

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**TAX ABATEMENT AGREEMENT BETWEEN
FORT BEND COUNTY, DAIRY ASHFORD ENTERPRISE, INC., AND
BLUEBONNET NUTRACEUTICALS, LTD,
CITY OF SUGAR LAND REINVESTMENT ZONE 2021-01**

This Tax Abatement Agreement hereinafter referred to as “Agreement,” is executed by and between FORT BEND COUNTY, TEXAS (a taxing entity, hereinafter referred to as “County,”) acting by and through its Commissioners’ Court, DAIRY ASHFORD ENTERPRISE, INC., hereinafter referred to as “Owner/Lessor” and current Owner of Eligible Property (as hereinafter defined), and BLUEBONNET NUTRACEUTICALS, LTD.), hereinafter referred to as Owner/“Lessee”, also a current Owner of Eligible Property located at **12639 WEST AIRPORT BLVD., SUGAR LAND, TX**, which is within the boundaries of **CITY OF SUGAR LAND** Reinvestment Zone **2021-01**.

I. Authorization and Findings:

- A. Fort Bend County 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.
- B. Fort Bend County has adopted GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN FORT BEND COUNTY, TEXAS and determined that this Owner’s request for Tax Abatement conforms with those current Guidelines and Criteria;
- C. Reinvestment Zone No. 2021-01 was created by **THE CITY OF SUGAR LAND** in accordance with Texas Tax Code, Chapter 312, and the Property subject to tax abatement under this Agreement is located within said Zone;
- D. Fort Bend County is authorized under Section 312.206 to execute a tax abatement agreement with the owner of tangible personal property located on real property in a municipal created reinvestment zone ;
- E. No official of County has an interest in the property subject to this Agreement; and
- F. That 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.

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

- B. "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.
- C. "Commercial Building" means a new facility, a new addition to an existing facility or build-out of unoccupied space within an existing facility
- D. "Commissioners Court" means the Commissioners Court of Fort Bend County, Texas.
- E. "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).
- F. "Expansion" means the addition of buildings, structures, machinery, tangible personal property, equipment or payroll for purposes of increasing production or regional capacity.
- G. "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- H. "Improvements" are as identified in the Texas Tax Code Chapter One.
- I. "Owner" means the owner of Eligible Property pursuant to this Agreement.
- J. "Owner/Lessee" means BLUEBONNET NUTRACEUTICALS, LTD., 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.
- K. "Owner/Lessor" means DAIRY ASHFORD ENTERPRISE, INC., 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
- L. "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.
- M. "Real Property" means land or an improvement, or other property classified as such under state law.
- N. "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.

III. Subject Property:

- A. "Real Property" means the approximate 7.4447 acre tract of land located at 12639 West Airport Blvd., Sugar Land, TX, which is within the boundaries of City of Sugar Land Reinvestment Zone 2021-01, described in Exhibit 1, attached hereto and incorporated herein for all purposes.
- A. Owner/Lessor intends to build or expand facilities on the Real Property. Both Owner/Lessor and Owner/Lessee intend to locate Eligible Personal Property at the Premises.
- B. Eligible Property under this Agreement:
 - 1. Improvements to be Abated under this Agreement is an approximately 128,000 sf building which is owned by Lessor as generally described in Application for Abatement, attached as Exhibit 2 and incorporated into this Agreement by reference; and
 - 2. Personal Property to be Abated under this Agreement is fixed equipment and machinery which is owned by Lessee that are added to the Improvements subsequent to the execution of this Agreement and is collectively assigned an account number separate and apart from any other personal property owned by Lessee at this location by the FBCAD for appraisal purposes.
- C. The FBCAD has established the base year values for all Eligible Property as of January 1, 2021 ("Base Year").

3. Term and Termination

- A. This Agreement is effective as of the date of execution hereof and shall continue through **DECEMBER 31, 2032**, unless terminated earlier, as provided elsewhere herein. In no event shall this Agreement extend beyond **DECEMBER 31, 2032**.
- B. Notwithstanding the foregoing, Lessor's and Lessee's obligations upon default to pay County any taxes abated under this Agreement, and penalty and interest thereon, as herein provided shall not terminate until the abated taxes, plus penalty and interest, are paid.
- C. 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.

