

STATE OF TEXAS                   §  
  §  
COUNTY OF FORT BEND         §

**TAX ABATEMENT AGREEMENT BETWEEN  
FORT BEND COUNTY DRAINAGE DISTRICT AND  
FRITO-LAY, INC.,  
REINVESTMENT ZONE 25 AND 28**

This Tax Abatement Agreement hereinafter referred to as “Agreement,” is executed by and between FORT BEND DRAINAGE DISTRICT (hereinafter referred to as “District,”) acting by and through its Board of Directors and Frito-Lay, Inc., a current Owner of Eligible Property (as hereinafter defined) located at 3310 TX-36, Rosenberg, TX, 77471, which is within the contiguous boundaries of Fort Bend District Reinvestment Zone 28 and Reinvestment Zone 25.

1.     **Authorization:**

- a.     This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312, Subchapter B of the Texas Tax Code as it exists on the effective date of this Agreement; and
- b.     District has determined that this Owner’s request for Tax Abatement conforms with the current Guidelines and Criteria approved by the District for Granting Tax Abatement in Reinvestment Zones created by District; and
- c.     Owner first made Application for Abatement with District on or about November 12, 2020, for which the current Guidelines and Criteria specify such Application shall be controlled by the Guidelines and Criteria adopted on February 26, 2019, except as may otherwise be noted; and
- d.     The public notice required by Texas Tax Code Section 312.207 has been satisfied prior to the submission of this Agreement for consideration by this taxing entity; and
- e.     No official of District has an interest in the property subject to this Agreement.

2.     **Definition:**

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

- a.     “Abatement” means the full or partial exemption from ad valorem taxes of certain property located in a reinvestment zone designated for economic development purposes.
- b.     The “Certified Appraised Value” or “Value” means the combined values of the Eligible Property certified as of January 1 of each year of this Agreement by the Fort Bend Central Appraisal District (“FBCAD”) within Reinvestment Zone 25 and Reinvestment Zone 28.
- c.     “County” means the County of Fort Bend, Texas.

- d. “Effective Date” shall mean the date upon which this Agreement has been executed by both District and Owner and the conditions set forth in Section 12 below have been satisfied.
- e. “Eligible Property” means that Property that may qualify for Abatement under this Agreement located in located in Reinvestment Zone 25 and Reinvestment Zone 28; which may also be referred to as “Phase II Eligible Property” or “the Second Project” all as generally described in Exhibit 3, attached to and incorporated into this Agreement by reference.
- f. "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 is scheduled to work 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 seasonal, part-time, and full-time equivalent.
- g. “Improvements” are as identified in the Texas Tax Code Chapter One.
- h. “Ineligible Property” means (i) land, (ii) improvements existing within Reinvestment Zone 25 and Reinvestment Zone 28 prior to the effective date of this Agreement, (iii) tangible personal property that the FBCAD classifies as inventory or supplies, (iv) real property used primarily to provide retail sales or services to the public, (v) real property used for residential purposes, (vi) tangible personal property classified as furnishings, (vii) tangible personal property located within Reinvestment Zone 25 and Reinvestment Zone 28 prior to the effective date of this Agreement, (viii) real property with a productive life of less than 10 years, or (ix) any other property for which abatement is not allowed by state law or is not specifically included in the definitions herein for Eligible Property (Improvements and Personal Property).
- i. “Owner” means **Frito-Lay, Inc.**, and any Affiliate that owns improvements to the Real Property, or other person or entity to which this Agreement is assigned in accordance with the terms of this Agreement. An “Affiliate” of an Owner means any entity that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with Owner. For purposes of this definition, “control” of any entity means (i) the ownership, directly or indirectly, of fifty percent (50%) or more of the voting rights in a company or other legal entity or (ii) the right to direct the management or operation of such entity whether by ownership (directly or indirectly) of securities, by contract or otherwise.
- j. “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.

