

AGENDA
CALLED MEETING
9:00 a.m.
Wednesday, September 6, 2023

1. Call to Order

2. Invocation and *Pledge of Allegiance*

3. Approval of Agenda

4. New Business
 - a. Proposal consideration from the Candler County Industrial Authority (CCIA) regarding Project Cushion

5. Adjournment

**Board of Commissioners of Candler County
Called Meeting
Wednesday September 6, 2023
9:00 a.m.**

The Board of Commissioners of Candler County met for a called meeting on Wednesday, September 6, 2023, at **9:00 a.m.** in the Commissioners' boardroom at 1075 East Hiawatha Street, Suite A, Metter, Georgia. Chairman Glyn Thrift presided with Vice-Chairman Brad Jones and Commissioners David Robinson and Blake Hendrix were in attendance. Also attending were County Administrator Bryan Aasheim, County Clerk Kellie Lank. Commissioner Gregory Thomas and County Attorney Kendall Gross did not attend this meeting. The Metter Advertiser was notified of the meeting, but had no one in attendance.

There were no citizens or guests present at this meeting.

Call to Order

Chairman Thrift called the meeting to order at 9:14 a.m.

Invocation and Pledge of Allegiance –

Commissioner Robinson deliver the invocations and Chairman Thrift led the *Pledge of Allegiance*.

Approval of Agenda

Commissioner Hendrix made a motion to approve the agenda as presented. Commissioner Robinson provided a second. The motion carried 4-0.

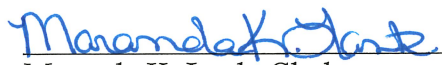
Proposal consideration from the Candler County Industrial Authority (CCIA) regarding Project Cushion

Administrator Aasheim presented a proposal from the Candler County Industrial Authority regarding Project Cushion.

Commissioner Hendrix made a motion to acknowledge the proposal as presented. Chairman Thrift provided a second. The motion carried 4-0. (Exhibit A)

Adjournment

Commissioner Hendrix moved to adjourn the meeting at 9:40 a.m. Vice-Chairman Jones provided a second to the motion. The motion carried 4-0.



Maranda K. Lank, Clerk
Attest



Chairman, Glyn Thrift

Exhibit A

MEMORANDUM OF UNDERSTANDING

September 6, 2023

THIS MEMORANDUM OF UNDERSTANDING (the "Agreement") is entered into as of the effective date set forth above by and among the CANDLER COUNTY INDUSTRIAL AUTHORITY, a development authority and public body corporate and politic (the "Authority"), created pursuant to an amendment to the Constitution of the State of Georgia contained in Georgia Laws 1962, p. 922 et seq., continued in force by an act of the General Assembly of Georgia contained in Georgia Laws 1987, p. 3734, et seq., DAS NORTH AMERICA, INC. (the "Company"), an Alabama corporation, and METTER INVESTMENT PARTNERS, LLC (the "RE Holding Company"), an Alabama limited liability company, each a "Party" and together the "Parties." CANDLER COUNTY, GEORGIA (the "County"), the CITY OF METTER, GEORGIA (the "City"), the CANDLER COUNTY SCHOOL DISTRICT, governed by the Board of Education of Candler County (the "School District"), the TAX COMMISSIONER OF CANDLER COUNTY (the "Tax Commissioner") and the CANDLER COUNTY BOARD OF TAX ASSESSORS (the "Board of Assessors") are each executing an Acknowledgment hereof attached to this Agreement in order to acknowledge their respective agreements to the provisions hereof which are applicable to them, but they are not considered to be Parties.

The Parties agree to the following terms and conditions:

Project: As used herein, references to the "Project" include the Premises, the Improvements and the Equipment (all defined below), as the same may exist from time to time. The Project is an automobile parts manufacturing facility to be located on the Premises for lease to and operation by the Company.

Premises. The "Premises" consists of approximately 30 acres of land located in Candler County which is described in Exhibit A attached hereto (and by reference made a part hereof) located at Lot 3, in the Candler County Industrial Park, 800 W. Lytell St., Metter, Georgia 30439. The Premises shall be owned by the Authority and leased to the RE Holding Company under the terms of a Lease Agreement (the "RE Lease") to be entered into between the Authority and the RE Holding Company and subleased to the Company pursuant to a sublease (the "Sublease") to be entered into between the RE Holding Company and the Company. The RE Holding Company and the Company will be responsible for the Premises during the term of the RE Lease and Sublease, including all repairs, maintenance, etc. as outlined in the Sublease. The estimated cost of the Premises is approximately \$2,985,000 and is intended to be financed with the proceeds of the RE Bonds (defined below).

