

# AGENDA ITEM

20C

2010

FORT BEND COUNTY FY-2009

## COMMISSIONERS COURT AGENDA REQUEST FORM

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted: 10/13/2009

Submitted By: Mary Reveles

Court Agenda Date: 10/20/2009

Department: County Attorney

Phone Number: 341-4554

### SUMMARY OF ITEM:

COUNTY JUDGE:

Take all appropriate action on the tax abatement agreement between Fort Bend County and Lufkin Industries, Inc.

RENEWAL AGREEMENT/APPOINTMENT

YES

☐

NO

☒

REVIEWED BY COUNTY ATTORNEY'S OFFICE:

YES

☒

NO

☐

List Supporting Documents Attached:

FINANCIAL SUMMARY:BUDGETED ITEM:

YES

☐

NO

☐

N/A

FUNDNG SOURCE: Accounting Unit: Account Number:  
Activity (If Applicable):

DESCRIPTION OF LAWSOM ACCOUNT:

### Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

### DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office ☒ (✓ when completed)

If by E-Mail to [ospindon@co.fort-bend.tx.us](mailto:ospindon@co.fort-bend.tx.us)

If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

- |                                     |                                       |                |
|-------------------------------------|---------------------------------------|----------------|
| <input checked="" type="checkbox"/> | Auditor                               | (281-341-3774) |
| <input checked="" type="checkbox"/> | Budget Officer                        | (281-344-3954) |
| <input type="checkbox"/>            | Facilities/Planning                   | (281-633-7022) |
| <input type="checkbox"/>            | Purchasing Agent                      | (281-341-8642) |
| <input type="checkbox"/>            | Road & Bridge                         |                |
| <input checked="" type="checkbox"/> | Patsy Schultz, Tax Assessor/Collector |                |

- |                                     |              |                |
|-------------------------------------|--------------|----------------|
| <input checked="" type="checkbox"/> | Comm. Pct. 1 | (281-342-0587) |
| <input checked="" type="checkbox"/> | Comm. Pct. 2 | (281-403-8009) |
| <input checked="" type="checkbox"/> | Comm. Pct. 3 | (281-242-9060) |
| <input checked="" type="checkbox"/> | Comm. Pct. 4 | (281-980-9077) |
| <input checked="" type="checkbox"/> | County Clerk | (281-341-8697) |
| <input checked="" type="checkbox"/> | County Atty  | (281-341-4557) |

### RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify):

10-22-09

3 origs. ret. to Mary R.  
at Co. Attorney

STATE OF TEXAS

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COUNTY OF FORT BEND

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**TAX ABATEMENT AGREEMENT**

by and between

**FORT BEND COUNTY**

and

**LUFKIN INDUSTRIES, INC.**

This Tax Abatement Agreement, hereinafter referred to as “Agreement,” is executed by and between **FORT BEND COUNTY, TEXAS**, hereinafter referred to as “County,” acting by and through its Commissioners’ Court and **LUFKIN INDUSTRIES, INC.**, hereinafter referred to as “Owner,” of the improvements located within the City of Missouri City Reinvestment Zone No. 5.

1. **Authorization:**

- a. This Agreement is authorized by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the TEXAS TAX CODE as it exists on the effective date of this Agreement, and;
- b. The Amended Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones created by Fort Bend County, Texas, which was approved by the County’s Commissioners Court on February 3, 2009. County has determined that the request for Tax Abatement presented by Owner conforms with the criteria established in the Guidelines for Tax Abatement.
- c. No official of County 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. The “**Certified Appraised Value or Value**” means the value certified as of January 1 of each year of this Agreement regarding the property within City of Missouri City Reinvestment Zone No. 5 by the Fort Bend County Central Appraisal District.
- b. “**Improvements**” means a building to be used as manufacturing and warehouse facility, containing approximately 40,000 square feet of floor space, and any sidewalks, parking lots, outdoor lighting, landscaping and other improvements to serve the building, all as shown in Exhibit A, attached to and incorporated into this Agreement by reference.