**3. Subject Property:**

- a. “Real Property” means the approximate 488 acre tract of land located at 3310 TX-36, Rosenberg, TX, 77471, which is within the contiguous boundaries of Fort Bend County Reinvestment Zone 28 and Reinvestment Zone 25, described in Exhibit 1 and Exhibit 2 attached hereto and incorporated herein for all purposes.
- b. Owner intends to build or expand facilities on the Real Property. Owner also intends to locate Eligible Personal Property at the Premises.
- c. Eligible Property under this Agreement:
  1. Improvements to be Abated under this Agreement mean a new and expanded building(s) used as a distribution, manufacturing, and warehousing facility containing approximately 130,000 square feet of floor space, and the interior improvements to such distribution, manufacturing, and warehousing facility, and any sidewalks, parking lots, outdoor lighting, landscaping and other improvements to serve the facility; and
  2. Property Personal Property to be Abated under this Agreement is new machinery and/or equipment owned or leased by Owner that are added to the Improvements subsequent to the execution of this Agreement and which are collectively assigned an account number separate and apart from any other personal property by the FBCAD for appraisal purposes.
- d. There are existing improvements (“Phase I Improvements”) on the property that are subject to TAX ABATEMENT AGREEMENT BETWEEN FORT BEND DRAINAGE DISTRICT AND FRITO-LAY, INC., which was executed on or about November 12, 2019 (“Phase I Agreement”). Those Phase I Improvements are not subject to Abatement under this Agreement. This Agreement shall only abate ad valorem tax for expansion or modernization beyond what is covered in the Phase I Agreement.
- e. The FBCAD has established the base year values for Phase II Eligible Property on the subject property as of January 1, 2020 (“Base Year”).

**4. Responsibilities:** In consideration of receiving the tax abatement granted herein, Owner represents and agrees:

- a. That construction of the Improvements will commence following completion of financing and receipt of all required construction permits and other approvals.
- b. No later than December 31, 2023 (the “Completion Date”), Owner shall ensure that construction of the Phase II Improvements are complete. For the avoidance of doubt, construction refers to Real Property Improvements only and not the installation of machinery, equipment or other tangible personal property. Owner shall provide the County Director of Finance & Investments with written documentation confirming completion of the Improvements on or before the Completion Date. Owner’s failure to provide the written documentation required by this Section may result in a

forfeiture of the tax abatement provided for tax year 2024; provided that in the event Owner provides such documentation after December 31, 2023 but prior to December 31, 2024 the forfeiture of the tax abatement for failure to timely complete the Improvements shall not apply to any tax abatement after tax year 2024.

- c. That Owner shall provide the County’s Director of Finance & Investments a certified statement that Owner has spent a minimum of \$200,000,000 in total project costs with respect to the Eligible Property (excluding the cost of the Real Property) within sixty (60) days after completion of the Improvements; and that the Certified Appraised Value of the Eligible Property on JANUARY 1, 2024 and on each and every January 1 thereafter during the term of this Agreement must not be less than \$82,000,000.
- d. That Owner shall meet the minimum new Employee requirements, while retaining any Employees required under the Phase I Agreement as agreed in Exhibit 3 and as shown below:

Number of full-time employees added under Phase II beginning Jan 1, 2025	Number of existing full-time employees to be retained from Phase I each January 1	Total Number of full-time employees to be retained beginning Jan 1, 2025 Combined Phase I & II
160	575	735

- e. Owner shall annually furnish County with only those payroll records allowed by law and necessary for County to confirm Owner’s compliance with this Agreement (e.g. number of Employees is appropriate; payroll dollars, taxes, benefits, and bonuses are not appropriate).
- f. Owner may from time to time during the term of this Agreement install additional improvements, and modify, remove or replace improvements as Owner may determine in their discretion, provided that the minimum Certified Appraised Value of the Eligible Property required by this Agreement is met. Failure to meet the Certified Appraised Value shall not be a default but will invalidate the tax abatement for the year this requirement was not satisfied.
- g. OWNER SHALL BE RESPONSIBLE FOR NOTIFYING THE FBCAD OF THE ABATEMENT, INCLUDING FILING WITH THE FBCAD ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.
- h. OWNER SHALL BE RESPONSIBLE FOR REQUESTING FROM DISTRICT AN ASSIGNMENT OF THIS AGREEMENT IN THE EVENT THE REAL PROPERTY SUBJECT TO THIS AGREEMENT IS SOLD, TRANSFERRED OR ASSIGNED. EXCEPT AS OTHERWISE

PROVIDED HEREIN, ANY ASSIGNMENT IS NOT EFFECTIVE UNTIL APPROVED IN WRITING BY DISTRICT.

