

GUIDELINES DOCUMENT  
FOR EXECUTION  
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THE STATE OF TEXAS                   §  
   §  
COUNTY OF FORT BEND               §

GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS  
FOR FORT BEND COUNTY DRAINAGE DISTRICT

WHEREAS, taxing entities in the State of Texas are authorized to provide tax Abatements for historic preservation and economic development, pursuant to Chapter 312 of the Property Tax Code;

WHEREAS, the purpose and intent of these Guidelines and Criteria is to set forth the parameters under which Fort Bend County Drainage District will generally operate a tax Abatement program in accordance with the Act;

WHEREAS, the Tax Abatement Program is intended to be an economic development tool to assist and encourage certain types of real and personal property investment within qualified Reinvestment Zones to benefit the residents of Fort Bend County;

WHEREAS, such investment is expected to result in the creation, retention and expansion of new full-time jobs while strengthening the tax base of Fort Bend County;

WHEREAS, all applications for tax Abatement will be considered on a case-by-case basis, and the decision to approve or deny tax Abatement shall be at the discretion of the Fort Bend County Drainage District;

WHEREAS the adoption of these Guidelines and Criteria does not imply or suggest that Fort Bend County Drainage District is under any obligation to provide tax Abatement to any Applicant;

WHEREAS, before these GUIDELINES AND CRITERIA FOR GRANTING were submitted to the Drainage District, a public hearing was held in accordance with Texas Tax Code 312.002 (c-1);

NOW, THEREFORE BE IT RESOLVED, that Fort Bend County Drainage District elects to become eligible to participate in tax Abatement as described in Texas Tax Code 3(a) and does hereby adopt these GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS FOR FORT BEND COUNTY DRAINAGE DISTRICT to be effective as of the date executed.

I.       DEFINITIONS

A. "Abatement" means the full or partial exemption from ad valorem taxes of certain

real property and/or Tangible Personal Property in a Reinvestment Zone designated by the County for economic development purposes.

- B. "Abatee" means a company or individual receiving a tax Abatement from Fort Bend County Drainage District.
- C. "Applicant" means company or individual who has made application for tax Abatement with Fort Bend County Drainage District.
- D. "Act" means the Property Redevelopment and Tax Abatement Act enacted as Chapter 312 of the Texas Tax Code, as amended.
- E. "Agreement" means a contractual Agreement between a property owner and/or Lessee and the Drainage District
- F. "Base Year Value" means the appraised value in the Reinvestment Zone on January 1 preceding the effective date of the tax abatement agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the effective date of the agreement, or the sales price, if the property was conveyed subsequent to January 1, whichever is greater.
- G. "Budget Office" means the County funded department created by Commissioners Court that provides Budgeting and Investment Services to the County, led by the Director of Finance and Investments.
- H. "Commercial Building" means a new facility, a new addition to an existing facility or build-out of unoccupied space within an existing facility
- I. "Commissioners Court" means the Commissioners Court of Fort Bend County, Texas.
- J. "Deferred Maintenance" means improvements necessary for continued operation which do not improve productivity, or alter the process technology, reduce pollution or conserve resources.
- K. "Employee" means a person whose employment is both permanent and full-time, who works for and is an employee of the Owner or an employee of a contract provider to the Owner, who works a minimum of 1,750 hours per year exclusively within the Reinvestment Zone, and whose employment is reflected in the Owner's (and/or contract provider's, as applicable) quarterly report filed with the Texas Workforce Commission (TWC); but excluding any direct contract (seasonal, part-time, and full-time equivalent).
- L. "Expansion" means the addition of buildings, structures, machinery, tangible personal property, equipment or payroll for purposes of increasing production or regional capacity.
- M. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- N. "Fort Bend County Drainage District" means a Special District created under the authority of Special District and Local Laws Code Chapter 6604, authorized to impose a tax under Section 6604.151.<sup>1</sup>

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<sup>1</sup> Per Special District Local Laws Code Sec. 6604.051. (FBCDD) GOVERNING BODY. (a) The commissioners court is the governing body of the district and the agency through which the management and control of the district is administered.