4. Value of Abatement:

- A. Subject to the limitations imposed by law and conditioned upon the representations made by the Owners, there shall be granted and allowed hereunder an Abatement applicable to Owners on Eligible Property of Owners for the following years and in the following amounts based upon the Value of the Eligible Property:

Tax Year	Percentage Abatement
Year 1	35%
Year 2	35%
Year 3	35%
Year 4	35%
Year 5	35%
Year 6	35%
Year 7	35%
Year 8	35%
Year 9	35%
Year 10	35%

- B. The percentage abatement shown reflects the portion of value abated for property located in the stated Reinvestment Zone without an Incremental Incentive percentage.
- C. The Abatement granted shall not apply to any Ineligible Property.
- D. During the period that this Agreement is effective, the value of taxes shall be payable by the Owner and Lessee as follows:
 - i. The value of all property (Eligible and Ineligible Property), shall be determined in the Base Year by the FBCAD.
 - ii. The value of Ineligible Property shall be fully taxable.
 - iii. The Value of Eligible Property shall be abated as set forth above.
- E. The FBCAD's determination of values shall be used to determine the value of the property subject to this Agreement. If either or both 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.

5. **Responsibilities:** In consideration of receiving the tax abatement granted herein, Owner and Lessee represent and agree:

A. Performance Measures

Criteria	Required Deliverable	Documentation Required
Construction of the will commence	NOVEMBER 15, 2021	Owner/Lessor shall provide certified statement to be provided with the

		minimum total project costs, as below
Date by which Improvements will be completely constructed and other Eligible Property (fixed equipment and machinery) shall be placed therein.	SEPTEMBER 15, 2022	Owner/Lessor shall provide certified statements to be provided with the minimum total project costs, as below
Minimum total project costs with respect to the Eligible Property at completion of construction	\$20,300,000	Both Owners shall provide the County's Director of Finance & Investments a certified statement for the total project costs with respect to the Eligible Property (excluding the cost of the Real Property) within thirty (30) days after completion of the Improvements
Minimum Combined Certified Appraised Value for Eligible Property Effective in Tax Years 2023-2032	\$16,240,000	Both Owners shall provide the County's Director of Finance & Investments a certified statement for the Minimum Certified Appraised Value each year during the Agreement
Minimum new Employee requirements as shown in Exhibit 2, while retaining any Employees	New Jobs: 25 by Jan 1, 2023; then 18 more each year of the remaining abatement term. These jobs shall have an average annual salary, before benefits, of \$78,000.	Owner/Lessee shall annually furnish County with payroll records allowed by law and necessary for County to confirm Owner/Lessee's compliance with this Agreement (e.g.

	56 jobs will be retained by Lessee that currently are at another Sugar Land location and will be moved to this new location prior to Jan 1, 2023.	number of Employees is appropriate; payroll dollars, taxes, benefits, and bonuses are not appropriate).
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B. Additional Requirements

- i. Owner/Lessor shall ensure that construction on or at the Property is in conformity with all applicable Regulations, Ordinances and Restrictions.
- ii. Owner/Lessor shall ensure that use of the property is limited to that which is consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; namely that the use will be as described in Exhibit 2.
- iii. BOTH OWNERS 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.
- iv. On or before September 1 of each year of this Agreement, each Owner shall certify in writing to the Fort Bend County Budget Office compliance with each term of this Agreement by submission of the Annual Compliance Statement attached as Exhibit 3.
- v. Both Owners shall ensure that taxes on all property owned by each in Fort Bend County are current. Delinquent taxes for any Fort Bend County property of either Owner is a default of and will be grounds for termination of this Agreement, regardless of whether the delinquent property is subject to an abatement under this Agreement.
- vi. Each Owner shall annually furnish information necessary for Fort Bend County's evaluation of 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).

6. Administration

- A. This Agreement shall be administered in accordance with the GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN FORT BEND COUNTY, TEXAS.
- B. Fort Bend Central Appraisal District annually determines an assessment of the real

and personal property comprising the reinvestment zone. Each Owner shall furnish the FBCAD annually with such information as may be necessary for the Abatement. After value has been established, Fort Bend County receives the certified appraised value from the FBCAD.