- i. That Owner has as of the effective date of this Agreement, the financial resources to implement the above representations.
- j. That Owner shall ensure that taxes on all property owned by it in Fort Bend Drainage District are current. Delinquent taxes for any Drainage District property of Owner is a default of Owner and Owner’s obligations hereunder and will be grounds for termination of this Agreement, regardless of whether the delinquent property is subject to an abatement under this Agreement.
- k. That Owner will participate in the continuing economic development process in Fort Bend County by becoming and continuing a current membership as a Trustee Member (\$6,000/yr. dues) of the Greater Fort Bend Economic Development Council for a minimum period coinciding with the term of this Agreement.

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

- a. This Agreement shall be effective on the date executed by District and Owner, and shall terminate on DECEMBER 31, 2033. In no event shall this Agreement extend beyond DECEMBER 31, 2033.
- b. In each year that this Agreement is in effect, the amount of Abatement shall be an amount equal to the percentage indicated below of the taxes assessed upon the Eligible Property.
- c. Subject to the limitations imposed by law and conditioned upon the representations outlined in Section 4 herein above, there shall be granted and allowed hereunder an Abatement applicable to Owner on Eligible Property of Owner for the following years and in the following amounts based upon the Value of the Eligible Property:

Tax Year	Percentage Abatement <sup>1</sup>
2024	55%
2025	55%
2026	55%
2027	55%
2028	55%
2029	55%
2030	55%
2031	55%

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1 THIS FOOTNOTE IS FOR DISTRICT INTERNAL PURPOSES ONLY AND IS NOT MADE PART OF THE AGREEMENT  
 For reinvestment zone 25 the portion of taxes abated per Owner is 45% for first project, 55% for second project; and  
 For reinvestment zone 28 the portion of taxes abated per Owner is 55% for a first project  
 See Texas Tax Code 312.204

2032	55%
2033	55%

- 1) The Abatement granted shall not apply to any Ineligible Property.
- 2) The FBCAD's determination of values shall be used to determine the value of the property subject to this Agreement. If Owner protests the FBCAD's valuation of the Eligible Property, the valuation placed on the Eligible Property after the protest is resolved under State law shall be used.
- 3) On or before September 1 of each year of this Agreement, Owner shall certify in writing to the Fort Bend County Director of Finance & Investments compliance with each term of this Agreement by completion and submission of the form attached as Exhibit 4 to this Agreement. No substitutions are allowed.

6. **Taxability:** During the period that this Agreement is effective, the value of taxes shall be payable by the Owner as follows:
- a. The value of all property (Eligible and Ineligible Property), shall be determined in the Base Year by the FBCAD.
  - b. The value of Ineligible Property shall be fully taxable, however, any Ineligible Property made part of the Tax Abatement Agreement by and between Fort Bend County Drainage District and Frito-Lay, Inc. effective January 24, 2012, and the Tax Abatement Agreement between Fort Bend Drainage District and Frito-Lay, Inc. Zone 25 effective November 12, 2019 shall remain subject to those agreements, and shall not nullify any Freeport exemptions available for inventory.
  - c. The Value of Eligible Property shall be abated as set forth in Section 5(c).

7. **Event of Default:**
- a. District may declare Owner in default of this Agreement if: (1) Owner fails to comply with any material term of this Agreement or (2) Owner allows District ad valorem taxes on any property owned by Frito-Lay, Inc. in Fort Bend District to become delinquent, even if the delinquent taxes are for a property not subject to an abatement or (3) Owner ceases all operations on the Real Property for a continuous period of one hundred eighty (180) days before the expiration of the term of the Agreement without the prior written consent of the District, except that in the event of (i) a temporary shutdown of all or a portion of the facility, with assurance of the resumption of operations, for the purpose of facility modification, expansion, improvement, retooling or similar purpose, (ii) all or a portion of the Real Property is being actively marketed, the District shall not unreasonably withhold consent to a reasonable extension to such period to permit the sale of the Real Property to another operator, (iii) the closure of all or a portion of the facility pending settlement of insurance, casualty or condemnation claims or (iv) the closure of all or a portion of the operations at the Real Property due to inadequate or unacceptable raw water supply shall not constitute a vacating of or a cessation of operations on the Real Property

under this Section 7(a). Such exceptions are subject to further extension for force majeure as defined in Section 11 herein.

