

**RESOLUTION 23-01**

**A RESOLUTION OF THE TRINITY BAY CONSERVATION DISTRICT BOARD OF DIRECTORS OF STOWELL, TEXAS, RATIFYING ELECTION TO BECOME ELIGIBLE TO PARTICIPATE IN TAX ABATEMENT PURSUANT TO THE PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT; RATIFYING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN A REINVESTMENT ZONE CREATED IN CHAMBERS COUNTY; AND PROVIDING SUCH GUIDELINES AND CRITERIA SHALL BE EFFECTIVE UNTIL JANUARY 31, 2025**

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**WHEREAS**, the creating and retention of job opportunities that bring new wealth is the highest civic priority; and

**WHEREAS**, new jobs and investment will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services; and

**WHEREAS**, Trinity Bay Conservation District (the "District") must compete with other localities across the nation currently offering tax inducements to attract jobs and investments; and

**WHEREAS**, any tax incentives offered in the District would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community; and

**WHEREAS**, any tax incentives should not have a substantial adverse effect on the competitive position of existing companies operating in the District; and

**WHEREAS**, tax incentives should not be used to attract those industries that have demonstrated a lack of commitment to protecting our environment, but should be used to encourage projects designed to protect our environment; and

**WHEREAS**, the abatement of property taxes, when offered to attract primary jobs in industries which bring in money from outside a community instead of merely recirculating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy; and

**WHEREAS**, Texas law requires any eligible taxing jurisdiction to establish Guidelines and Criteria as to eligibility for tax abatement agreements prior to granting any tax abatement, said Guidelines and Criteria to be unchanged for a two-year period unless amended by a three-quarters vote; and

**WHEREAS**, to assure a common, coordinated effort to promote our communities' economic development, any such guidelines and criteria should be adopted only through the cooperation of affected municipalities, taxing jurisdictions and the District;

**WHEREAS**, the attached guidelines have been adopted by the District's Board of Directors and it has been determined that progress towards the goals therein stated has been made;  
**NOW THEREFORE**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE TRINITY BAY CONSERVATION DISTRICT:**

Section 1: That the findings of the District's Board of Directors contained in the recitals of this resolution are hereby approved and adopted.

Section 2: That the District elects to remain eligible to participate in tax abatement pursuant to the Property Redevelopment and Tax Abatement Act.

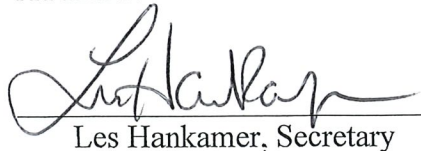
Section 3: That the District's Board of Directors hereby ratifies the Guidelines and Criteria for granting tax abatements in a reinvestment zone, which were heretofore adopted and incorporated such guidelines herein for all intents and purposes and remain in effect until January 31, 2025.

**INTRODUCED, READ and PASSED**, by the affirmative vote of the Board of Directors of the Trinity Bay Conservation District, this the 11<sup>th</sup> day of January, 2023.



\_\_\_\_\_  
Scott Kahla, President

ATTEST:

  
\_\_\_\_\_  
Les Hankamer, Secretary

**APPLICATION FOR TAX ABATEMENT IN TRINITY BAY CONSERVATION DISTRICT**

This application should be filed at least 90 days prior to the proposed date for beginning of construction or the installation of fixed machinery and equipment. **Projects that have begun construction (including earthwork) prior to District approval of final contracts are ineligible.** The filing of this document acknowledges familiarity and conformance with Guidelines and Criteria for Tax Abatement in Trinity Bay Conservation District (attached). This application will become part of the agreement and any knowingly false representations will be grounds to void the agreement. Original copy of this request should be submitted to the General Manager of the Trinity Bay Conservation District 2500 SH 124 Stowell, Texas. Approval of this application is only 1 step in securing tax abatement. The applicant must provide other legal documents.

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**APPLICANT INFORMATION**

**Date:** \_\_\_\_\_

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip-Code \_\_\_\_\_

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**APPLICANT MUST SUBMIT ANNUAL REPORT.** (See instructions).