- 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. Each 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 Director of Finance & Investments in preparation of its annual evaluation for compliance with the terms and provisions of this Agreement
- E. Upon completion of the construction, placement and/or installation of the Eligible Property, County 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 and Lessee.
- F. Each Owner shall allow employees or other representatives of County who have been designated by Commissioner's Court to have reasonable access to the Real Property to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement.
 - i. Inspection shall 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;
 - i. Twenty-four (24) hours prior notice shall be given; and
 - ii. One or more representatives of the Owners is present.

7. Recapture/Default

- 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 Lessee of such a facility fails to begin operation with the minimum number of permanent jobs by the next January 1st, then the tax Abatement Agreement shall terminate and all abated taxes during the period of construction shall be recaptured and paid within sixty (60) days of such termination. If the County 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 Agreement may be terminated by the Fort Bend County and all taxes previously abated by virtue of the Agreement shall be recaptured and paid within sixty (60) days from the date of termination. If the County 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 either 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 shall terminate and so shall the Abatement of the taxes for the tax year of the delinquency. 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 County 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 either Owner fails to meet any other performance criteria provided by the Tax Abatement Agreement, the tax Abatement Agreement may terminate and so shall the Abatement of the taxes for the tax year of the delinquency. 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 County 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 Fort Bend County determine that the total level of capital investment in the Eligible Property is lower than provided in the Agreement, the County, at its sole discretion, reserves the right to adjust the tax Abatement percentage to reflect the actual capital investment as determined.
- F. Undocumented Workers. This paragraph is required by Chapter 2264, Texas Government Code and governs over any conflicting provisions of this Agreement. Both Owners are prohibited from knowingly employing undocumented workers as that term is defined in Section 2264.001, Texas Government Code. If either 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, County shall provide written notice to both Owners of the default and this Agreement shall automatically terminate on the 30th day after the date of the notice of default from County to both Owners. In the event of termination under this paragraph (d), each Owner shall repay to County 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.

- G. Procedure for "other" default, not specified herein:
- i. For a default of any other requirement of this Agreement not specifically identified in this Section "Recapture and Default" County will notify both Owners of the default in writing specifying the default. The Owners shall have sixty (60) days from the date of the notice to cure the default.
 - ii. If the Owners fail to cure the default. County may terminate this Agreement by written notice. 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 COUNTY. 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.

- H. The Owners' obligations upon termination to pay County monies owed for taxes abated, interest and penalties thereon shall survive termination of this Agreement, and the County shall have a lien against the Owners' Property and any improvements or tangible personal property located thereon for the monies owed until paid.

8. Notice

- 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 County, Owner, and Lessee 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, 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 County or Lessee at the following addresses:

TO THE DIRECTOR OF FINANCE & INVESTMENTS:

Fort Bend County Director of Finance &
Investments
301 Jackson Street, Ste.
Richmond, Texas 77469

TO COUNTY:

Fort Bend County
401 Jackson
Richmond, Texas 77469
Attention: County Judge

TO OWNER/LESSOR:

DAIRY ASHFORD ENTERPRISE, INC.
12915 DAIRY ASHFORD RD.
SUGAR LAND, TX 77478
ATTN: GARRY BARROWS

TO OWNER/LESSEE:

BLUEBONNET NUTRACEUTICALS,
LTD.
12915 DAIRY ASHFORD RD.
SUGAR LAND, TX 77478
ATTN: GARRY BARROWS

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.

9. Indemnity

- A. IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT OWNERS IN PERFORMING OBLIGATIONS HEREUNDER, ARE ACTING INDEPENDENTLY, AND COUNTY ASSUMES NO RESPONSIBILITIES OR LIABILITIES IN CONNECTION THEREWITH TO THIRD PARTIES. OWNERS AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS COUNTY AND THE FBCAD FROM ANY AND ALL NON-OWNER CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF EITHER OWNER'S BREACH OF ITS OBLIGATIONS HEREUNDER. 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. THE OWNERS SHALL BE RESPONSIBLE FOR ALL FEES

INCURRED BY COUNTY IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION.

- B. The Parties expressly acknowledge that the County's authority to indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification by the County is invalid. Nothing in this Agreement requires that the County incur debt, assess or collect funds, or create a sinking fund.