- b. District shall notify Owner of any default in writing specifying the default. Owner shall have ninety (90) days from the date of the notice to cure any default. If Owner fails to cure the default within ninety (90) days from receipt of notice, District may terminate this Agreement by written notice.
- c. Any default notice issued in accordance this Agreement shall prominently state the following at the top of the notice:

NOTICE OF DEFAULT UNDER TAX ABATEMENT AGREEMENT

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING DEFAULT UNDER YOUR TAX ABATEMENT AGREEMENT WITH THE DISTRICT. FAILURE TO CURE THIS DEFAULT WITHIN THE TIME PERIODS PROVIDED BY THE AGREEMENT SHALL RESULT IN CANCELLATION OF THE TAX ABATEMENT AGREEMENT AND ACTION TO RECAPTURE OF TAXES ABATED PURSUANT TO THE AGREEMENT.

- d. Owner agrees that all taxes previously abated by virtue of this Agreement and that Owner would otherwise have been legally required to pay will be recaptured and paid to District within sixty (60) days of the termination in the event that termination is due to Frito-Lay, Inc. under the following conditions and subject to Section 7(b) above:
  - i. Allowing its ad valorem taxes owed the District to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
  - ii. Failing to construct the Improvements; or
  - iii. Fully ceasing all operations at the Real Property in violation of Section 7(a) above, and failure to cure such cessation within the applicable cure periods.
- e. Payment of recaptured taxes will include:
  - i. The amount of taxes abated on the Eligible Property during the term of this Agreement; and
  - ii. Interest on the abated and recaptured amount, beginning on the date of default, at the rate provided for in the Texas Tax Code for delinquent taxes.
  - iii. Penalties on the amount abated in the year of default, at the rate provided for in the Texas Tax Code for delinquent taxes.
- f. District shall have a lien against the Real Property, Ineligible Property and Eligible Property for the taxes and interest owed because of the recapture of taxes under this paragraph during the time period beginning on the date such payment obligation accrues and continuing until the date is paid.
- g. This paragraph is required by Chapter 2264, Texas Government Code and governs over any conflicting provisions of this Agreement. Owner is prohibited from knowingly employing undocumented workers as that term

is defined in Section 2264.001, Texas Government Code. If Owner is convicted of a violation under 8 U.S.C. Section 1324a(f), the conviction shall be considered default of this Agreement, from which no cure provisions shall apply. In such event, District shall provide written notice to Owner of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from District to Owner. In the event of termination under this paragraph (d), Owner shall repay to District the amount of all property taxes abated under this Agreement, plus interest on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes.

- h. Except as set forth in Section 7(d) above, if this Agreement is terminated by District, as District's sole and exclusive remedy, all future Abatement under this Agreement shall terminate.

## **8. Administration and Inspection**

- a. This Agreement shall be administered by the Fort Bend County Director of Finance & Investments or her designee. Owner shall allow employees or other representatives of District have reasonable access to the Real Property (during normal business hours) during the term of this Agreement. All inspections shall be made only after two (2) business days prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction or operation of the facility. A representative of Owner may accompany the inspector. District shall cause each of its employees and representatives who conduct such inspections to abide by all of Owner's security, safety and operational rules (as the same may be amended from time to time), copies of which have been made available to District. District shall be limited to inspections during normal business days, during normal business hours.
- b. Upon completion of the construction, placement and/or installation of the Eligible Property, District shall annually evaluate the Eligible Property to ensure compliance with the terms and provisions of this Agreement and shall report potential defaults to the Owner.
- c. The Chief Appraiser of the FBCAD shall annually determine (1) the taxable value under the terms of this abatement of any Eligible Property located on the Real Property and (2) the full taxable value without abatement of the Eligible Property located on the Real Property. The Chief Appraiser shall record both abatement taxable value and full taxable value in the appraisal records. The full taxable value figure listed in the appraisal records shall be used to compute the amount of abated taxes that is terminated in a manner that results in recapture of abated taxes.
- d. Owner shall furnish the Chief Appraiser annually such information as provided for under Chapter 22 of the Texas Tax Code as may be necessary for the administration of this Agreement. Such information shall also be provided annually to the County Director of Finance & Investments in preparation of its annual evaluation for compliance with the terms and provisions of this Agreement.