- O. "Improvements" are as identified in the Texas Tax Code Chapter One.
- P. "Greater Fort Bend Economic Development Council" ("GFBEDC") means the 501(c)6 not for profit private corporation with which Fort Bend County has contracted pursuant to the Texas Local Government Code Section 381.004 to stimulate, encourage, and develop business location and commercial activity in the county.\*
- Q. "Lessee" means the tenant who is occupying and operating or will occupy and operate an Eligible Facility under a legally binding lease Agreement with a Lessor. A Lessee of Real Property on which the Eligible Facility exists or is constructed may also own the Facility. "Lessee" means the tenant who is occupying and operating or will occupy and operate an Eligible Facility under a legally binding lease Agreement with a Lessor. A Lessee of Real Property on which the Eligible Facility exists or is constructed may also own the Facility.
- R. "Lessor" means the owner of an Eligible Facility or of the Real property on which an Eligible Facility is located that has a binding lease with a Lessee who will occupy and operate the Facility.
- S. "Modernization" means a complete or partial demolition of facilities and the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, equipment, pollution control devices or resource conservation equipment.
- T. "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.
- U. "Owner" means the owner of Real Property on which an Eligible Facility is or will be located, who may also be the Lessor. Where the context requires, "Owner" means the owner of the Eligible Facility, who is the Lessee of Real Property on which the Eligible Facility is or will be located; provided that a specific definition or other provision to the contrary in an Agreement controls over this sentence.
- V. "Personal Property" means property that is not Real Property and consists of intangible and tangible personal property. Intangible Personal Property means a claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured, or otherwise perceived by the senses, although its existence may be evidenced by a document. It includes a stock, bond, note or account receivable, certificate of deposit, share, account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contract, and goodwill. Tangible Personal Property means Personal Property that can be seen, weighed, measured, felt, or otherwise perceived by the senses, but does not include a document or other perceptible object that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.
- W. "Precinct Commissioner" means the member of Commissioners Court elected to represent a specific precinct within the county, but also includes a representative or designee of the Commissioner unless otherwise specified herein.
- X. "Real Property" means land or an improvement, or other property classified as such under state law.

- Y. "Reinvestment Zone" means a geographic area of the County designated as such for the purpose of tax Abatement as authorized by Chapter 312 of the Texas Tax Code.
- Z. "Solar Energy Property" means a "solar energy device" as defined by Texas Tax Section 11.27(c)(1) that is used for a commercial purpose, including a commercial storage device, power conditioning equipment, transfer equipment, and necessary parts for the device and equipment.
- AA. "Tangible Personal Property" means tangible personal property classified as such under state law, but excluding inventory and/or supplies and tangible personal property that was located in the investment zone at any time before the period covered by the Agreement with the Drainage District.
- BB. Tax Abatement Review Committee (TARC) means the standing committee appointed by Commissioners Court to support the Tax Abatement Agreement program from Application through compliance for both Fort Bend County and Fort Bend County Drainage District.\*

## **II. ABATEMENT AUTHORIZATION**

- A. Fort Bend County Drainage District is authorized to provide Tax Abatement benefits in accordance with the State of Texas Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code, as amended (the "Act"). Said Act requires the establishment of these Guidelines and Criteria for the governing of tax Abatement Agreements between Fort Bend County Drainage District and eligible entities.
- B. The Act furthermore permits the designation of "reinvestment zones" in accordance with specific criteria which the Drainage District may create for property not located within a municipality.
- C. Creation of New Value: An Abatement may only be granted for the additional value of eligible Improvements made subsequent to and specified in an Abatement Agreement between the Drainage District and the property owner or lessee, subject to such limitations as the Drainage District may require.
- D. Eligible Property:
  - 1. Abatement may be extended to the value of buildings, structures, tangible personal property as defined in the Texas Tax Code including fixed machinery and equipment, site improvements, and related fixed improvements necessary to the operation and administration of the facility.
  - 2. New and Existing Facilities: An Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- E. Ineligible Property: Property that is fully Taxable and ineligible for Tax Abatement such as:
  - 1. Land, existing improvements, tangible personal property that the Fort Bend Central Appraisal District (FBCAD) 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 effective 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; and
2. Property located on real property that owes or come to owe delinquent taxes. Otherwise eligible property will be deemed ineligible if located on real property that is delinquent even if the Real Property Owner is not the Owner of the property for which the Abatement is requested.
- F. Basic Qualifications: A planned improvement shall meet the following minimum requirements to be considered for Tax Abatement:
1. Minimum Value:
    - a. Must be expected to have an increased appraised ad valorem tax value of at least \$1,000,000 based upon the Fort Bend Central Appraisal District's assessment of the eligible property;
    - b. Small businesses that do not meet the stated Minimum Value are encouraged to apply for a variance to this requirement at the time of Application.
  2. Must create employment for at least 10 people on a full-time equivalent in Fort Bend County for the duration of the Abatement period where the abated property is or will be located. If the project concerns an existing facility, no credit for employment will be given for employees/employee positions that existed prior to execution of the Abatement Agreement.
  3. An Applicant may seek a variance from a Basic Qualification by submitting a request in written form along with the required standard application. Such requests shall include a complete description of the circumstances explaining why the Applicant should be granted a variance. Approval of a request for variance requires a four-fifths vote of the Drainage District.
- G. Standards for Tax Abatement: It is within the sole discretion of Drainage District to grant an Abatement to an Applicant. The below standards will be considered in determining the percentage of value to be abated and the duration of the Agreement, unless otherwise required by Reinvestment Zone:
1. Size, scope and location of the capital investment;
  2. Creation of new jobs or prevention of job loss; as well as improved working conditions for employees without simply transferring employment from one part of the Drainage District to another;
  3. Impact on existing business and the local economy;
  4. Whether the business will provide a long-term source of revenue to local government when Abatement ends and the business is subject to full taxation;
  5. Whether granting the Abatement will be an economic development tool anticipated to encourage infrastructure improvements or other building ventures in the area;