- c. **“Real Property”** means the real property as described in Ordinance No. O-09-38, which created Reinvestment Zone No. 5 located within City of Missouri City, described in Exhibit “A” attached hereto and incorporated by reference herein for all purposes.
- d. **“Abatement”** means the full or partial exemption from ad valorem taxes of certain property in City of Missouri City Reinvestment Zone No. 5 designated for economic development purposes.
- e. **“Eligible Property”** Abatement may be extended to fixed machinery and equipment, necessary to the operation and administration of the facility. Eligible Property is subject to abatement under the same terms as Improvements only if specifically included in Section 5(c).
- f. **“Ineligible Property”** means real property, existing improvements, tangible personal property that the Fort Bend Central Appraisal District 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 execution 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.
- g. **“Owner”** means **LUFKIN INDUSTRIES, INC.**, the Owner of the Real Property and Improvements subject to this Agreement, or other person or entity to which this Agreement is assigned, with prior approval of the Fort Bend County Commissioners’ Court.
- h. **“County”** means the County of Fort Bend, Texas.
- i. **“District”** means Fort Bend County Central Appraisal District.

**3. Subject Property**

City of Missouri City Reinvestment Zone No. 5 is an area located in Fort Bend County, Texas, being legally described in Exhibit A attached hereto and incorporated herein for all purposes.

The Fort Bend County Appraisal District has established the base year values for the subject property as of January 1, 2009.

**4. Responsibility of Owner**

In consideration of receiving the tax abatement granted herein, Owner represents and agrees:

- (a) That construction of the Improvements will commence on or before June 1, 2010.
- (b) That construction of the Improvements shall be completed on or before December 31, 2010. Owner shall provide Tax Assessor/Collector a certified statement evidencing a minimum of \$2,800,000 project costs with respect to the Improvements within thirty (30) days after completion of the Improvements to be constructed by Owner.
- (c) That the Certified Appraised Value of the Improvements on January 1, 2011, and on each and every January 1 thereafter during the term of this Agreement will not be less than \$2,800,000. Failure to meet the requirements of this section will invalidate the tax abatement for the year this requirement was not satisfied, unless cured in conformity with this Agreement.
- (d) That Owner shall employ at least thirty-five (35) full-time employees in Fort Bend County on or before December 31, 2011 and throughout the term of this Agreement. Failure of Owner to comply with this provision for any 90 consecutive days during an abatement year shall not be a default of this Agreement, but shall automatically invalidate the Abatement for the year that this requirement was not satisfied, not subject to cure.
- (e) That in the event the requirements of paragraph 4(b) (relating to the value of the Improvements) are not met for any year subject to this Agreement, the failure will not be a default of this Agreement and Owner may cure such condition and receive a tax abatement on the assessed value of the Improvements, plus pay County a sum equal to the full taxes on the difference between the assessed value of the Improvements and the requirement of paragraph 4(b), in addition to all taxes not subject to abatement under this Agreement. (For instance, if the certified appraised value of the Improvements is \$1,800,000 in any year and the contractually required amount is \$2,800,000, Owner shall receive a tax abatement on the assessed value of \$1,800,000, and Owner shall pay County a sum equal to the full taxes on \$1,000,000, in addition to all other taxes due.
- (f) That the requirement contained Section 4(e) providing for Owner's payment of a sum equal to the full taxes on the difference between the assessed value

and the minimum value set forth in Section 4(b) is contractual in nature and is not subject to any provisions of the TEXAS TAX CODE.