Improvements. The “**Improvements**” consist of the construction and installation of a manufacturing, warehouse and distribution facility, which Improvements are intended to be financed with the proceeds of the RE Bonds, leased to the RE Holding Company under the RE Lease and subleased to the Company under the Sublease. The RE Lease shall provide that the RE Holding Company, as principal and not as agent of the Authority, shall construct any modifications to the Improvements and that title to the Improvements shall vest in the Authority as the same are constructed during the term of the RE Lease. Any modifications to the Improvements shall be constructed in compliance with applicable laws, including applicable zoning laws, building codes and environmental laws. The RE Holding Company and the Company will be responsible for the Improvements during the term of the RE Lease, including all repairs, maintenance, etc. as outlined in the Sublease. The parties understand that this Agreement is not subject to the Georgia Local Government Public Works Construction Law (the “**Construction Law**”), and do not intend for it to be subject thereto. The estimated cost of the Improvements is \$19,100,000.

Equipment. The “**Equipment**” consists of items of trade fixtures, machinery, equipment, furniture and furnishings proposed herein to be financed with the Equipment Bonds (defined below) and to be owned by the Authority and leased to the Company under the terms of a separate Lease Agreement (the “**Equipment Lease**” and together with the RE Lease, the “**Leases**”). The Equipment Lease will provide that the Company shall be responsible for the acquisition and installation of the Equipment and for conveying the same to the Authority from time to time by one or more bills of sale. Costs of acquiring and installing the Equipment may be paid or reimbursed with proceeds of the Equipment Bonds. The estimated cost of the Equipment is \$16,350,000.

RE Holding Company and Affiliates:

The Premises and the Improvements will be leased to the RE Holding Company and subleased to the Company. The parties acknowledge that under the Sublease from the RE Holding Company to the Company, the Company will be liable for the payment and performance of all Company expenses and obligations thereunder, except for any indemnity obligations arising out of the gross negligence or intentional misconduct of the RE Holding Company, its members, officers or employees.

Indemnity by the Company and the RE Holding Company:

The Company and the RE Holding Company shall each indemnify, hold harmless and defend the Authority, and its members, officers, employees and representatives and each other from and against any and all loss, liabilities and claims (including, without limitation, liens and encumbrances resulting from renovation, construction and installation

activities by the Company and/or the RE Holding Company and the reasonable attorney's fees or expenses of litigation) that may arise out of or relate to: (a) any act or omission by or attributable in whole or in part to the Company or the RE Holding Company (including, without limitation, the acts or omissions of its vendors, contractors, agents, employees or representatives) related to the Project; or (b) this transaction, including the Bonds or the issuance thereof, or the ownership or operation of the Project. Without limitation, the RE Holding Company and the Company shall each indemnify, hold harmless and defend the Authority, its members, officers, employees and representatives and each other from any claim, liability or loss arising out of or related to any such lien or encumbrance against the Project. Said indemnity shall survive the expiration or earlier termination of this Agreement. This indemnity may be superseded by a similar indemnity in the Definitive Documents (defined below); otherwise, it shall remain in full force and effect, and if the Bonds are not issued and delivered, this indemnity shall survive the termination of this Agreement.

**Financing
Structure:**

(a) The Bonds. In order to pay for the cost of the Project, the Authority shall issue two series of its economic development revenue bonds in an aggregate amount currently estimated up to \$38,435,000 as requested by the RE Holding Company and the Company (the "**Maximum Bond Amount**") as follows: (i) to pay or to reimburse the RE Holding Company or the Authority, or both, for costs of the Premises and Improvements it will issue one series of its Bonds in an estimated amount of \$22,085,000 (the "**RE Bonds**") and (ii) to pay or to reimburse the Company or the Authority, or both, for costs of the Equipment it will issue one series of its Bonds in an estimated amount \$16,350,000 (the "**Equipment Bonds**" and together with the RE Bonds, the "**Bonds**"). The proceeds from the Bonds shall be deposited into a project account established pursuant to an Indenture (as defined below) with respect to each series of the Bonds and used by the Authority to pay the costs of the Project. It is acknowledged by the parties hereto that the Bonds do not qualify for tax-exempt status under the applicable provisions of the Internal Revenue Code and, accordingly, it is the intention of the parties that the interest on such Bonds, if any, shall be includable in the gross income of the holders thereof. The RE Holding Company and the Company shall be responsible for the arrangements pertaining to the sale of the Bonds. The Bonds may be sold to the RE Holding Company or the Company or an affiliate of the RE Holding Company or the Company in a private placement. Each series of the Bonds shall be sold under a separate "**Bond Purchase Agreement**" (herein so-called) to be executed by the Authority, the RE Holding Company, the Company or an affiliate of the Company and the original purchasers of the Bonds (the "**Bond Purchaser**"). Each series of the Bonds issued by the Authority may be issued under the terms of a trust indenture (the "**Indenture**"). The