**9. Assignment**

- a. The rights and responsibilities of Owner hereunder may be assigned, in whole or in part, to an Affiliate without District's prior consent. Owner shall provide notice to the District of any assignment to an Affiliate. Owner's assignment of the Agreement to an Affiliate shall be final only after the execution of a formal assignment document between Owner and the assignee and the delivery of notice of the execution of such assignment agreement to the District.
- b. The rights and responsibilities of Owner hereunder may be assigned to a party other than an Affiliate only after obtaining the District's prior consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment by Owner to a party other than an Affiliate without first obtaining the consent of the District shall be a default under this Agreement subject to the notice provisions, cure provisions, remedies, and other terms and conditions of Section 7 above. Owner shall give the District forty-five (45) days' written notice of any intended assignment to a party other than an Affiliate, and the District shall respond with its consent or refusal within thirty-five (35) days after receipt of Owner's notice of assignment. If the District responds to Owner's notice of assignment with a refusal, the parties agree to work together in good faith to resolve the District's objections to the assignment. Owner's assignment shall be final only after the execution of a formal assignment document between Owner and the assignee and the delivery of notice of the execution of such assignment agreement to the District. Neither Owner's notice of an intended assignment nor the District's formal consent to an intended assignment shall constitute an assignment of the Agreement, and Owner's request for a consent to assignment shall not obligate Owner to assign the Agreement. In no event shall the District's failure to timely respond to Owner's written notice of assignment be deemed to be the District's consent to the intended assignment.
- c. No assignment shall be effective or approved if District has declared a default hereunder which has not been cured or the assignee is delinquent in the payment of any ad valorem taxes owed to District.
- d. Any and all assignments shall contain substantially the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of the original Agreement only.
- e. The parties agree that a transfer of all or a portion of the corporate ownership interests in Owner shall not be considered an assignment under the terms of this Agreement and shall not require any consent of the District. If the name of the Owner is changed, Owner will promptly notify District in writing of such change of name; this sentence is not intended to diminish the requirements of Section 9.a. above in the event of an actual assignment of the Agreement. The "corporate ownership" interests for the purposes of this Section 9.e. include limited liability company, corporation, or partnership ownership interests.
- f. Notwithstanding the provisions of subparagraph a. above, Owner may, without obtaining the District's consent, mortgage, pledge, or otherwise encumber (a "Mortgage") its interest in this Agreement or the Project to a

Lender for the purpose of financing the construction or operations of the Project or acquiring additional equipment following any initial phase of construction. Owner's encumbering its interest in this Agreement may include an assignment of Owner's rights and obligations under this Agreement for purposes of granting a security interest in this Agreement (a "Security Agreement") to one or more Lenders. In the event Owner takes any of the actions permitted by this subparagraph to grant a Mortgage or a Security Agreement in this Agreement, it shall promptly provide written notice of such action to the District with such notice to include the name and notice information of the Lender. If Owner provides the name and contact information of a Lender to the District, then the District shall be required to provide a copy to such Lender of all notices (including default notices) delivered to Owner at the same time that the notice is delivered to Owner, and Lender shall be afforded the rights to cure afforded to Owner under this Agreement. If Owner does not provide the name and contact information of a Lender to the District, then such Lender shall not have the notice rights nor any other rights of a Lender under this Agreement. If a Lender forecloses its Mortgage or Security Agreement rights in this Agreement, such Lender shall promptly notify the District of such foreclosure and promptly provide the District with the name and notice information for the company that succeeded to the rights of Owner under the Agreement pursuant to such foreclosure. Nothing in any Mortgage or Security Agreement shall be construed or interpreted to have the effect of changing any of the terms and conditions of this Agreement.