- (g) That Owner has, as of the effective date of this Agreement, the financial resources to implement the above representations.
- (h) That Owner will participate in the continuing economic development process in Fort Bend County by becoming a Regular Member of the Greater Fort Bend Economic Development Council for a minimum period coinciding with the term of this Agreement.
- (i) **OWNER SHALL BE RESPONSIBLE FOR NOTIFYING THE DISTRICT OF THE ABATEMENT, INCLUDING FILING WITH THE DISTRICT ANY APPLICATION OR OTHER FORMS NECESSARY TO QUALIFY FOR OR RECEIVE THE ABATEMENT GRANTED.**
- (j) **OWNER SHALL BE RESPONSIBLE FOR REQUESTING AN ASSIGNMENT OF THIS AGREEMENT IN THE EVENT THE REAL PROPERTY THE SUBJECT OF THIS AGREEMENT IS SOLD,, TRANSFERRED OR ASSIGNED. ANY ASSIGNMENT IS NOT EFFECTIVE UNTIL APPROVED IN WRITING BY COUNTY.**

**5. Value and Term of Abatement**

(a) This Agreement shall be effective on the date executed by County and Owner, whichever is later, and shall terminate (unless earlier terminated in accordance with the terms hereof) on December 31, 2016. In no event shall this Agreement extend beyond December 31, 2016. This Agreement shall terminate on the completion of the abatement, unless earlier terminated as provided elsewhere herein. Owner's obligation upon default to pay to County any taxes abated under this Agreement shall not terminate until the abated taxes are paid.

(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 Improvements.

(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 a property tax

abatement for the following years and in the following amounts on the Value of the Improvements:

<b><u>Improvements:</u></b>	<b><u>Tax Year</u></b>	<b><u>Percentage Abatement</u></b>
	2011	67%
	2012	67%
	2013	67%
	2014	67%
	2015	67%
	2016	67%
		<b>TOTAL = 402%</b>

- (1) The abatement granted shall not apply to the value of the Real Property, increases in the value of the Real Property, Eligible Property, Ineligible Property, inventory or supplies.
- (2) All Improvements shall be completed in accordance with applicable laws, ordinances, rules or regulations in effect at the time such Improvements are erected.
- (3) The Fort Bend Central Appraisal District's determination of values shall be used to determine the value of the property subject to this Agreement. If Owner protests the District's valuation of the property, the valuation placed on the property after the protest is resolved under state law shall be used.
- (4) On or before September 1 of each year of this Agreement, Owner shall certify in writing to Fort Bend County Tax Assessor/Collector Owner's compliance with each term of this Agreement.

**6. Taxability**

During the period that this tax abatement is effective, taxes shall be payable as follows:

- (a) The value of Real Property, Eligible Property and Ineligible Property shall be fully taxable, including inventory and supplies;
- (b) The value of existing Improvements shall be determined annually by the Central Appraisal District.

7. **Event of Default**

- (a) County may declare Owner in default of this Agreement if: (1) Owner fails to comply with any term of this Agreement or (2) Owner allows County ad valorem taxes on the Real Property, or any property located thereon, to become delinquent.
- (b) County shall notify Owner of any default in writing specifying the default. Owner shall have thirty (30) days from the date of the notice to cure any default. If Owner fails to cure the default within sixty (60) days from receipt of notice, County may terminate this Agreement by written notice.
- (c) If this Agreement is terminated by County, Owner agrees that they are liable for and will pay to County within thirty (30) days of the termination of this Agreement:
  - (1) The amount of all property taxes abated under this Agreement;
  - (2) Interest on the abated amount at the rate provided for in the TEXAS TAX CODE for delinquent taxes; and
  - (3) Penalties on the amount abated in the year of default, at the rate provided for in the TEXAS TAX CODE for delinquent taxes.
- (d) County shall have a lien against the Real Property and Improvements for the taxes and interest owed because of the recapture of taxes under this paragraph.
- (e) 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, County shall provide written notice to Owner of the default and this Agreement shall automatically terminate on the 30<sup>th</sup> day after the date of the notice of default from County to Owner. In the event of termination under this paragraph, 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.

**8. Administration and Inspection**

(a) This Agreement shall be administered on behalf of the Fort Bend County Tax Assessor/Collector or her designee. Owner shall allow employees or other representatives of County who have been designated by the Tax Assessor/Collector to have access to the Real Property and Improvements (during normal business hours) during the term of the Agreement. All regular inspections shall be made only after twenty-four (24) hours prior notice and will be conducted in such a manner as not to unreasonably interfere with the construction and/or operation of the facility. A representative of Owner may accompany the inspector.