Indenture may authorize the Bonds to be issued in the form of a draw-down obligation providing for the Bond Purchaser to purchase all or any portion of such Bonds from time to time in such amounts as shall be directed by the Company or any affiliate of the Company and as shall be required to provide for the funding of the costs of the Project; provided that the maximum amount of Bonds purchased from time to time by all Bond Purchasers shall in no event exceed that maximum amount authorized by the Authority. The terms of the Bonds (principal amortization, final maturity, interest rates, redemption provisions, and other terms) shall be as provided for in the resolution of the Authority authorizing the issuance of the Bonds (the "**Bond Resolution**"), in the Bond Purchase Agreement or Agreements, in the Indenture, or in a combination of the foregoing and shall be reflected in the form of each series of the Bonds. The Bonds shall be issued and sold by the Authority at such price and upon such terms as shall be provided in the Bond Purchase Agreement or Agreements. In the event the Bonds are purchased by the Company or the RE Holding Company, the Bond Purchase Agreement and the terms of the Bonds shall be specified by the Company or the RE Holding Company, subject to the approval of the Authority, which approval the Authority agrees shall not be unreasonably withheld, conditioned or delayed.

(b) The Leases and Definitive Documents. The proceeds of the Bonds shall be applied by the Authority to acquire, construct, install and equip the Project to be leased by the RE Holding Company, the Company or an affiliate thereof pursuant to the Leases, providing that fee simple title to the Project shall be held by the Authority and leasehold interests in the Project shall be held by the RE Holding Company, the Company or an affiliate thereof as described above. This structure is necessary in order to provide for the *ad valorem* tax abatement as more fully described below, and to permit certain other arrangements with respect to the Project. At or prior to the date of issuance and delivery of the Bonds, title to the Project shall be vested in the Authority and shall then be leased to the RE Holding Company, the Company or an affiliate thereof, subject to Permitted Encumbrances (defined below). The Leases will grant to the RE Holding Company, the Company or an affiliate thereof an option to purchase the relevant portion of the Project, for a nominal price when the applicable series of Bonds have been retired or defeased. As used herein, "Permitted Encumbrances" means the liens, encumbrances and other matters specified in the Leases. The RE Holding Company, the Company or an affiliate thereof shall make periodic payments ("**Basic Rent**") at the times and in the amounts as are required to pay the principal of, the redemption premium (if any), and the interest on the Bonds as the same become due and payable (after giving credit to other amounts for such purpose). The Bond Resolution, Indentures, Leases, Bond Purchase Agreements and other related documents shall contain terms and provisions of the type generally utilized in connection with "conduit" bond issues. Such

documents shall constitute the “**Definitive Documents**”.

(c) Other Forms of Financing. Nothing herein shall prevent the Company or the RE Holding Company from entering into any other mode of financing with respect to any portion of the Project as either shall determine in their sole discretion; provided, however, the Company shall not encumber the Project (excluding all Equipment of the Project) without the written consent of the RE Holding Company.

(d) Additional Bonds. Upon the RE Holding Company or the Company’s request, the Authority may from time to time issue one or more series of additional Bonds (“**Additional Bonds**”) to finance the cost of the completion, enlargement, improvement, expansion or replacement of the Project.

(e) Failure to Issue the Bonds. If for any reason the Bonds are not issued and delivered, this Agreement shall terminate in accordance with the terms and conditions provided below, and (a) the Authority shall convey to the RE Holding Company any portion of the Project to the extent that its ownership therein, if any, was acquired by the Authority from the RE Holding Company, the Company or an affiliate thereof or with funds provided by the RE Holding Company, the Company or an affiliate thereof, and (b) the RE Holding Company, the Company or an affiliate thereof shall be responsible for all contracts entered into by it, as applicable (and the terms of the Sublease shall govern responsibility therefor as between the RE Holding Company and the Company) in connection with the Project. However, if for any reason the Closing (as herein defined) is not held by December 31, 2023, the Company will be responsible for the reasonable out-of-pocket expenses of the Authority, Authority Counsel, and Bond Counsel in connection with the proposed Project and proposed issuance of the Bonds (herein defined) and will pay Authority Counsel and Bond Counsel reasonable fees for legal services related to the Project and the proposed issuance of the Bonds.