10. Miscellaneous:

- A. Assignments- The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto. This Agreement may be transferred or assigned by an Owner or Lessee only upon written permission by County, which permission shall not be unreasonably withheld. No assignment shall be approved if the assignor or assignee is indebted to the City for ad valorem taxes or other obligations.
- B. Changes in Tax Laws. The tax abatement provided in this Agreement is conditioned upon and subject to any changes in the state tax laws during the term of this Agreement.
- C. Compliance with State and Local Regulations. Nothing in this Agreement shall be construed to alter or affect the obligations of the Owners to comply with any ordinance, rule, or regulation or law.
- D. Public Information. This Agreement is public information. To the extent, if any, that any provision of this Agreement is in conflict with the Texas Government Code Chapter 552, as amended (the "Texas Public Information Act"), such provision shall be void and have no force or effect.
- E. Severability and Reformation.
- i. Unless a court applies subsection (ii), if any provision of this Agreement or the application thereof to any person or circumstance is ever judicially declared invalid, such provision shall be deemed severed from this Agreement, and the remaining portions of this Agreement shall remain in effect.
 - ii. If any provision of this Agreement or the application thereof to any person or circumstance is prohibited by or invalid under applicable law, it shall be deemed modified to conform with the minimum requirements of such law, or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any such other provision being prohibited or invalid.
- E. Venue: This Agreement and the rights and obligations of all parties 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.

11. 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 – RZ ORDER and legal description of Real Property (land) comprising the Reinvestment Zone (including Attachment A to this Exhibit);

Exhibit 2 - Application

Exhibit 3 - the Annual Compliance Certificate

All of which are made part of this Agreement.

12. Conflict

Conflicts among documents shall be resolved in favor of:

First: RZ ORDER and legal description of Real Property (land) comprising the Reinvestment Zone (including Attachment A to this Exhibit);

Second: this document titled TAX ABATEMENT AGREEMENT BETWEEN FORT BEND COUNTY DRAINAGE DISTRICT, DAIRY ASHFORD ENTERPRISE, INC., AND BLUEBONNET NUTRACEUTICALS, LTD, CITY OF SUGAR LAND REINVESTMENT ZONE 2021-01

Third: Application

Last: Annual Compliance Certificate (attached as form document)

13. Execution

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

“COUNTY:”
FORT BEND COUNTY, TEXAS

By: _____
KP George, County Judge

ATTEST:

Date: _____

Laura Richard, County Clerk

“OWNER”
DAIRY ASHFORD ENTERPRISE, INC.

By: Gary Barrows
Printed Name: Gary Barrows
Title: President
Date: 12/1/2021

“LESSEE”
BLUEBONNET NUTRACEUTICALS, LTD.

By: Gary Barrows
Printed Name: Gary Barrows
Title: President
Date: 12/1/2021

APPROVED AS TO LEGAL FORM:

Michelle L. Turner
General Counsel Division Chief
County Attorney Office*

*By law, the County Attorney's Office may only advise or approve contracts or legal documents on behalf of the County. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of the County. Our approval of this document was offered solely for the benefit of the County. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney.

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

Exhibit 1

RZ ORDER and legal description of Real Property (land)
comprising the Reinvestment Zone
(including Attachment A to this Exhibit)



City Council Agenda Request

SEPTEMBER 7, 2021

AGENDA REQUEST NO: III.A.

AGENDA OF: City Council Meeting

INITIATED BY: *Alba Penate-Johnson, Business Development Manager*

PRESENTED BY: *Alba Penate-Johnson, Business Development Manager*

RESPONSIBLE DEPARTMENT: Economic Development

AGENDA CAPTION:

SECOND CONSIDERATION: Consideration of and action on **CITY OF SUGAR LAND ORDINANCE NO. 2239:** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, CREATING REINVESTMENT ZONE NO. 2021-01 FOR A 7.4447 ACRE TRACT OF LAND LOCATED IN SUGAR LAND, TEXAS AT 12639 W. AIRPORT BLVD., SUGAR LAND, TEXAS.

RECOMMENDED ACTION:

Consider a second reading and approve Ordinance No. 2239, creating Reinvestment Zone No. 2021-01 for a 7.4447-acre tract of land located in Sugar Land, Texas at 12639 W. Airport Blvd., Sugar Land, Texas.

EXECUTIVE SUMMARY:

Project Whey, an existing Sugar Land business, has proposed the construction of a 128,000 square foot building inside the Sugar Land Business Park. The new structure would be used as a mixture of office and manufacturing of their new product lines. There is an anticipated \$18M investment in real property with the addition of 200 new jobs with an average annual salary of \$78,000.00. The anticipated inventory values at project completion are \$11M. The company and City are finalizing a tax abatement agreement, which will be taken to the City Council for consideration pending the approval of the Reinvestment Zone.