- g. Owner shall provide notice to District within ninety (90) days after any sale or assignment of the Real Property subject to this Agreement.

**10. Indemnity**

**IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT OWNER IN PERFORMING OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND DISTRICT ASSUMES NO RESPONSIBILITIES OR LIABILITIES IN CONNECTION THEREWITH TO THIRD PARTIES. OWNER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS DISTRICT AND THE FBCAD FROM ANY AND ALL NON-OWNER CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF OWNER'S BREACH OF ITS OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY SHALL NOT APPLY TO THAT PORTION OF RESPONSIBILITIES AND LIABILITIES RESULTING FROM THE FAULT OR NEGLIGENCE OF DISTRICT OR TAXING UNITS, THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. OWNER'S INDEMNIFICATION OBLIGATIONS INCLUDE THE PAYMENT OF REASONABLE ATTORNEYS FEES AND EXPENSES INCURRED IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, AND CAUSES OF ACTION WHICH ARE NOT DUE TO DISTRICT'S OR THEIR REPRESENTATIVES' INTENTIONAL CONDUCT OR NEGLIGENCE. OWNER SHALL BE RESPONSIBLE FOR ALL FEES INCURRED BY DISTRICT IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION SO**

**LONG AS DEFENSE COUNSEL AND COURSES OF ACTION ARE DETERMINED SOLELY BY OWNER. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT DISTRICT FROM INCURRING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION; PROVIDED, HOWEVER, OWNER SHALL NOT BE RESPONSIBLE FOR ANY SUCH COSTS AND OR FEES SO INCURRED.**

**11. Force Majeure:**

If by reason of force majeure, Owner is unable to perform any obligation of this Agreement, it shall give notice of the force majeure to District in writing within sixty (60) calendar days after Owner first becomes aware or should have become aware of the occurrence relied upon. By doing so, the obligation of Owner to the extent and for the period of time affected by the force majeure, shall be suspended. Owner shall endeavor to remove or overcome the inability with all reasonable effort. For purposes of this provision, "force majeure" shall include, but not be limited to acts of God, landslides, lightning, earthquakes, hurricanes, storms, floods, or other natural occurrences; epidemics or pandemics, strikes, lockouts, insurrections, riots, wars or other civil or industrial disturbances; orders of any kind of the federal or state government or of any civil or military authority; explosions, fires, breakage or accidents to machinery, lines, or equipment, or the failure or lack of capacity of the wastewater system or water supply system; governmental delays in granting approvals or issuing permits; or any other cause not reasonably within the control of the Owner.

**12. District Approval:**

This Agreement is conditioned entirely upon the approval of the District by the affirmative vote of a majority of the members present at a duly scheduled meeting of the Board.

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

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

**14. Changes in Laws/Vested Rights:**

The tax abatement provided in this Agreement is conditioned upon and subject to any changes in the state tax laws during the term of this Agreement, but only the extent required by law to be enforceable and after giving Owner all vesting, non-conforming and/or "grandfather" rights, contained in and applicable to this Agreement and allowed by law.

**15. Miscellaneous:**

- a. This Agreement and the rights and obligations of each party shall be construed and enforced under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas.
- b. In the event of one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any

other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

- c. The waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any subsequent breach.
- d. Any amendments of this Agreement shall be of no effect unless in writing and signed by both parties hereto. Amendments to this Agreement shall be considered and granted only in accordance with the GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN FORT BEND COUNTY DRAINAGE DISTRICT, TEXAS that are effective at the time the Amendment is presented for execution.

