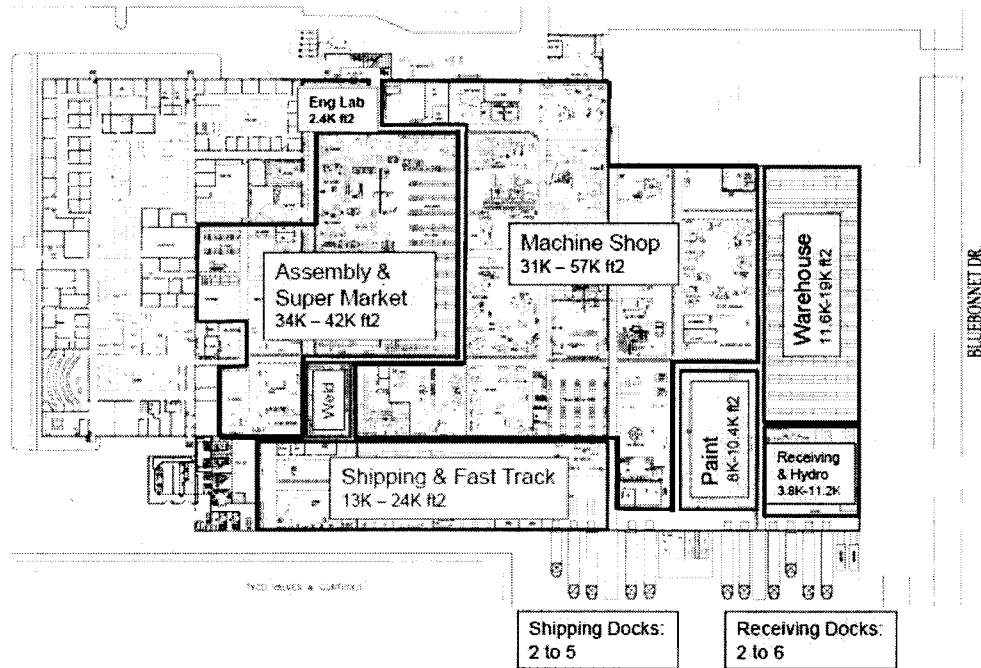
ATTEST:

A handwritten signature in black ink, likely belonging to Bonnie Baia Monte, the City Secretary. The signature is written over the printed name and title.

Bonnie Baia Monte
City Secretary

Exhibit B

Stafford Future Layout



Proprietary & Confidential

Tyco Flow Control

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Exhibit C

Pursuant to Section 5(d) of the Tax Abatement Agreement between Fort Bend County and Tyco Valves & Controls, L.P., approved by Fort Bend County Commissioners Court on June 28, 2011, ("the Agreement"), the Fort Bend Central Appraisal District is hereby notified that the Improvements and Eligible Property, as defined in the Agreement, will be subject to a tax abatement in the following amounts and according to the following schedule, adjusted from the schedule contained in the Agreement:

Tax Year:	Percentage of Abatement
_____	75%
_____	75%
_____	75%
_____	75%
_____	75%
_____	75%
_____	75%
_____	75%
_____	75%
_____	75%

Approved:

Fort Bend County

Patsy Schultz, Tax Assessor/Collector

Date: _____

Approved as to form:

Assistant County Attorney

Cc: GFBEDC

Recorded in the Minutes of the Fort Bend County Commissioners Court

Date of meeting: _____

Agenda Item: _____