6. How the area may benefit from community benefit programs that are identified by Drainage District for participant contribution under the Abatement program; and/or
7. Any factor determined by the Drainage District (collectively or by Precinct) to be relevant to economic development in Fort Bend County.

### **III. APPLICATION FOR TAX ABATEMENT AGREEMENTS**

- A. Any present or potential owner of taxable property in Fort Bend County may apply for Tax Abatement by filing the Application for Tax Abatement approved by the Drainage District, which will be appended to these Guidelines in Exhibit form, as approved by the Court and entered into the minutes of the Court by way of the consent agenda. The Application may be amended from time to time in the same manner and without the need to amend these Guidelines.
- B. The Application for Tax Abatement may be obtained online via the County website and will include instructions for submission of the completed application package. Copies will be routed to the County Judge, each Precinct Commissioner and the Greater Fort Bend Economic Development Council.\* The Applicant shall ensure that an original executed Application is on file with the Budget Office, for record purposes.
- C. Supporting documentation that must accompany the Application shall include:
  1. A map and legal description (metes and bounds) of the facility site;
  2. CAD data or a shape file with the boundaries of the proposed facility site, and if the Reinvestment Zone and facility site are not the same, then also include CAD data or a shape file with the boundaries of the proposed Reinvestment Zone;
  3. A general description of the improvements for which the Abatement is sought and the extent of the modernization, expansion, or new improvement which will be part of the facility. 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.
  4. Financial and other information as Drainage District deems appropriate for evaluating the financial capacity and other factors of the Applicant;
  5. A time schedule for undertaking and completing the planned improvements; and
  6. Any additional information the Applicant deems helpful to the evaluation of the application.
- D. No action shall be taken prior to the submission of the completed application, payment of the application fee and receipt of any additional information requested by Fort Bend County Drainage District.
- E. The application will become part of the Tax Abatement Agreement and kept on file as a record of the Drainage District. If granted, the Tax Abatement Agreement may

be rescinded upon finding any representation made in the application and/or supporting documentation was incorrect or false.

- F. The GFBEDC\* shall confirm that the Applicant has submitted all required documents and confirm that the fee has been tendered by the Applicant before conducting an initial review of the Application.
- G. Submission of an Application is acknowledgement by the Applicant of familiarity and assumed compliance with GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS FOR FORT BEND COUNTY DRAINAGE DISTRICT.
- H. If a proposed project's investment, job creation, wages or construction schedule change significantly following the submittal of a completed application and payment of the fee, or if an Agreement has not been finalized by the 364th day after application submission, Fort Bend County Drainage District may close the pending application.
- I. To the extent allowed by law, information that is provided in connection with an application or request for tax Abatement that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which tax Abatement is sought is confidential and not subject to public disclosure until the tax Abatement Agreement is executed. After execution of the Agreement, the information is not confidential.

#### **IV. EVALUATION, REVIEW AND APPROVAL OF APPLICATIONS**

- A. The Budget Office shall forward the Completed Applications and supporting materials to the GFBEDC,\* unless otherwise requested by the Precinct Commissioner. The Application will be reviewed by the GFBEDC to determine whether a project appears to qualify for a Tax Abatement under these Guidelines and Criteria. If yes, the GFBEDC will perform a Financial Analysis Model based on the Application information.
- B. A copy of the financial analysis will be provided to the County Judge, Precinct Commissioner and, the Budget Office \* (for records purposes).
- C. All applications will be reviewed on the merits utilizing the factors stated herein and in accordance with state law.
  - 1. Negotiation of the Abatement Agreement will occur between the Drainage District and the Applicant with regard to:
    - a. Duration and portion of the value to be abated of the specific improvements or repairs to the property for which Abatement is sought; and
    - b. The specific obligations of the Company reflecting the guidelines and criteria for tax Abatements adopted by the Drainage District .
  - 2. The County Judge and Precinct Commissioner shall conduct negotiations with the Applicant; utilizing the GFBEDC\* as a resource to further the Drainage District's interest.
- D. Reasons an Abatement Application may be denied include, but are not limited to:



1. There would be a substantial adverse effect on the provision of government service or tax base;
  2. The Applicant has insufficient financial capacity;
  3. Planned or potential use of the property would constitute a hazard to public safety, health or morals;
  4. Violation of other codes or laws;
  5. The application was filed after the commencement of construction, alteration, or installation of improvements related to the project; or
  6. Any other reason deemed appropriate by the Drainage District .
- E. No property, contract, or other legal right has been created in any person to receive a Tax Abatement by the Adoption of Tax Abatement Guidelines and Criteria; therefore the decision to deny an application is not subject to appeal.