On June 17, 2021, Staff received a signed tax abatement application from Project Whey. The

new project is targeted for completion in the second quarter of 2022.

The City of Sugar Land has the option to offer companies property tax abatements to encourage economic development within Sugar Land. The city does lose money through such value-added tax abatements, as the development would not have occurred without the tax abatement. The projects result in significant property tax value and revenue to the City after the abatement expires (maximum 10-year terms). In addition, economic growth generated by these agreements fully benefits the local school districts, as they do not participate in abatements.

The creation of the Reinvestment Zone for the tax abatement is required, pursuant to state law, prior to consideration of a tax agreement by any taxing jurisdiction. A public hearing and first reading of Ordinance No. 2239 was held during the July 20, 2021 City Council Meeting.

Staff recommends the City Council approve the second reading of Ordinance No. 2239, creating Reinvestment Zone No. 2021-01 for a 7.4447-acre tract of land located in Sugar Land, Texas at 12639 W. Airport Blvd., Sugar Land, Texas.

BUDGET

EXPENDITURE REQUIRED:

CURRENT BUDGET:

ADDITIONAL FUNDING:

FUNDING SOURCE:

ATTACHMENTS:

Description	Type
▯ Ordinance No. 2239	Ordinances
▯ Public Notice of Reinvestment #2021-01	Other Supporting Documents

ORDINANCE NO. 2239

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS, CREATING REINVESTMENT ZONE NO. 2021-01 FOR A 7.4447 ACRE TRACT OF LAND LOCATED IN SUGAR LAND, TEXAS AT 12639 W. AIRPORT BLVD., SUGAR LAND, TEXAS.

WHEREAS, the Property Redevelopment and Tax Abatement Act (Tex. Tax Code § 312, et seq.) authorizes cities to create reinvestment zones and enter into tax abatement agreements with the owners of qualifying properties in reinvestment zones; and

WHEREAS, the zone is eligible for tax abatement, either through the City or another taxing jurisdiction; and

WHEREAS, a public hearing, for which notice was given as required by law, was held at which interested persons were given an opportunity to present evidence for and against the creation of the zone; and

WHEREAS, the City Council has found that the improvements sought to be located in the proposed reinvestment zone are feasible and practical and would be a benefit to the land to be included in the zone and to the City after the expiration of any tax abatement agreement; and

WHEREAS, the creation of the reinvestment zone will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment into the zone that would be a benefit to the property located therein and that will contribute to the economic development of the City of Sugar Land; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND, TEXAS:**

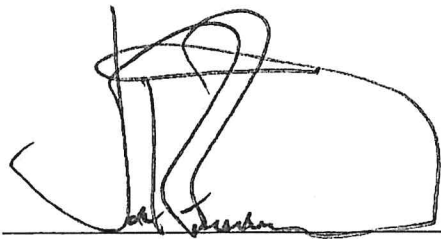
Section 1. That Reinvestment Zone No. 2021-01 is created for the real property consisting of 7.4447 acres, described by metes and bounds in the attached Exhibit A, which is incorporated into this ordinance.

Section 2. That the Reinvestment Zone created herein is eligible for commercial-industrial tax abatement as provided by law.

Section 3. That Reinvestment Zone No. 2021-01 expires five years from the date of this ordinance.

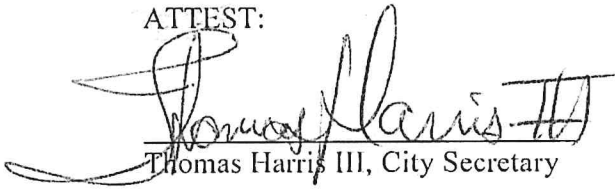
APPROVED on first consideration on July 20, 2021.

ADOPTED upon second consideration on September 7, 2021.