Ad valorem tax abatement:

The description of the *ad valorem* tax abatement is provided in **Exhibit B** attached hereto.

Jobs and Investment Goals; Recovery Payments:

The Company agrees to locate its operations and agrees to cause its relevant affiliates to locate these operations at the Premises and equip and install the Equipment as contemplated herein. The RE Holding Company agrees to construct and install the Improvements at the Premises as contemplated herein. Nothing in this Agreement shall be construed to alter the responsibilities of the Company and the RE Holding Company under the Sublease. The Company’s responsibilities regarding its particular level of investment and creation of jobs shall be governed exclusively by the provisions provided in **Exhibit C** attached hereto (the

“Performance Standards”). The Parties acknowledge that the incentives provided for in this Agreement serve a public purpose through the investment represented by the Project.

**Authority’s
Administrative
Fee and Trustee
Fees:**

There is an issuance fee payable by the Company to the Authority at the time of issuance of the Bonds in an amount equal to 1/8 of 1% of the principal amount thereof (\$50,419). The Company will be responsible for all fees of the Trustee in connection with the issuance of the Bonds, including, but not limited to, any acceptance fee and annual fees of the Trustee.

**Roles of Counsel
and Legal Fees:**

Carter Franklin LLP, will serve as counsel to the Authority (in such capacity, **“Authority Counsel”**), in connection with this Agreement and the issuance of the Bonds. Gray Pannell & Woodward LLP will serve as Bond Counsel for the Bonds (**“Bond Counsel”**). The Authority Counsel and Bond Counsel shall charge a combined flat fee equal to \$75,000, payable by the Company at Closing. The Company shall pay all title-related costs including any premiums for a leasehold title insurance policy, recording costs and other closing costs.

Closing:

As used herein, the **“Closing”** is the event at which the Bonds are issued and the other transactions contemplated herein are consummated. References herein to a **“closing condition”** are to the optional right of a party hereto, based on a closing condition, to exercise a right provided herein in its favor and to avoid the Closing and terminate this Agreement as provided below.

**Termination of
Agreement:**

(a) The Authority’s Termination Rights. The Authority shall have the right to terminate this Agreement, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving five (5) days’ written notice thereof to the Company with a copy to the RE Holding Company at any time prior to Closing, pursuant to any provision allowing it to do so contained elsewhere in this Agreement. Without limitation, the Authority shall have the right to terminate this Agreement, effective immediately upon giving written notice to the RE Holding Company and the Company, if, by the Closing (or if this Agreement specifies another time therefor, then by such time) each closing condition set forth herein in favor of the Authority has not been satisfied. If the Authority does not exercise any such right to terminate by Closing (or by such other time specified), then such right shall be deemed waived with respect to the subject thereof.

(b) The Company’s Termination Rights. The RE Holding Company shall have the right to terminate this Agreement at any time prior to Closing, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written

notice thereof to the Authority. Without limitation, the RE Holding Company shall have the right to terminate this Agreement, effective immediately upon giving five (5) days' written notice to the Authority, if, by the Closing (or if this Agreement specifies another time therefor, then by such time) each closing condition set forth herein in favor of the RE Holding Company has not been satisfied. If the RE Holding Company does not exercise any such right to terminate by Closing (or by such other time specified), then such right shall be deemed waived with respect to the subject thereof.

(c) Effect of Termination. If any party terminates this Agreement pursuant to a right provided herein or if this Agreement expires, this Agreement shall terminate or expire as to all parties without any further liability on the part of any party, except as may theretofore have accrued, or except as otherwise expressly provided in this Agreement, or shall exist as a result of any prior breach hereof.

Assignment: Unless expressly agreed to by the Parties in writing, the Parties may not assign any rights or obligations hereunder except to an Affiliate (an entity which is a direct or indirect subsidiary of the Company or a company at least 51% of the equity ownership of which is held by the Company). The RE Holding Company may assign any rights or obligations hereunder to the Company.

No Partnership or Agency: No partnership or agency relationship between or among the Parties shall be created as a result of this Agreement.

Survival of Agreement: This Agreement shall survive the Closing and the expiration or termination of the Leases but may be modified or superseded in whole or in part by the Definitive Documents to the extent that the Definitive Documents expressly so provide.

Governing Law; Jurisdiction and Venue: The transactions contemplated hereunder and the validity and effect of this Agreement are exclusively governed by, and shall be exclusively construed and enforced in accordance with, the laws of the State of Georgia.