Number of Employees: \_\_\_\_\_  
Annual Sales: \_\_\_\_\_  
Corporation:  Partnership:  Proprietorship:

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**PROJECT INFORMATION**

**Type of Facility**

- See Instructions
- Manufacturing Facility
  - Wholesale Distribution Facility
  - Research Facility
  - Service Facility
  - Entertainment & Recreation Facility
  - Other Basic Industry

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**Proposed Project Location Address and Legal Description:** \_\_\_\_\_

Attach map showing proposed site

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**Jurisdictions:**

School District \_\_\_\_\_  
College District \_\_\_\_\_  
City or Town \_\_\_\_\_

**Describe Product or Service**

Project Description:

Attach statement fully explaining project, describe existing site and improvements and provide list of improvements and fixed machinery and equipment for which abatement is requested.

NEW PLANT  EXPANSION  MODERNIZATION

**ECONOMIC INFORMATION**

**Construction Estimates:**

Start Month/Year \_\_\_\_\_ / \_\_\_\_\_ Construction Man Years \_\_\_\_\_  
 Completion Date \_\_\_\_\_ / \_\_\_\_\_ Peak Construction Jobs \_\_\_\_\_

**If Modernization:**

Estimated Economic Life of Existing Plant \_\_\_\_\_ Years  
 Added Economic Life from Modernization \_\_\_\_\_ Years

**Permanent Employment Estimates (PEE'S)**

Current Plant Employment \_\_\_\_\_  
 Number of Plant Jobs  Retained or  Created  
 At start/opening \_\_\_\_\_ in year \_\_\_\_\_  
 5 years into operation \_\_\_\_\_ in year \_\_\_\_\_

**Estimated Appraised Value on Site**

	<b>Personal</b>	<b>Improvements</b>	<b>Land</b>
Value January 1 Preceding Abatement Agreement:	_____	_____	_____
Est. Value of Improvements:	_____	_____	_____
Est. Value of Abated Properties After Abatement Expires:	_____	_____	_____
Value upon Completion of Project – Personal Property and Project Improvements Not Subject To Abatement:	_____	_____	_____

**VARIANCE**

Is the applicant seeking a variance under Section 4 (e) of the guidelines?  YES  NO

If "YES", attach required supplementary information.

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**OTHER ABATEMENTS.** Has company made application for abatement of this project by another taxing jurisdiction or nearby counties?  YES  NO. If "YES" please provide dates of application, hearing dates if held or scheduled, name of jurisdictions and contacts, and letter of intent.

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**COMPANY REPRESENTATIVE TO BE CONTACTED:**

NAME: \_\_\_\_\_

\_\_\_\_\_  
Signature of Company Official

TITLE: \_\_\_\_\_

\_\_\_\_\_  
Name & Title of Company Official

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP-CODE: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

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**INSTRUCTIONS**

Applicant and projects must meet the requirements established in the Guidelines and Criteria (attached) in order to receive positive consideration. Section 3 of the Guidelines, for example, sets out improvements, terms and economic qualifications. Conformance with all sections, however, is required for eligibility.

**APPLICANT INFORMATION**

The taxing unit may consider applicant's financial capacity in determining whether to enter into an abatement agreement. Established companies for which public information is available, or the wholly owned businesses of such companies, should include with the application a copy of their latest annual report to stockholders. Other applicants and new companies should attach a statement showing when the company was established, business references (name, contact and telephone number of principal bank, accountant and attorney) and may be required to submit an audited financial statement and business plan.

**PROJECT INFORMATION**

Only facilities listed in Section 3(a) of the Guidelines may receive abatement without applying for a variance. Check guideline definitions in Section 2 to see if project qualifies.

**ECONOMIC INFORMATION**

**Permanent Employment Estimates** – In estimating the permanent employment, include the total number of jobs retained or created at this site by your firm as well as known permanent jobs of service contractors required for operation.