Joe R. Zimmerman, Mayor

ATTEST:



Thomas Harris III, City Secretary

APPROVED AS TO FORM:

DAnn Shea Smith

EXHIBIT A

Description of 7.4447-Acre Tract

EXHIBIT B

Tract Two Site

BEING 7.4447 acres of land out of Sugar Land Business Park Tract 149 Subdivision as recorded under Slide No. 1647/B of the Fort Bend County Plat Records, in the Brown & Belkin Survey, Abstract No. 15, City of Sugar Land, Fort Bend County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod with "TEJAS SURVEY" cap found in the north line of a tract of land described in deed to the City of Sugar Land as recorded under Fort Bend County Clerk's File Number 2007062163 for the southeast corner of said Sugar Land Business Park Tract 149 Subdivision, and the southwest corner of Commercial Reserve "C" of said Sugar Land Business Park Tract 166 Subdivision as recorded under Plat No. 20060244 of the Fort Bend County Plat records;

THENCE S 87°22'14" W 352.42 feet along the common line between said City of Sugar Land tract, and Sugar Land Business Park Tract 149 Subdivision to a 5/8 inch iron rod with "ATKINSON 5897" cap set marking the southwest corner of the herein described tract;

THENCE N 02°37'46" W 882.28 feet across said Sugar Land Business Park Tract 149 Subdivision to a "X" set in concrete sidewalk, in the south line of West Airport Boulevard being 100 feet wide, marking the northwest corner of the herein described tract;

THENCE in a northeasterly direction along the south line of said West Airport Boulevard being a curve to the right 10.76 feet, having a radius of 1950 feet, a central angle of 00°18'59" and a long chord of N 75°04'55" E 10.76 feet to a "X" set in concrete sidewalk;

THENCE N 75°14'23" E 349.71 feet along the south line of said West Airport Boulevard to a "X" set concrete sidewalk for the northeast corner of the herein described tract, also the northeast corner of said Sugar Land Business Park Tract 149 Subdivision, and the northwest corner of Commercial Reserve "A", of the Sugar Land Business Park Tract 165 Subdivision as recorded in Slide Number 213/B of the Fort Bend County Plat Records;

THENCE S 02°37'46" E along the west lines of said Commercial Reserve "A" Sugar Land Business Park Tract 165 Subdivision, and said Sugar Land Business Park Tract 166 Subdivision, and the east line of said Sugar Land Business Park Tract 149 Subdivision, passing at 475.50 feet a 5/8 inch iron rod with cap for the southwest corner of said Commercial Reserve "A" of said Sugar Land Business Park Tract 165, and the northwest corner of Commercial Reserve "B" of said Sugar Land Business Park Tract 166, and continuing in all 958.06 feet to the **PLACE OF BEGINNING**.

Exhibit 2
Application

Form of Application
Approved by Commissioners Court
On May 11, 2021

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

Phone: 281-380-1392
Email: gary@bluebonnetnutrition.com
Address: 12915 Dairy Ashford
City: Sugar Land State: Texas Zip: 77478 -
Website: www.bluebonnetnutrition.com

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

City: Sugar Land State: Texas

7. State of registration or incorporation: (a) Dairy Ashford Enterprise, Inc. - (b)
Bluebonnet Nutraceuticals, Ltd. -

8. Does the company(s) currently have operations elsewhere in the State of Texas? Yes If so, please state the name of communities. Fort Bend County
Sugar Land Texas

PROJECT DETAILS

1. List other communities that are being considered for the project:
Brazoria County
2. Indicate any incentives sought or received from other taxing entities in connection with this project.
City of Sugar Land
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. The 128,000 sq ft facility proposed at 12639 West Airport Rd would expand our manufacturing and testing capacity for Bluebonnets dietary supplements with an estimated cost of 20.3M The new location would allow us to add 75 new jobs in year 1-2 and 125 new jobs in 5 years.
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): NASIC
Code: 283403 Dietary Supplement

5. Physical address of Proposed Project: City:

County Precinct: City Council District: School District:
Land Size of Project: 7.44 acres

6. New construction Expansion To Lease Existing Improvements

7. Proposed Cost of New Improvements: \$ 16.3M

8. Proposed Cost of New Fixed Equipment and Machinery: \$ 4M

9. Other Personal Property excluding Inventory: \$ 100,000

10. Proposed Cost of Initial Inventory: \$6.5

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: R63620 - - ; R31459 - - ; R31455 - -

Personal property: P226032 - ; P233631 - ; P309486 - P280623 -

13. Current local workforce: Full-time: 56 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 75 1-2 years and 125 in 5 years

- 15. For expansion projects only, number retained full-time jobs: 56
- 16. Base Hourly Wage at project site (excluding benefits and bonuses)*: \$37.50/hr
- 17. Average Annual Salary of Existing Jobs: \$ 78,000
- 18. Average Annual Salary of Projected New Jobs: \$ 78,000
- 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 Commissioners Court 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.