(b) Upon completion of the Improvements, County shall annually evaluate the Improvements to ensure compliance with the terms and provisions of this Agreement and shall report possible defaults to the Owner.

(c) The Chief Appraiser of the Fort Bend County Appraisal District shall annually determine (1) the taxable value under the terms of this abatement of the Improvements subject to this Agreement and (2) the full taxable value without abatement of the Real Property, Eligible Property and Ineligible Property otherwise located at or about the Owner's premises. 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.

(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 the abatement. Such information shall also be provided to County Tax Assessor/Collector in preparation of its annual evaluation for compliance with the terms and provisions of this Agreement.



**9. Assignment**

This Agreement may not be assigned without prior written consent of County. No assignment shall be effective or approved if either County 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 County. Approval shall not be unreasonably withheld.

Any and all assignments shall contain the same terms and conditions as set out in this Agreement and shall be granted for the remaining term of the original tax abatement agreement only.

**10. Indemnity**

It is understood and agreed between the parties that LUFKIN INDUSTRIES, INC. in performing their obligations hereunder, is acting independently, and County assumes no responsibilities or liabilities in connection therewith to third parties. **LUFKIN INDUSTRIES, INC. AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS COUNTY AND THE CENTRAL APPRIASAL DISTRICT FROM ANY AND ALL CLAIMS, SUITS, AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ARISING OUT OF LUFKIN INDUSTRIES, INC.'s OBLIGATIONS HEREUNDER EXCEPT THAT THE INDEMNITY SHALL NOT APPLY TO THAT PORTION OF RESPONSIBILITIES AND LIABILITIES RESULTING FROM THE FAULT OR NEGLIGENCE OF COUNTY OR TAXING UNITS, THEIR RESPECTIVE OFFICERS, AGENTS OR EMPLOYEES. LUFKIN INDUSTRIES, INC.'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. LUFKIN INDUSTRIES, INC. SHALL BE RESPONSIBLE FOR ALL FEES INCURRED BY COUNTY IN THE DEFENSE OF ANY SUCH CLAIMS, SUITS, OR CAUSES OF ACTION SO LONG AS DEFENSE COUNSEL AND COURSES OF ACTION ARE DETERMINED SOLEY BY LUFKIN**

**INDUSTRIES, INC. NOTHING IN THIS AGREEMENT SHALL BE INTERPRETED TO PROHIBIT COUNTY FROM INCURRING REPRESENTATION OF ANY SUCH CLAIM, SUIT OR CAUSE OF ACTION AND LUFKIN INDUSTRIES, INC. 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 County in writing within thirty (30) calendar days of the occurrence relied upon. 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; 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 of the system or water supply system; or any other cause not reasonably within the control of the Owner.

**12. Commissioners Court Approval**

This Agreement is conditioned entirely upon the approval of the Commissioners’ Court by the affirmative vote of a majority of the members present at a duly scheduled meeting of the Commissioner’s Court.

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

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

**14. 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.

**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.

**16. Notices**

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 deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County and Owner at the mailing address as hereinafter set out. If mailed, any notice of communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to Owner or County at the following addresses:

To the <b>Tax Assessor/Collector:</b>	The Honorable Patsy Schultz Fort Bend County Tax Assessor-Collector 500 Liberty, Suite 101 Richmond, Texas 77469
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**To Owner:** Lufkin Industries, In.  
P.O. Box 849  
Lufkin, Texas 75902  
Attn: Scott Semlinger, VP, Manufacturing

**To County:** Fort Bend County  
301 Jackson, Suite 719  
Richmond, Texas 77469  
Attention: County Judge

**Copy to:** Fort Bend County Attorney  
301 Jackson, Suite 728  
Richmond, Texas 77469

Any party may designate a different address by giving the other parties ten (10) days prior written notice thereof. **Failure of Owner to provide County Tax Assessor/Collector thirty (30) days notice of a change of address may result in termination of this Agreement.**

**17. Entire Agreement; Ordinance and Economic Impact Statement**

This Agreement contains the entire Agreement among the parties and supercedes all other negotiations and agreements, whether written or oral. This Agreement shall inure to the benefit of and be binding upon the parties hereto and each of their respective successors and assigns. Attached hereto are (a) Exhibit A – City of Missouri City Ordinance No. O-09-38 designating Reinvestment Zone No. 5, including legal description and (b) Exhibit B – Economic Impact Statement/Application for Value Added Tax Abatement, which are made part of this Agreement.