## **V. REINVESTMENT ZONES**

- A. Tax Abatement Agreements may be executed regarding Eligible Property in a Reinvestment Zone located within the boundaries of:
1. A single city or county zone;
  2. Contiguous county and/or city zones; or
  3. Overlapping city/county zones; but not overlapping county zones.
- B. Reinvestment Zone are designated by as a required part of the Tax Abatement process for property not already located in a Reinvestment Zone.
- C. Inquiries regarding Reinvestment Zones should be referred to the County Attorney's Office. Creation of Zones will require coordination with the County Judge's Office for public notice, hearings and orders for submission to the Drainage District. At a minimum, the Applicant shall provide copies of the map and legal description (metes and bounds) of the property and the CAD data or a shape file with the boundaries of the proposed zone.
- D. Value Abated in the Reinvestment Zone:
1. Base Value: Once a Reinvestment Zone is established, the portion of value abated for property and the duration of the exemption shall be the same for each owner that executes an Abatement Agreement in the same zone thereafter. However, the Drainage District may assign different percentages of Abatement per project by the same Owner within the Zone.<sup>2</sup>
  2. Incremental Incentives: Any owner of property applying for Tax Abatement in a County created Reinvestment Zone may negotiate up to three additional percentage points to be added to the base Abatement percentage established for the Zone as a condition of agreeing to following business practices that have been determined to be of significant social value to the area in which the project will be located. Such an incentive must be clearly

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<sup>2</sup> An example could be that all property owners shall receive 45% Abatement for a first project, 55% on a second project, etc. This reflects the same value per owner but different percentage per number of projects.

articulated in the Agreement and state with specificity the requirements that must be met in order to capture the incremental incentive as well as articulate what documentation will be required to verify compliance.

- E. Reinvestment Zone Creation Orders shall comply with the requirements of the Tax Code and shall set out the abatement percentage established for the Zone. In the event that a Property Owner receives abatement on additional projects in the Zone, the Order shall be appended to reflect a schedule of percentages that will likewise be available to other Abatees in the Zone.
- F. Having property located in a Reinvestment Zone does not result in a tax Abatement unless and until a property owner has executed an Abatement Agreement with the County.

## **VI. TAX ABATEMENT AGREEMENTS**

- A. Requests to draft or review all legal documents for Tax Abatements, including but not limited to Abatement Agreements should be made to the County Attorney's Office. The County Attorney's Office may require additional information or documents in order to prepare the Agreement, which shall be provided without delay by the Applicant. Applicants for Abatements shall seek their own legal counsel for review of documents on their behalf, as the County Attorney's Office only represents the interests of the Drainage District.
- B. The minimum required terms of a Tax Abatement Agreement to be considered by Drainage District shall include:
  - 1. A list of the kind, number, and location of all proposed improvements of the property;
  - 2. That the value of all property (Eligible and Ineligible Property), shall be determined in the Base Year by the FBCAD. From the execution of the Abatement to the end of the Agreement period, taxes shall be payable as follows:
    - a. The value of Ineligible Property shall be fully taxable; and
    - b. The value of Eligible Property shall be abated in accordance with the executed Abatement Agreement.
  - 3. Identification of the estimated value to be abated, the base year value; and percent of value to be abated each year, including addition of any incremental incentive;
    - a. The amount of the Abatement shall be conveyed as a negotiated percentage based on the factors identified in "Standards for Tax Abatement."
    - b. Base Property Value will be the current value of all real property plus fixed-in place machinery and equipment within the Reinvestment Zone that is not subject to abatement.