**Estimated Appraised Value on Site** – The value January 1<sup>st</sup> preceding abatement should be the value established by the Chambers County Appraisal District. If the applicant must estimate value

because the taxable value is not known or is combined with other properties under a single tax account, please so state. To qualify, the abated properties must be expected to result in an addition to the tax base of at least five hundred thousand dollars (\$500,000.00) after the period of abatement expires. Projections of value should be a "best estimate" based on taxability in Texas. The projection of a project values not abated should include personal property and ineligible project-related improvements such as office space in excess of that used for plant administration, housing, etc.

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**DO NOT WRITE IN THIS AREA – FOR PROCESSING ONLY**

1. ED Contact \_\_\_\_\_
2. Precinct \_\_\_\_\_
3. Jurisdictions Notified \_\_\_\_\_
4. Initial Review Completed \_\_\_\_\_
5. Review Circulated \_\_\_\_\_
6. ISD Concurrence? \_\_\_\_\_
7. College Concurrence? \_\_\_\_\_
8. City Concurrence? \_\_\_\_\_
9. Letter of Intent \_\_\_\_\_
10. Hearing Notice on Agenda \_\_\_\_\_
11. Public Hearing \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_
12. ISD Action \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_
13. College Action \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_
14. City Action \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_
15. Agreement Signed \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

## **GUIDELINES AND CRITERIA FOR TAX ABATEMENT IN TRINITY BAY CONSERVATION DISTRICT**

### **SECTION 1 INTRODUCTION**

In recognition of the fact that:

- a.) The creation and retention of job opportunities that bring new wealth is the highest civic priority;
- b.) New jobs and investments will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services;
- c.) The communities within Trinity Bay Conservation District (the "District") must compete with other localities across the nation currently offering tax inducements to attract new plant and modernization projects;
- d.) Any tax incentives offered in the District would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community;
- e.) Any tax incentives should not adversely affect the competitive position of existing companies operating in the District;
- f.) The abatement of property taxes, when offered to attract primary jobs in industries which bring in money from outside a community instead of merely re-circulating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy;
- g.) Chapter 312 of the Texas Tax Code requires any eligible taxing jurisdiction to establish guidelines and criteria for tax abatement agreements prior to granting tax abatement, said guidelines and criteria to be unchanged for a two-year period unless amended by a three-quarters vote; and the District has developed the following guidelines and criteria for tax abatement.

### **SECTION 2 DEFINITIONS**

- a.) **"Abatement"** means the full or partial exemption from ad valorem taxes of the increase in value of certain real property in a reinvestment zone designated for economic development purposes.
- b.) **"Eligible Jurisdiction"** means Trinity Bay Conservation District.
- c.) **"Agreement"** means a contractual agreement between a property owner and an eligible jurisdiction for the purpose of tax abatement.
- d.) **"Base Year Value"** means the assessed value of eligible property on the January 1<sup>st</sup> preceding the execution of the agreement.
- e.) **"Economic Life"** means the number of years a property improvement is expected to be in service in a facility.
- f.) **"Deferred Maintenance"** means improvements necessary for continued operations, which do not improve productivity or alter the process technology.

- g.) **“Expansion”** means the addition of buildings, structures, or fixed machinery or equipment for purposes of increasing production capacity.
- h.) **“Facility”** means property improvements completed or in the process of construction which together comprise an integral whole.
- i.) **“Manufacturing Facility”** means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- j.) **“Modernization”** means the replacement and upgrading of existing facilities, which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, of fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- k.) **“New Facility”** means a property previously undeveloped, which is placed into service, by means other than or in conjunction with expansion or modernization.
- l.) **“Other Basic Industry”** means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production or products or services and which result in the creation of new permanent jobs and bring in new wealth.
- m.) **“Wholesale Distribution Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- n.) **“Entertainment and Recreation Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission of the general public.
- o.) **“Service Facility”** means buildings and structures, including fixed machinery and equipment, used or to be used to service goods.
- p.) **“Research Facility”** means building structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes of such goods or materials.