**16. Notices**

- a. Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been hand delivered, deposited with a nationally recognized overnight courier, or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and certified, return receipt requested, in a United States Post Office, addressed to District and Owner and at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be received three (3) business days after the date of deposit in the United States Mail.
- b. Notwithstanding anything to the contrary contained herein, the parties acknowledge and agree that any notice required to be given under the provisions of this Agreement may be made by e-mail (provided that the sender has confirmation that the mail was received), alone or in addition to other methods for giving notice provided for herein.
- c. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner or District at the following addresses:

**To the Tax Assessor/Collector:**

Fort Bend District Tax Assessor-Collector  
1317 Eugene Heimann Circle  
Richmond, Texas 77469  
E-Mail:\_\_\_\_\_

**To District:**

Fort Bend County Drainage District  
401 Jackson  
Richmond, Texas 77469  
Attention: County Judge  
E-Mail:\_\_\_\_\_

**To Owner:**

FRITO-LAY, INC. ECONOMIC DEVELOPMENT  
7701 LEGACY DRIVE  
PLANO, TX 75024  
E-Mail: Kathy.Alfano@pepsico.com

With a copy to:

Frito-Lay, Inc. Legal Department  
7701 Legacy Drive  
Plano, TX 75024  
E-Mail: John.Poakeart@pepsico.com

- d. Any party may designate a different physical mailing or e-mail address by giving the other parties sixty (60) days prior written notice thereof.

**17. Entire Agreement**

This executed instrument is understood and intended to be the final expression of the parties' agreement and is a complete and exclusive statement of the terms and conditions with respect thereto, superseding all prior agreements or representations, oral or written, and all other communication between the parties relating to the subject matter of this agreement. Any oral representations or modifications concerning this instrument shall be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

Attached hereto are:

Exhibit 1 – Fort Bend County Ordinance designating Reinvestment Zone No. 28 and legal description of Real Property (land) comprising the Reinvestment Zone (including Attachment A to this Exhibit);

Exhibit 2- Fort Bend County Ordinance designating Reinvestment Zone No. 25 and legal description of Real Property (land) (including Attachments A and B to this Exhibit);

Exhibit 3: the Economic Impact Statement,

Exhibit 4, the Annual Compliance Certificate

All of which are made part of this Agreement.

**18. Conflict**

Conflicts among documents shall be resolved in favor of:

First: Fort Bend County Ordinance designating Reinvestment Zone No. 28 and legal description of Real Property (land) comprising the Reinvestment Zone and Fort Bend County Ordinance designating Reinvestment Zone No. 25 and legal description of Real Property (land) comprising the Reinvestment Zone (as applicable)

Second: this document titled TAX ABATEMENT AGREEMENT BETWEEN FRITO-LAY, INC., REINVESTMENT ZONE 25 AND 28

Third: Economic Impact Statement

Last: Annual Compliance Certificate (attached as form document)

*Remainder left blank*

*Execution page follows*

**19. Execution**

**IN TESTIMONY OF WHICH, THIS AGREEMENT** has been executed by District and Owner as of the dates below stated. Owner warrants and represents that the individuals executing this agreement on behalf of Owner have full authority to execute this Agreement and bind Owner to the same.

**“DISTRICT:”  
FBC DRAINAGE DISTRICT**

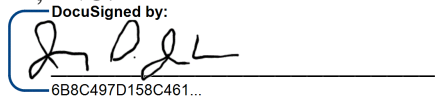
By: \_\_\_\_\_  
KP George, County Judge

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

**ATTEST:**

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

**“OWNER”  
FRITO-LAY, INC.**

By:  \_\_\_\_\_

Printed Name:                      Jeremy D. Johnson

Title:                                Vice President, Supply Chain

Date:                                 6/1/2021  
\_\_\_\_\_

APPROVED AS TO LEGAL FORM:

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Michelle L. Turner  
General Counsel Division Chief  
County Attorney Office

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4.17 4.20.21 4.21.docx

**COUNTY'S ORIGINAL EXECUTED DOCUMENT  
TO BE RETURNED TO:**

**BUDGET OFFICE  
ATTN: DIRECTOR OF FINANCE & INVESTMENTS  
ADDRESS: 301 JACKSON ST. RICHMOND, TX 77469  
TELEPHONE: 281-344-3922  
FAX: 281-344-3954**

**OWNER SHALL SEND A COPY TO:**

**FORT BEND ECONOMIC DEVELOPMENT COUNCIL  
1 FLUOR DANIEL DRIVE  
SUGAR LAND, TX 77478**