Providing professional's career employment, benefits and future growth.

- 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.

Bluebonnet is exploring the LEEDs program.

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.
- G. Histories of the Companies.

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 County of Fort Bend '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 County of Fort Bend. 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: Gary Barrows

Date : 11-8-2021

Printed Name: Gary Barrows

Title: President

Company(s) Name: Dairy Ashford Enterprise, Inc. and Bluebonnet Nutraceuticals, Ltd.

Mailing Address: 12915 Dairy Ashford

City: Sugar Land State: Texas Zip: 77478 -

Telephone: (281) 380 - 1392 Mobile: (281) 380 - 1392 E-mail address:

gary@bluebonnetnutrition.com

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

Attachment G

Dairy Ashford Enterprise is a Texas Corporation that exclusively holds real estate for Bluebonnet Nutraceuticals, Ltd.

Bluebonnet Nutraceuticals, Ltd is a Texas Corporation that is the exclusively manufacturing division of dietary supplements for Bluebonnet Nutrition Corp.

All entities are owned by the same principles and have the same percentage ownership.

Exhibit 3
Annual Compliance Certificate

FORT BEND COUNTY TAX ABATEMENT ANNUAL COMPLIANCE CERTIFICATE

Due by September 1 of current tax year

Current Tax Year _____

**This certification is being made on behalf of the OWNER / LESSEE (circle one)
Each must prepare a separate report**

Per the terms of the tax abatement agreement between Fort Bend County, Fort Bend County Drainage District and

Owner _____ and

Lessee (if applicable) _____

dated _____ we are in compliance with the following terms of the agreement:

1. Construction of the improvements was completed on: _____
2. Certified statement regarding project costs was provided to the Fort Bend County Tax Assessor/Collector on: _____ (date)
3. Certificate of Occupancy was provided to the Fort Bend County Tax Assessor/Collector on: _____ (date)
4. Certified appraised value of the improvements as of January 1 _____ (current tax year) was \$ _____ which meets the required minimum value requirement of \$ _____.
5. Certified appraised value of the eligible property (if included in abatement agreement) as of January 1 _____ (current tax year) was \$ _____ which meets the required minimum value requirement of \$ _____.
6. Total number of employees employed at the improvement for current tax year is _____ which meets the required minimum value requirement of _____.

7. Owner / lessee (circle one) filed the annual Application(s) for Property Tax Abatement Exemption (Form 50-116) with Fort Bend Central Appraisal District on

_____ (date).

8. If there are additional requirements under the specific abatement agreement(s) by and between Fort Bend County, Fort Bend County Drainage District, Owner / Lessee noted above, please list requirement(s) and certify compliance here:

At this time, Owner/Lessee (circle one) wishes to designate a different mailing address for notices under the terms of this abatement agreement.

NEW NOTIFICATION ADDRESS:

To Owner / Lessee :
(circle one)

Please indicate the basis for your authority to represent the property owner in filing this certificate:

_____ Officer of the company _____ General Partner of the company

_____ Attorney for property owner

_____ Agent for tax matters appointed under Tax Code Section 1.111 (copy of completed Form 50-162 filed with Fort Bend Central Appraisal District)

I _____, swear or affirm the following:
(print name)

- To the best of Company's knowledge and belief, each fact contained in this certificate is true and correct, and that Company is in compliance with the terms of the Agreement.
- Company understands that this Certificate is being relied upon by the County in connection with the tax abatement provided for in the Agreement.
- Company understands the consequences for noncompliance with the abatement agreement.
- The undersigned signatory has the legal and express authority to sign this Certificate on behalf of Company.

Signature of Authorized Representative: _____

Title of Authorized Representative: _____

Phone Number: _____

Email Address: _____

Mailing Address: _____

SWORN TO and SUBSCRIBED before me on this the _____ day

of _____ A.D. _____

NOTARY PUBLIC _____

STATE OF _____, COUNTY OF _____

MY COMMISSION EXPIRES _____