Amendments: Any amendments, deletions, additions, changes or corrections hereto must be in writing executed by the parties hereto.

Entire Agreement: This Agreement, together with the Definitive Documents, constitute the entire agreement between the parties with respect to the subject matter hereof.

Counterparts: This Agreement may be signed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

No Personal Liability of Representatives of Public Bodies:

No official, member, director, officer, agent, or employee of the Authority, the County, the City, the School District, the Tax Commissioner or the Board of Assessors shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such public bodies. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such public bodies into this Agreement.

No Personal Liability of Representatives of Company and RE Holding Company:

No official, member, manager, director, officer, agent, or employee of the RE Holding Company, the Company or any affiliate thereof shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such entity. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, manager, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such entity into this Agreement.

Intergovernmental Agreement.

By their respective Acknowledgements at the end hereof, the County, the City, the School District, the Board of Assessors and the Tax Commissioner agree to the provisions applicable to them. This Agreement shall also constitute an intergovernmental agreement under Georgia Constitution Art. IX, Sec. III, Para. I between and among the Authority, the County, the City, the School District, the Board of Assessors and the Tax Commissioner. Such intergovernmental agreement is subject to the 50-year term limit contained in such provision of the Constitution of the State of Georgia, but shall expire earlier upon its complete performance.

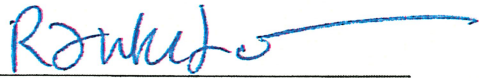
Time is of the Essence:

Time is of the essence of this Agreement.


IN WITNESS WHEREOF, the parties have executed this Agreement and caused it to be delivered as of the following effective date: Sept 6, 2023.

AUTHORITY:

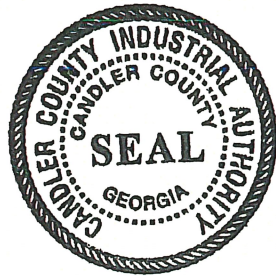
CANDLER COUNTY INDUSTRIAL AUTHORITY

By: 
Chairman


Attest:

By: 
Secretary

(SEAL)



DAS NORTH AMERICA, INC.
the Company:

By: 
Name: Ki Jung Kim
Title: COO

Signed and delivered in the presence of:

By: 
Name: _____

NOTARY PUBLIC



**METTER INVESTMENT PARTNERS, LLC,
BY: PORTER ASSET MANAGEMENT, INC., AS ITS MANAGER
the RE Holding Company:**

By: *Howard J. Porter, Jr.*
Howard J. Porter, Jr.
President

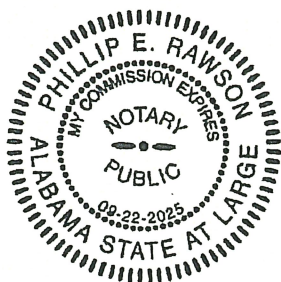
**STATE OF ALABAMA
LEE COUNTY**

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Howard J. Porter, Jr., whose name as President of Porter Assets Management, Inc., an Alabama corporation as Manager of Metter Investment Partners, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he, as such President of the Manager and with full authority, executed the same voluntarily in his capacity as President of the Manager on behalf of Metter Investment Partners, LLC on the day the same bears date.

Given under my hand and official seal this 21st day of August, 2023

(NOTARIAL SEAL)

Phillip E. Rawson
Notary Public
My commission expires 09-22-2023



ACKNOWLEDGED AND AGREED:

The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it.

CANDLER COUNTY, GEORGIA

By: 
Chairman, Board of Commissioners

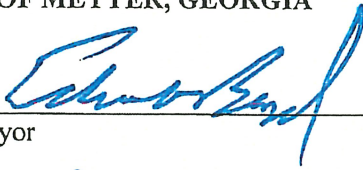
Attest: 
County Clerk

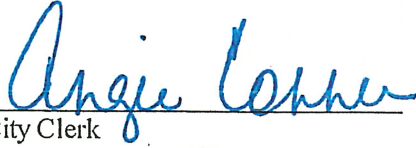


ACKNOWLEDGED AND AGREED:

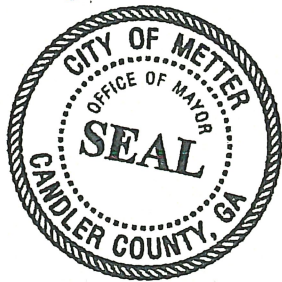
The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it.

CITY OF METTER, GEORGIA

By: 
Mayor

Attest: 
City Clerk

(SEAL)




ACKNOWLEDGED AND AGREED:

The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it.