*REMAINEDER OF PAGE INTENTIONALLY LEFT BLANK*

**18. Execution**

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

**FORT BEND COUNTY**

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

Robert E. Hebert, County Judge

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

10-20-09

**ATTEST:** \_\_\_\_\_

Dianne Wilson, County Clerk

**OWNER:**

**LUFKIN INDUSTRIES, INC.**

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

Name: SCOTT H. SEMLINGER

Title: VP MANUFACTURING TECHNOLOGY

Date: OCT. 14, 2009

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

10/14/09

**ATTEST:** \_\_\_\_\_

Mary E. Reeder

Attachments: Exhibit A – City of Missouri City Ordinance No. O-09-38 Designating Reinvestment Zone No. 5  
Exhibit B – Economic Impact Statement/Application for Value Added Tax Abatement

MER:Lufkin Industries/City of Missouri City.3195-130(09242009)

Exhibit A

ORDINANCE NO. O-09-38

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, CREATING REINVESTMENT ZONE NO. 5 LOCATED IN THE LAKEVIEW BUSINESS PARK IN THE FONDREN ROAD/BUFFALO RUN AREA IN THE CITY OF MISSOURI CITY, TEXAS; MAKING RELATED FINDINGS; AND PROVIDING FOR SEVERABILITY.

\* \* \* \* \*

WHEREAS, the City Council of the City of Missouri City has passed and approved Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones Created in Missouri City, Texas; and

WHEREAS, pursuant to the Guidelines, the City has received a request for creation of a reinvestment zone and tax abatement; and

WHEREAS, after proper notice, the City held a public hearing where all interested persons were given an opportunity to speak and present evidence for and against the creation of Reinvestment Zone No. 5; and

WHEREAS, written notice of the hearing was given to all taxing entities where the proposed zone is to be located; and

WHEREAS, the City Council has determined, based on evidence presented, that the improvements sought to be located in proposed Reinvestment Zone No. 5 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 the tax abatement agreement; and

WHEREAS, the creation of Reinvestment Zone No. 5 will be reasonably likely, as a result of its creation, 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 Missouri City; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. That the facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct, and are made a part of this Ordinance for all purposes.

Section 2. That Reinvestment Zone No. 5 is hereby created for the purpose of encouraging economic development through tax abatement. A description of the Zone is attached hereto as Exhibit "A" and is made a part hereto for all purposes.

Section 3. This designation shall be effective for five (5) years from the date of final passage of this Ordinance and may be renewed for periods not to exceed five years.

Section 4. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict only.

Section 5. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this \_\_\_\_ day of \_\_\_\_\_, 2009.

PASSED, APPROVED and ADOPTED on second and final reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Patrice Fogarty, City Secretary

\_\_\_\_\_  
Caroline Kelley, City Attorney





**DESCRIPTION OF  
6.208 ACRES (270,452 SQ. FT.)  
ALL OF LOT 28 AND PORTIONS OF  
LOTS 29 & 36, BLOCK 4  
LAKEVIEW BUSINESS PARK  
I. & G.N.R.R. CO. SURVEY, A-263  
FORT BEND COUNTY, TEXAS**

Being all that certain 6.208 acres (270,452 sq. ft.) of land situated in the I. & G.N.R.R. Survey, A-263, Fort Bend County, Texas, and being all of Lot 28 and portions of Lots 29 & 36, Block 4 of the Lakeview Business Park Subdivision, as recorded in File No. 20080032 of the Fort Bend County Map Records, said 6.208 acres being more particularly described as follows.