- c. Base Year Value will be subtracted from the value of Abated Property plus Base Property Value, the result to be called "Current Amount Eligible for Abatement" which will be adjusted based on the Abatement percentage and any available incremental incentive in the Reinvestment Zone for which the Project qualifies.
  - d. If a modernization project includes facility replacement, the abated value shall be the value of the new unit(s) less the value of the old unit(s).
- 4. The commencement date and termination date of Abatement
  - a. Abatement Term: The term of the Abatement shall not extend past ten (10) years.
  - b. New eligible properties must be in active service and operation as part of a facility operating in a producing capacity for the term of the Agreement.
- 5. The proposed use of the facility, nature of construction, time schedule, map, property description, and improvement list as provided in application;
- 6. The contractual obligations in event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment;
- 7. The size of investment and specified employment requirements as outlined in the required "Basic Qualifications" Section or a statement that a variance is being granted for same;
- 8. Provide that the Drainage District may cancel or modify the Agreement if the property owner fails to comply with the Agreement.
- 9. Tax Abatement Agreements shall also require the following mandatory Performance Criteria (for which a variance will not be considered or granted):
  - a. Limit use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect;
  - b. Annually furnish information necessary for Fort Bend County Drainage District's evaluation of the Applicant's compliance with the terms and conditions of the tax Abatement Agreement and these guidelines and criteria (in the form of an annual report/statement of compliance), together with an additional provision that Fort Bend County Drainage District may, at its election, request and obtain information from the Applicant as is necessary for the Drainage District's evaluation of the Applicant's compliance with the terms and conditions of the tax Abatement Agreement and these guidelines and criteria.
  - c. Provide access to and authorize inspection of the property by County employees to ensure that the improvements or repairs are

made according to the specifications and conditions of the Agreement;

10. The completed Tax Abatement is anticipated to be presented to the Drainage District within sixty (60) days after the Applicant has forwarded all necessary information and documentation to Drainage District.
11. Before submission to the Drainage District, the negotiated proposed Abatement Agreement will be presented to:
  - a. Those participating in negotiations on behalf of Drainage District ;\* for review and confirmation of the minimum qualification and performance criteria;
  - b. The Attorney's Office for review and approval of final legal form; and
  - c. The Applicant and their counsel for their own review, approval and acceptance of the Tax Abatement Agreement.
- C. After approval, the Drainage District shall formally pass a resolution and attach a copy of the executed Agreement.
- D. Not later than the 7th day before the date on which the Drainage District enters into the Abatement Agreement, a written notice to the presiding officer of the governing body of each taxing unit in which the property is located will be sent by the Budget Office\* to inform that body that the Drainage District intends to enter into the Agreement. The notice shall include a copy of the prepared Agreement.

## **VII. AMENDMENTS TO AGREEMENTS**

- A. Amendments to Executed Agreements (which includes any modification of Terms) may only be made by written request to the Precinct Commissioner. Such requests shall include a complete and detailed description explaining why the amendment is necessary.
- B. At their discretion, the Precinct Commissioner may decline an amendment request before it is reviewed by the Drainage District or may refer it to the County Attorney's Office for review prior to requesting that it be placed on the Agenda for consideration.
- C. An Abatee seeking Amendment to an Executed Agreement shall attend the meeting in which the item will be considered and be available to address the Court. Amendments will be approved only by a four-fifths vote of the Drainage District.
- D. A request for an Amendment to an Executed Agreement is considered a separate application from the original application seeking tax Abatement. The required application fee and notice requirements of Texas Tax Code Section 312.207 will apply to the Amendment request.
- E. The following apply to Assignments, which are a specific type of Amendment: The Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by the Drainage District; subject to the financial capacity of the assignee and provided that all conditions and obligations in

the Abatement Agreement are guaranteed by the execution of the new contractual Agreement with the County, which is an amendment to the Agreement. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee are liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld. Assignee must swear and affirm in the Amendment that they are not in default with any taxing jurisdiction in the State of Texas.

#### **VIII. RECAPTURE**

- A. Failure to Commence Operation During Term of Agreement: In the event that the facility is not completed and does not begin operation with the minimum number of permanent jobs by the January 1st following the completion of construction, no tax Abatement shall be given for that tax year, and the full amount of taxes assessed against the property shall be due and payable for that tax year. In the event that the owner of such a facility fails to begin operation with the minimum number of permanent jobs by the next January 1st, the Drainage District may terminate the tax Abatement Agreement. If the Drainage District sends Abatee notice of cancellation, all abated taxes must be recaptured and paid within sixty (60) days of such termination. If the Drainage District does not receive full payment within said 60 days, a penalty may be added, equal to 15% of the total amount abated.
- B. Discontinuance of Operations During Term of Agreement: In the event the facility is completed and begins operation with the required minimum number of permanent jobs, but subsequently discontinues operations and the minimum number of permanent jobs is not maintained on any January 1st during the term of the Agreement after the completion of construction, for any reason except on a temporary basis due to fire, explosion or other casualty or accident or natural disaster, the Drainage District may terminate the tax Abatement Agreement. If the Drainage District sends Abatee notice of cancellation, all abated taxes shall be recaptured and paid within sixty (60) days of such termination. If the Drainage District does not receive full payment within said 60 days, a penalty may be added, equal to 15% of the total amount abated.
- C. Delinquent Taxes: In the event that the owner allows any ad valorem taxes to become delinquent on any property in Fort Bend County (whether abated or not) and fails to timely and properly follow the legal procedures for their protest and/or contest the tax Abatement Agreement, the Drainage District may terminate the tax Abatement Agreement. If the Drainage District sends Abatee notice of cancellation, all abated taxes shall be recaptured and paid within sixty (60) days of such termination. If the Drainage District does not receive full payment within said 60 days, a penalty may be added, equal to 15% of the total amount abated. The total taxes assessed without Abatement for that tax year, shall be paid within sixty (60) days from the date of the termination. If the Drainage District does not receive full payment within said 60 days, a penalty may be added, equal to 15% of the total