CANDLER COUNTY SCHOOL DISTRICT

By: 
Chairman, Board of Education


Attest: 
Secretary

(SEAL)

ACKNOWLEDGED AND AGREED:

The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it.

TAX COMMISSIONER OF CANDLER COUNTY

By: 

Tax Commissioner

ACKNOWLEDGED AND AGREED:

The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it.

CANDLER COUNTY BOARD OF TAX ASSESSORS

By: Cherylene Senior
Chief Appraiser

EXHIBIT A

DESCRIPTION OF THE PREMISES

All that certain tract or parcel of land situate, lying and being in the 1685th G.M. District of Candler County, Georgia, being in the City of Metter, and being designated as Parcel D1, containing 30.00 acres, more or less, together with all improvements thereon as shown on that certain plat of survey dated August 24, 2023, prepared for Candler County Industrial Authority by Denver W. Youngblood, Georgia Registered Land Surveyor, and recorded in Plat Book _____, Page(s) _____, Candler County records. Said plat and the reference thereof are incorporated herein for a more complete and accurate description.

The within described tract is bounded, now or formerly, according to the aforementioned plat as follows: North by lands of Brigette L. Ellison and by an eighty feet (80') right-of-way; East by the right-of-way of Fortner Road; South by an eight feet (80') right-of-way; and West by Parcel No. D2 of said survey.

EXHIBIT B

AD VALOREM TAX ABATEMENT

A. Basis for Abatement

The Authority and the Company acknowledge that under present law, because the Project will be owned by the Authority, the Project will not be subject to *ad valorem* taxation by the State of Georgia or by any political or taxing subdivision thereof. The Company hereby agrees to make payments in lieu of the property taxes otherwise payable on the Project (the “**Payments In Lieu of Taxes**”) to the Authority on an annual basis. If the leasehold interest of the Company should be subject to *ad valorem* taxation, then any amounts assessed as taxes thereon shall be credited against any Payments in Lieu of Taxes.

(a) Lease Year 1 for the Payment In Lieu of Taxes shall be calendar year 2024. The Payments In Lieu of Taxes shall be as follows:

<u>Calendar Lease Year</u>	<u>Payment Percentage Due (Based upon Assessed Value)</u>
1	0%
2	0%
3	0%
4	25%
5	35%
6	45%
7	55%
8	65%
9	75%
10	85%
11 and thereafter	100%

(b) Beginning in the eleventh (11th) year and thereafter, the Project will be assessed according to normal *ad valorem* property taxation rules that are applicable to privately-owned property, as determined by the Candler County Board of Tax Assessors.

(c) On an annual basis, the Company shall return the property comprising the Project for *ad valorem* taxation purposes, so as to provide the basis for the calculation of the Assessed Value of the Improvements and Equipment and the Payment in Lieu of Taxes respectively, and shall also deliver to the Authority and the Candler County Board of Assessors on or before the March 1 of each year such additional documentation and information as may be necessary in order for the respective Board of Assessors to value the Project and portions thereof.

B. Reversion to Normal Taxability.

If the option to purchase the Project is exercised by the Company upon termination of the Lease or earlier, in whole or in part, or if the Lease is otherwise terminated or expires, the Project will be taxable according to normal *ad valorem* property taxation rules that are applicable to privately-owned property.

C. Board of Assessors.

The provisions of this Agreement relative to the assessment and taxability of the Project for *ad valorem* property tax purposes are the obligation and responsibility of the Board of Assessors. By its Acknowledgement, the Board of Assessors is joining in this Agreement to acknowledge that this Agreement is consistent with applicable requirements and that the Board of Assessors intends and agrees to classify, for taxation purposes, the Company's and the RE Holding Company's interest in the Project under the Leases as contemplated in this Agreement. The County, the City and the School District also acknowledge and agrees to such provisions and agrees that the County, the City, and the School District shall comply with the foregoing.

Nothing in this Agreement shall be construed to relieve the Company of its obligations to pay any and all *ad valorem* taxes lawfully imposed on the Project under the Sublease.

EXHIBIT C

PERFORMANCE STANDARDS AND REPAYMENT

Company's Failure to Meet Jobs or Investment Goals.