**BEGINNING** at an "X" in concrete sidewalk set marking the northerly northeast corner of the herein described tract and being the southwest corner of the intersection of Willow Oak Drive (60' width) and Fairway Pines Drive (60' width), and also lying in a curve to the right of said intersection corner;

**THENCE** 41.61 feet along said curve to the right having a radius of 25.00 feet, a central angle of 95°21'08", and whose chord bears South 47°58'33" East ~ 36.97 feet to an "X" in concrete sidewalk set for the beginning of a compound curve to the right, and lying in the west right-of-way line of Fairway Pines Drive;

**THENCE** 311.85 feet along the west right-of-way line of Fairway Pines Drive and curve to the right having a radius of 620.00 feet, a central angle of 28°49'08", and whose chord bears South 14°16'35" West ~ 308.57 feet to a 5/8-inch iron rod with a cap stamped "Cobb Fendley & Associates" set for the end of curve;

**THENCE** South 28°41'09" West, continuing along said west right-of-way, at 140.81 feet passing the southeast corner of said Lot 28, same being the northeast corner of said Lot 36, and continuing for a total distance of 144.81 feet to a 5/8-inch iron rod with a cap stamped "Cobb Fendley & Associates" set for the beginning of a curve to the left;

**THENCE** 180.41 feet along said curve to the left having a radius of 480.00 feet, a central angle of 21°32'05", and whose chord bears South 17°55'07" West ~ 179.35 feet, to a 5/8-inch iron rod with a cap stamped "Cobb Fendley & Associates" set for the southeast corner of the herein described tract;

**THENCE** North 82°50'56" West, over and across said Lot 36, a distance of 269.01 feet to a 5/8-inch iron rod with a cap stamped "Cobb Fendley & Associates" set for the southwest corner of the herein described tract, said point lying in the south line of said Lot 29;

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THENCE North 27°40'22" West, over and across said Lot 29, a distance of 435.70 feet to a 5/8-inch iron rod with a cap stamped "Cobb Fendley & Associates" set for the northwest corner of the herein described tract, and lying in the south right-of-way line of the aforementioned Willow Oak Drive;

THENCE North 62°39'59" East, along said south right-of-way, at 150.72 feet passing the common north corner of said Lots 28 & 29, and continuing for a total distance of 304.37 feet to a 5/8-inch iron rod with a cap stamped "Cobb Fendley & Associates" set for the beginning of a curve to the right;

THENCE 141.09 feet along said curve to the right and said south right-of-way having a radius of 370.00 feet, a central angle of 21°50'54", and whose chord bears North 73°35'26" East ~ 140.24 feet to a 5/8-inch iron rod with a cap stamped "Cobb Fendley & Associates" set for the end of curve;

THENCE North 84°30'53" East, continuing along said south right-of-way, a distance of 238.84 feet to the **POINT OF BEGINNING** and containing 6.208 acres (270,452 sq. ft.) of land more or less.

Note: This metes and bounds description is referenced to a survey drawing prepared by Cobb, Fendley & Associates, Inc. dated September 16, 2009, titled "LAND TITLE SURVEY OF 6.208 ACRES, BLOCK 4, LAKEVIEW BUSINESS PARK, I. G.N.R.R. CO. SURVEY, A-263, FORT BEND COUNTY, TEXAS"

Cobb, Fendley & Associates, Inc.  
13430 Northwest Freeway, Suite 1100  
Houston, Texas 77040  
Phone: (713) 462-3242

Job No. 0902-032-01  
September 16, 2009



A handwritten signature in cursive script, appearing to read "Blaine Fisher", written over the bottom of the professional seal.