amount abated.

- D. Performance Criteria: In the event that the owner fails to meet any other performance criteria provided by the Tax Abatement Agreement, Drainage District may terminate the tax Abatement Agreement. If Drainage District sends Abatee notice of cancellation, all abated taxes and paid within sixty (60) days of such termination. If the Drainage District does not receive full payment within said 60 days, a penalty may be added, equal to 15% of the total amount abated.
- E. Actual Capital Investment: Should Drainage District determine that the total level of capital investment in the eligible property is lower than provided in the Agreement, the Drainage District, at its sole discretion, reserves the right to adjust the tax Abatement percentage to reflect the actual capital investment as determined or to terminate the Agreement. If Drainage District sends Abatee notice of cancellation, shall be recaptured and paid within sixty (60) days of such termination. If the Drainage District does not receive full payment within said 60 days, a penalty may be added, equal to 15% of the total amount abated.
- F. Notice of Default: Should Fort Bend County Drainage District determine that the owner is in default, according to any other terms or conditions of its Agreement, it shall notify the owner in writing at the address stated in the Agreement that, if such default is not cured within sixty (60) days from the date of such notice (the "Cure Period"), then the Agreement may be terminated and the taxes abated by virtue of the Agreement may be recaptured and paid as provided herein.

## **IX. ADMINISTRATION**

- A. Fort Bend Central Appraisal District annually determines an assessment of the real and personal property comprising the reinvestment zone. Each year, an Abatee shall furnish the FBCAD with such information as may be necessary for the Abatement. Drainage District receives the certified appraised value from the FBCAD.
- B. The Budget Office shall perform the following with regard to these Guidelines\*:
  - 1. Collect and retain all original Tax Abatement documents identified in these Guidelines and Criteria,
  - 2. Prepare an annual report of active Abatements based on data received from the FBCAD to submit to the Drainage District which shall include the following:
    - a. Company Name
    - b. Taxable Amount
    - c. Abatement Amount
    - d. Abatement Term
    - e. Abatement Percentage
- C. The Tax Abatement Review Committee (TARC): The TARC annually evaluates\* each facility receiving a tax Abatement to ensure compliance with all requirements of the Agreement and report possible violations to the County Attorney and the Drainage District.

1. The (TARC) shall be comprised of, but not limited to: a representative appointed by each Commissioners Court member and other County personnel as determined by the Court. The TARC shall serve both Fort Bend County and Fort Bend County Drainage District.
  2. TARC\* shall develop procedures to be approved by Commissioners Court such as: meetings, composition, assignments of Agreements for review.
  3. TARC\* review shall include onsite inspection of the facility which shall:
    - a. Be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the facility and in accordance with its safety standards;
    - b. Ensure that twenty-four (24) hours prior notice is given; and
    - c. Require that one or more representatives of the company or individual is present.
  4. Prior to the expiration of these Guidelines, TARC\* will review all Tax Abatement Agreements executed pursuant to these provisions to determine whether the goals stated in Section II G have been achieved. Based on that review, TARC will make recommendation to modify renew or eliminate the Guidelines and Criteria after their expiration.
  5. The role of TARC is merely advisory in nature; TARC is not authorized to take formal actions as would be contemplated by Texas Government Code Section 551.001 (4).
- D. The Greater Fort Bend Economic Development Council supports the County Tax Abatement process at the request and direction of County Officials.\*
1. Services the GFBEDC provides under contract to County may include but are not limited to:
    - a. Meeting with prospective companies considering relocation or expansion into Fort Bend County to determine project, suitability, scope, guideline eligibility and interest for project;
    - b. Providing application materials to companies and navigating Applicants through the Drainage District process;
    - c. Assisting Applicants in the creation of the Financial Analysis Model of the project which is required once it is determined that a Project may qualify for Abatement based on initial Application review;
    - d. Making recommendations for proposals;
    - e. Conducting individual briefing meetings as requested by Officials to review the Prospect's project and recommended incentive;
    - f. Communicating recommended incentive offer pending but subject to future Drainage District Approval;
    - g. Obtaining signatures from Company and submits all needed documents to the County Judge's Office for agenda placement;
    - h. Coordinating timelines with a City offering an Abatement to an Applicant for the same project