**SECTION 3  
ABATEMENT AUTHORIZED**

- a.) **Authorized Facility.** A facility may be eligible for abatement if it is a: Manufacturing Facility, Research Facility, Wholesale Distribution Facility, Service Facility, Entertainment and Recreation Facility, or other Basic Industry.
- b.) **Creation of New Value.** Abatement may be only be granted for the additional value over the base year value resulting from eligible property improvements made subsequent to and listed in tax abatement agreement between the eligible jurisdiction and the property owner subject to such limitations as the eligible jurisdiction may require.
- c.) **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.



- d.) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- e.) **Ineligible Property.** The following types of property shall be fully taxable and ineligible for tax abatement: land; inventories; supplies; tools; furnishings and other forms of movable personal property; vehicles; watercraft; aircraft; housing; deferred maintenance investments; any improvements, including those to produce, store or distribute natural gas, fluids or gases, which are not integral to the operation of the facility; property which has an economic life of less than 15 years; property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- f.) **Owned/Leased Facilities.** In order for a facility to qualify for tax abatement, the land and eligible property must be owned and operated by the same individual or company or be leased to a facility operator whose lease term is at least 10 years.
- g.) **Value and Term of Abatement.** Tax Abatement for eligible property shall be granted effective with the January 1<sup>st</sup> valuation date immediately following the date of execution of the agreement and shall not exceed five (5) years, including construction time. The percentage of the new value created pursuant to the agreement on which taxes will be abated in each of the years for which abatement is granted shall be as follows:

1 <sup>st</sup> year	100%
2 <sup>nd</sup> year	100%
3 <sup>rd</sup> year	75%
4 <sup>th</sup> year	60%
5 <sup>th</sup> year	50%

If a modernization project includes facility replacements, the value to which abatement applies shall be the value of the new unit(s) less the value of the old unit(s).

Provided, however, that the value on which abatement is granted in any year shall not exceed the estimated increase in market value (required to be included in the tax abatement agreement in accordance with Section 6 (a), (1) resulting from construction of or improvements to eligible facilities.)

- h.) **Economic Qualification.** In order to be eligible for designation as a reinvestment zone and receive tax abatement, the proposed improvement;
  - (1) Must be reasonably expected to increase the value of property in the amount of \$500,000 or more after the period of abatement has expired;
  - (2) Must be reasonably expected to prevent the loss of employment and to create employment at the facility for at least five people on a permanent basis and the owner must agree to exercise its best efforts to insure that 50% of new employees, or a minimum of two (2) employees, are residents of Chambers County, Harris County, Jefferson County, Galveston County, Hardin County and/or Liberty County; 10% of new employees, or a minimum of two (2) employees, are residents of Chambers County; and 5% of new employees, or a minimum of one (1) employee are resident(s) of the city in which the facility is located;
  - (3) Must not be expected to solely or primarily have the effect of transferring employment from one part of Chambers County to another; and

- (4) If a new facility, must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements.

Further, the owner of the proposed improvement must make every reasonable effort to use local resources in employees, goods and services at the facility.

- i.) **Taxability.** For tax years beginning on or after the execution of the tax abatement agreement to the end of the agreement period taxes shall be payable as follows;
  - (1) the value of ineligible property as provided in Section 3(e) shall be fully taxable;
  - (2) the base year value of existing eligible property shall be fully taxable; and
  - (3) the value of eligible property shall be taxable in the manner described in Section 3(g).

#### **SECTION 4 APPLICATION**

- a.) **Filing of Application.** Any present or potential owner of taxable property in the District may request the creation of a reinvestment zone and tax abatement by filing a written request with the Baytown West Chambers County Economic Development Foundation if the property is located outside of the taxing jurisdiction of a municipality with Trinity Bay Conservation District.
- b.) **Content of Application.** The application shall consist of a completed application form accompanied by: a general description of the new improvements to be undertaken; a general descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and location of all proposed improvements of the property; a map and property description; and a time schedule for undertaking and completing the proposed improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as the municipality, County, or District deems appropriate for evaluating the financial capacity and other factors of the applicant. Sworn statement that no construction has been undertaken on the project.
- c.) **Notice to Eligible Jurisdiction.** Upon receipt of an approved application, the District, shall notify in writing the presiding officer of the governing body of each eligible jurisdiction.
- d.) **Abatement Inapplicable to Prior Projects.** The District shall not establish a reinvestment zone or enter into an abatement agreement if it finds that the request for the abatement was approved by Commissioner's Court after the construction, alteration, or installation of improvements began as related to a proposed modernization, expansion or new facility.
- e.) **Variance.** Requests for variance from the provisions of Subsections (a), (c) and (g) of Section 3 must be made in written form. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance.