If the Company has not met the hereinafter defined Jobs Goal or Investment Goal, all or a portion of the Annual Local Assistance Amount (as defined below) shall be recouped as follows:

The Company agrees that it shall incur capital costs related to the Project in the amount equal to at least \$38,435,000 by December 31, 2028 (the "**Investment Goal**") as follows:

<u>Calendar Year</u>	<u>Premises & Improvements</u>	<u>Equipment</u>
2024	\$22,085,000	\$5,000,000
2025	-0-	6,000,000
2026	-0-	500,000
2027	-0-	500,000
2028	-0-	<u>4,350,000</u>
TOTAL	\$22,085,000	\$16,350,000

The Company agrees that it shall employ, in connection with the operation of the Project, at least (i) 95 new full-time equivalent ("FTE") positions by December 31, 2024 (the "**2024 Jobs Goal**"), (ii) 105 new (200 cumulative) FTE positions by December 31, 2025 (the "**2025 Jobs Goal**"), (iii) 40 new (240 cumulative) FTE positions by December 31, 2026 (the "**2026 Jobs Goal**"), and (iv) 60 new (300 cumulative) FTE positions by December 31, 2027 (the "**2027 Jobs Goal**"). The "**Final Jobs Goal**" is 300 FTE positions for all remaining years of the Leases and collectively with the 2024 Jobs Goal, the 2025 Jobs Goal, the 2026 Jobs Goal and the 2027 Jobs Goal, the "**Jobs Goal**").

The Investment Goal and the Jobs Goal are collectively referred to hereinafter as the "**Goals**". The Company agrees that it shall maintain the Goals until the end of the term of the Leases.

In the event that the Company shall fail to satisfy the Compliance Threshold (as defined in Schedule A hereof) for the Goals during the term of the Leases (the "**Performance Period**"), the Company shall pay to the Authority an additional payment in lieu of taxes (the "**Recoupment Payment**") on or before March 1 in each year, commencing March 1, 2026, as more fully described in Schedule A hereof.

On or before February 1 in each year, commencing February 1, 2025, the Company shall utilize the form of Annual Report set forth in Schedule A hereof to

certify to the Authority the number of jobs and amount of investment (at cost) in the immediately prior year.

For purposes of the foregoing provisions, “**Annual Local Assistance Amount**” means the total property tax savings afforded to the Company for each calendar year during the Performance Period. In addition to the Annual Local Assistance Amount, the Company may be responsible for an additional payment in lieu of taxes in calendar year 2028 for the total savings to the Company for the fair market value of the Premises (the “**Site Assistance Amount**”). The Site Assistance Amount is equal to the sum of \$2,985,000, which is the agreed upon fair market value of the Premises.

SCHEDULE A

RECOUPMENT PAYMENTS

A. Adjustment Methodology

1. In the event the Company (including the RE Holding Company) fails to meet the Compliance Threshold (as defined below) for the Goals, the Company shall pay to the Authority an additional payment in lieu of taxes (a “**Recoupment Payment**”) as set forth in this Schedule A.

2. On or before February 1 in each year, commencing February 1, 2025, the Company shall certify the number of jobs and the amount of capital investment in the Project (at cost) during the preceding year. The certification shall be in substantially the form of the Annual Report set forth in Section D below.

3. After the Performance Period begins in year 2026, then in the event such Annual Report reflects that the Company (including the RE Holding Company) has failed to meet any of the Goals, then the Company shall calculate the average shortfall with respect to each such goal (the “**Average Shortfall Percentage**”). The Average Shortfall Percentage shall be average of (i) the Jobs Goal and (ii) the Investment Goal. For example, if 40% of the Jobs Goal has been achieved and 60% of the Investment Goal, then the Average Shortfall Percentage would be 50%.

If the Average Shortfall Percentage equals or exceeds 80% (the “**Compliance Threshold**”), then no Recoupment Payment shall be due for the relevant tax year. For purposes of calculating the Compliance Threshold or Average Shortfall Percentage, neither the Jobs Goal nor the Investment goal shall exceed 100%.

If the Average Shortfall Percentage is less than 80%, then the Average Shortfall Percentage shall be subtracted from 100% and the remainder percentage shall be multiplied by the Annual Local Assistance Amount to determine the Recoupment Payment for such tax year.

For the Annual Report for calendar year 2028, if the Average Shortfall Percentage is less than 80%, then the Average Shortfall Percentage shall be subtracted from 100% and the remainder percentage shall be multiplied by the Site Assistance Amount to determine an additional Recoupment Payment for calendar year 2028 to compensate the Authority for the value of the Premises.

For example:

(1) In the event the Average Shortfall Percentage is 90%, then no Recoupment Payment shall be made for that tax year.

(2) In the event the Average Shortfall Percentage is 50% and the Annual Local Assistance Amount for the applicable year is \$24,000, then the Recoupment Payment for that year shall equal \$12,000 $((100\% - 50\%) \times \$24,000)$.