2. The GFBEDC is not prohibited from offering paid memberships to Applicants and Abatees; however nothing in these Guidelines and Criteria requires such membership nor will any proposed or executed Abatement Agreement include same as a required or optional term. Membership with the GFBEDC does not affect the decision to grant an abatement by Drainage District and no portion of the membership fee is paid to the District.
- E. Nothing in these Guidelines and Criteria shall be interpreted as superseding the requirements of the Texas Open Meeting Act or the Texas Public Information Act.
- F. Any function or role noted with an asterisk\* shall be performed as specifically designated herein, unless and until the County has an internal economic development office that has been assigned the role. Specific procedures that establish the roles and responsibilities of such office will be developed and must be submitted to the Drainage District for approval prior to operation.

#### **X. ADOPTION AND EXPIRATION OF GUIDELINES AND CRITERIA**

- A. These Guidelines and Criteria shall apply upon adoption by Order of the Fort Bend County Drainage District and shall remain in effect with applicable amendments from time to time, for two years from the date adopted.
- B. During this period, these Guidelines and Criteria may be amended or repealed in accordance with state law. No extension of these Guidelines and Criteria is authorized except by amendment consistent with Chapter 312 of the Texas Tax Code.
- C. No Reinvestment Zone and/or Tax Abatement Agreement may be authorized in reliance upon these Guidelines and Criteria beyond May 11, 2023.
- D. Applications dated prior to the Adoption of these Guidelines and Criteria shall be governed by the Guidelines approved as of the date of the Application, subject to the limitation of time governing the time an application may be left pending and the requirements of law.
- E. The Adoption of these Guidelines and Criteria by the Drainage District does not:
  1. Limit the discretion of the Drainage District to decide whether to enter into a specific tax Abatement Agreement; or
  2. Limit the discretion of the Drainage District to delegate to its employees the authority to determine whether or not the Drainage District should consider a particular application or request for tax Abatement; or
  3. Create any property, contract, or other legal rights in any person to have the Drainage District consider or grant a specific application or request for tax Abatement.
  4. Limit the ability to deviate from these guidelines and criteria for good cause.
- F. Upon execution by this Drainage District, a copy of these Guidelines and Criteria shall be posted on the County Judge's website, unless otherwise directed by the County Judge.
- G. Each member of the Drainage District has signed below indicating a vote of approval of



these Guidelines and Criteria.

**PASSED AND APPROVED** BY the FORT BEND COUNTY DRAINAGE DISTRICT this \_\_\_\_\_ this  
\_\_\_\_\_ day of May 2021.

\_\_\_\_\_  
County Judge KP George

\_\_\_\_\_  
Commissioner Vincent Morales, Precinct 1

\_\_\_\_\_  
Commissioner Grady Prestage, Precinct 2

\_\_\_\_\_  
Commissioner Andy Meyers, Precinct 3

\_\_\_\_\_  
Commissioner Ken DeMerchant, Precinct 4

ATTEST:

\_\_\_\_\_  
Laura Richard, County Clerk

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Michelle L. Turner  
General Counsel Division Chief  
County Attorney Office

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Exhibit A: Application

# Exhibit A: Application

Approved by Drainage District  
On May 11, 2021

*(content submitted for approval, formatting subject to  
change as approved by the County Judge)*

1. Applicant's Business Name and Structure (LLC, LP, Corporation, etc.) that will be operating in Fort Bend County:
2. Name of any Parent Company, Controlling Affiliate or if applicant company is a Subsidiary of another entity that would be responsible for performance of any proposed tax abatement agreement:
3. Please provide a brief history and description of the company:

4. Contact Person and Info for Abatement Process:

Name:

Title:

Direct Phone Number:

Email Address:

Mailing Address:

Website:

5. Company officer name who would execute any potential tax abatement agreement:

Name:

Title:

Entity Name:

Phone:

Email:

Address:

City:            State:    Zip:    -

Website:

6. Headquarters Location (where the company's officers direct, control and coordinate the entity's activities)

City:

State:

7. State of registration or incorporation:

8. Does the company currently have operations elsewhere in the State of Texas? If so, please state the name of communities.