#### **SECTION 5 PUBLIC HEARING AND APPROVAL**

- a.) **Public Hearing for Designation of Zone.** A resolution designating a reinvestment zone may not be adopted until the governing body has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the

hearing shall be published at least seven (7) days prior to the hearing in a newspaper paper having general circulation in the eligible jurisdiction. The presiding officers of other eligible jurisdictions shall be notified in writing at least (7) days prior to the hearing.

- b.) **Findings Required for Agreement.** In order to enter into a tax abatement agreement, the eligible jurisdiction must find that the terms of the proposed agreement and the subject property meet these guidelines and criteria and that:
- (1) there will be no substantial adverse effect on the provision of the jurisdiction's service or tax base; and
  - (2) the planned use of the property will not constitute a hazard to public safety, health or morals.

## **SECTION 6 AGREEMENT**

- a.) **Contents of Agreement.** After approval, the eligible jurisdiction shall formally approve and execute an agreement with the owner of the facility which agreement shall include:
- (1) estimated value to be abated and the base year value;
  - (2) percent of value to be abated each year as provided in Section 3(g);
  - (3) the commencement date and the termination date of abatement;
  - (4) the proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provided in Section 4(b);
  - (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections 3(a), 3(f), 3(g), 7, 8, and 9, or other provisions that may be required for uniformity or by state law; and
  - (6) amount of investment and average number of jobs involved.

Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information and documentation to the County. Upon execution of this agreement, it becomes the responsibility of the applicant to file with the County the necessary reports annually certifying employment and investment level as stated in the executed contract.

## **SECTION 7 RECAPTURE**

The tax abatement agreement shall contain provisions for recapture of taxes abated in the event that 1) the improvements for which abatement was granted are not completed in accordance with agreement, 2) the owner allows ad valorem taxes owed the eligible jurisdictions granting abatement to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes, 3) the owner discontinues operating or using the property as required by the agreement, or 4) the owner breaches any of the terms or conditions of the agreement.

## SECTION 8

### ADMINISTRATION

- a.) **Appraisal and Assessment.** The Chief Appraiser of the County shall annually determine an appraisal of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions, which levy taxes of the amount of the assessment.
- b.) **Access to Property.** The agreement shall stipulate that employees and/or designated representatives of the contracting eligible jurisdiction shall have access to the subject property during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only upon twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility.
- c.) **Annual Evaluations.** Upon completion of construction, the jurisdiction creating the reinvestment zone shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations of the agreement to the eligible jurisdictions.

## SECTION 9

### ASSIGNMENT

A tax abatement agreement may not be assigned unless written consent is first granted by the eligible jurisdiction that has entered into the agreement, which consent shall be at the sole discretion of such eligible jurisdiction. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that contemplates the same improvements to, and operation of the property as the assignor, except to the extent such improvements have been completed. No assignment shall be approved by an eligible jurisdiction if the assignor or the assignee is indebted to the eligible jurisdiction for ad valorem taxes or other obligations.

## SECTION 10

### SUNSET PROVISIONS

- a.) These guidelines and criteria are effective upon the date of their adoption and will remain in force for two years, at which time all reinvestment zones and tax abatement contracts created pursuant to its provisions will be reviewed by the District to determine whether the goals have been achieved. Based on that review, the guidelines and criteria will be modified, renewed or eliminated.
- b.) This policy applies only to the tax abatement under the provisions of the Property Redevelopment and Tax Abatement Act, Tex. Tax Code Ann. Chapter 312.