(3) In the event the Average Shortfall Percentage is 50% in calendar year 2028 an additional Recoupment Payment for calendar year 2028 shall equal \$1,492,500 $((100\% - 50\%) \times \$2,985,000)$.

B. Rules for Satisfying the Jobs Goal

1. The number of new full-time equivalent ("FTE") positions shall be defined and determined, from time to time, as follows:

"FTE position" – means a job with no predetermined end date, with a regular work week of 35 hours or more on average for the entire normal year of the Company operations, with benefits similar to those provided to other regular employees of the Company.

2. The number of FTE positions shall be calculated as provided below.

(a) The number of jobs shall be determined based on the monthly average number of FTE positions subject to Georgia income tax withholding for the taxable year.

(b) The monthly average number of FTE positions in a taxable year shall be determined by the following method:

(i) for each month of the taxable year, count the total number of FTE positions of the business enterprise that are subject to Georgia income tax withholding as of the last payroll period of the month or as of the payroll period during each month used for the purpose of reports to the Georgia Department of Labor;

(ii) add the monthly totals of FTE positions; and

(iii) divide the result by the number of months the business enterprise was in operation during the taxable year.

3. The average annual salary (pre-benefits) of all full-time employees must amount to at least \$20 per hour. Average annual salary is calculated by adding all of the salaries from the then-qualifying full-time jobs and then dividing such amount by the total number of then-qualifying full-time jobs. If the average annual salary (pre-benefits) does not amount to the applicable threshold mentioned above (\$20 per hour) when all full-time employees are counted, employees with an annual salary (pre-benefits) lower than the applicable threshold must be deducted from the total until the average annual salary (pre-benefits) for the remaining employees reaches the applicable threshold. The

employees that remain are the only ones that will be counted toward the Company's Jobs Goal.

4. Only direct employees of the Company shall be included when calculating satisfaction with the Company's Jobs Goal. In no event shall any temporary employee of the Company be counted as an FTE position, regardless of whether or not such person is employed by the Company or any other person or entity. The foregoing may include, at the discretion of the Company, leased employees (jobs created by a third-party logistics provider or employment service company) that otherwise meet the definition of FTE, but in no event shall leased employees account for more than 20% of the Jobs Goal.

C. Rules for Satisfying the Investment Goal

1. Capital investments made by the Company (including the RE Holding Company) in connection with the Project shall be counted regardless of whether such capital investment is subject to tax abatement.

2. Original cost, without regard to depreciation, shall be used in calculating whether the Investment Goal is met, except as provided in 3, below.

3. Transferred equipment relocated by the Company to the Project to be used as part of the Equipment may be counted at net book value, or, if requested and substantiated by the Company to the Authority's satisfaction, and approved by the Authority, its fair market value.

4. Machinery and equipment leased to the Company under an operating lease (even though such property is not titled to the Authority and is not leased to the Company under the Leases) and other machinery and equipment owned or beneficially owned by the Company but not leased to it under the Leases, shall be counted.

D. Form of Annual Report

[DATE]

Candler County Industrial Authority
Metter, Georgia

Re: Annual Report required under the Memorandum of Understanding, dated as of _____, 2023 (the "MOU") between the Candler County Industrial Authority, DAS North America (the "Company") and Porter Properties (the "RE Holding Company")

Dear _____:

This letter shall serve as the 20__ Annual Report, as required under the MOU.

1. Jobs Report

As of December 31, 20__, the total number of FTE positions located at the Project, based on the monthly average number of FTE positions, was _____. We have enclosed _____, as evidence of such job creation.

The Cumulative Jobs Goal for the year 20__ was _____ jobs. The Jobs Shortfall Percentage is _____% (____ / ____).

2. Investment Report

As of December 31, 20__, the Company and the RE Holding Company have invested a cumulative investment of \$_____ in capital expenditures in the Project.

The cumulative Investment Goal by December 31, 20__ was \$_____. The Investment Shortfall Percentage is _____% (\$_____/ \$_____).

3. Recoupment Payment

The Average Shortfall Percentage for 20__ is _____% ((____% + ____%) ÷ 2).

[The Average Shortfall Percentage for 20__ is equal to or exceeds 80%, so therefore no Recoupment Payment is due for tax year 20____.]

[The Average Shortfall Percentage for 20__ is less than 80%, so therefore a Recoupment Payment is due for tax year 20____.]

The Annual Local Assistance Amount for the year 20__ was \$_____.

Accordingly, the Recoupment Payment owed by the Company to the Candler County Tax Commissioner is \$_____ ((100% - ____%) x \$[Annual Local Assistance Amount].)