**PROJECT DETAILS**

1. List other communities that are being considered for the project:
2. Indicate any incentives sought or received from other taxing entities in connection with this project.
3. Describe the project, including size and scope of capital improvements (real and personal property) to be undertaken, the facility's use, and the product or service to be produced.
4. Classification and NASIC CODE (i.e. Aviation/Aerospace & Advanced Manufacturing, Bioscience/Healthcare, Information Technology and Cyber-Security, Corporate and Regional Headquarters, Creative Industries, Environmental/Clean/Green Technology, Finance, Logistics and Distribution, Manufacturing):
5. Physical address of Proposed Project: City:  
  
County Precinct:      City Council District:      School District:  
Land Size of Project:      acres
6. ☐ New construction    ☐ Expansion    ☐ To Lease Existing Improvements
7. Proposed Cost of New Improvement, . \$
8. Proposed Cost of New Fixed Equipment and Machinery: \$
9. Other Personal Property excluding Inventory: \$
10. Proposed Cost of Initial Inventory:

11. Schedule of Investment over requested term of Abatement including proposed start of construction date and completion of construction date for each phase of construction

12. Does/will the applicant own or lease the project's proposed new Land and/or Improvements? ☐ Own ☐ Lease

If to be leased, provide the name of the landlord/owner.

If to be leased, indicate lease term.      Years      Beginning Date:   /   /      Expiration date:   /   /

If Applicant owns any other property in Fort Bend County, list existing Fort Bend Central Appraisal District tax account numbers associated with this project if any

Real property:      -      -      ;      -      -      ;      -      -

Personal property:      -      -      ;      -      -      ;      -      -

13. Current local workforce: Full-time:      Part-time:      Seasonal:

14. Minimum number of new, full-time jobs to be created over requested term of Abatement and schedule of placement on site

15. For expansion projects only, number retained full-time jobs:

16. Base Hourly Wage at project site (excluding benefits and bonuses)\*:

17. Average Annual Salary of Existing Jobs: \$

18. Average Annual Salary of Projected New Jobs: \$

19. Is the company delinquent in the payment of ad valorem taxes to any taxing unit located in Fort Bend County?

☐ Yes   ☐ No   If yes, explain:

20. Has the applying company or any of its affiliates been cited, currently under investigation, or have litigation pending for any violations of federal, state, county and/or municipal laws, codes or ordinances?

☐ Yes   ☐ No   If yes, indicate the nature/status of the violation(s):

21. Has the company previously received an incentive from the County? ☐ Yes   ☐ No

Where is the property located:

If yes, indicate the time period (MM/YY): /

If yes, explain:

If yes, is/was the company in compliance with all terms and conditions: ☐Yes ☐No

22. Is any interest in this project presently held by an elected, appointed or employed member of any taxing entity? ☐Yes ☐No

23. Is any interest in this project presently held by a member of the Fort Bend County Drainage District or other County official or employee? ☐Yes ☐No

If yes, explain:

24. Describe any goodwill benefits and involvement that the applicant has previously provided and/or is committed to providing in the future to the Fort Bend County community.

25. Provide an assessment of the project's environmental impact, and any remediation and/or compliance plan associated with the project, which would have the effect of minimizing the negative impact of the project on the environment.

#### ATTACHMENTS

- A. A map and legal description (metes and bounds) of the facility site;
- B. CAD data or a shape file with the boundaries of the proposed facility site, and if the Reinvestment Zone and facility site are not the same, then also include CAD data or a shape file with the boundaries of the proposed Reinvestment Zone;
- C. A general description of the improvements for which the Abatement is sought and the extent of the modernization, expansion, or new improvement which will be part of the facility. 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.
- D. Financial and other information as Fort Bend County deems appropriate for evaluating the financial capacity and other factors of the Applicant;
- E. A time schedule for undertaking and completing the planned improvements; and
- F. Any additional information the Applicant deems helpful to the evaluation of the application.

Companies must submit non-refundable application fees with their applications. Projects that require an assignment or amendment are also required to pay an application fee of \$1,000.00 to each entity.

### CERTIFICATION

I understand and certify that I have read the Drainage District 's current *Tax Abatement Guidelines*. I am familiar with the provisions contained therein, and that the information provided in this application may become a part of an incentive agreement with the Drainage District, I also certify that I am authorized to sign this application, that the information provided herein is true and correct, and that knowingly providing false information will result in voiding the application and termination of any incentive agreement.

Signature: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Company Name:

Mailing Address:

City:      State:      Zip:      -

Telephone: (   ) -                      Mobile: (   ) -      E-mail address:

Applications shall be returned as follows:

Return an original executed Application to:

Fort Bend County Budget Office

Attn: Director of Finance and Investments

Address: 301 Jackson St. Richmond, TX 77469

Telephone: 281-344-3922