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## EXHIBIT B



GREATER FORT BEND  
ECONOMIC DEVELOPMENT  
COUNCIL



### ECONOMIC IMPACT STATEMENT QUESTIONNAIRE

#### **Lufkin Industries, Inc.**

Proposed Facility at Lakeview Business Park, Missouri City, Fort Bend County, Texas

*Based on the information you provide below, the Greater Fort Bend Economic Development Council (GFBEDC) and City of Missouri City will begin prequalification of your project. The information you provide will allow us to begin to develop your application and economic impact statement for presentation to the taxing entities for consideration of economic incentives. The following factors will be considered as a whole to determine the entire economic impact of the company: location of project, type of business, is the company in one of the city's target industries, number of jobs, skill level of each job, average salary, investment in building improvements or new building, value of taxable inventory, value of taxable personal property and equipment, sales tax revenue generated for the city, impact on local infrastructure, and impact (good or bad) on existing businesses in the County.*

**Please provide a detailed summary statement about your company (its history, type of business and industry, etc.) and clearly describe its operations at the proposed facility in Fort Bend.**

Founded in 1902, Lufkin Industries, Inc. is a vertically integrated company that designs, engineers, manufactures, sells, installs and services high quality and high value-added oil field equipment and power transmission products across the globe. Lufkin is a publicly traded company on the NASDAQ stock exchange under the symbol "LUFK".

Besides designing, manufacturing and marketing the industry standard conventional, Mark II and other rod lift pumping units that are used to lift oil from wells, the Oilfield Division provides pumping unit services and well automation products and services through Lufkin Automation. Additionally the company operates a foundry producing up to 300 tons per day of captive and commercial castings for the heavy equipment, valve and machine tool markets.

The Power Transmission Division makes precision made gears in weights from 300 pounds to 250 tons. These highly engineered products are used in industrial applications in a variety of industries, including oil and gas, steel, plastics, sugar, rubber, marine and power generation.

#### **LUFKIN AUTOMATION**

Lufkin Automation is a leader in the development, manufacture, sales and service of technically advanced, electronic well automation equipment and the premier supplier of artificial lift optimization and training with emphasis on increasing profits for oil and gas producers through minimized operating costs and optimum production.

Lufkin Automation will provide quality and value in engineered products and services to its customers, growth opportunities for its shareholders and employees, and will maximize its rate of return on capital investment.

Professional well analysts who also enjoy teaching conduct Lufkin Automation schools. This gives our schools a practical basis that cannot be duplicated elsewhere.

Courses are offered on many subjects:

- Rod pumping systems
- Computer analysis of rod pumped wells
- Pump-off control technology
- Principles of Well Weighing

Courses are taught by leading Petroleum Engineers and Industry Experts.

Facility will be the new corporate headquarters for Lufkin Automation, a division of Lufkin Industries, Inc.

**1. Information About Your Company**

Company Name: Lufkin Industries, Inc./Lufkin Automation	
Contact Person: Scott Semlinger	Title: VP, Manufacturing Technology
Current Address: PO Box 849 Lufkin Texas 75902	
Office #: 936-637-5431	Mobile #: 936-674-9871
Fax #: 936-633-3330	Website: <a href="http://www.lufkin.com">www.lufkin.com</a>
Email Address: <a href="mailto:scott-semlinger@lufkin.com">scott-semlinger@lufkin.com</a>	
The Company's Primary SIC Code: 333132	

**2. Type of project (check all that apply):**

- ☐ Existing business in Fort Bend County  
☒ New business to Fort Bend County  
☐ Expansion of existing facility  
☒ Construction of new facility  
☐ Company will lease facility  
☒ Company will own facility  
☒ Corporate/Regional Headquarters

**3. If the company will lease the facility, who will be the owner: N/A**

Location of proposed site(s) in Fort Bend (street address, name of Business Park or other development, city, or name of area if unincorporated): Lakeview Business Park

4. **Scope of project:**

Size of new facility/expansion:	40,000 square feet
Size of existing facility (if applicable):	N/A
Size of lease space in existing facility (if applicable):	N/A
Number of acres at facility site:	6.2 acres
Type of Construction (tilt wall, metal, concrete, etc.):	Tilt Wall

5. **Please give detailed breakdown of operations within the proposed facility:**  
43% office, 28% warehouse, 29% manufacturing

6. **Truck traffic to be generated (# daily or weekly):** 2-3 weekly

7. **Targeted start of construction:** November 2009

8. **Targeted start of operations:** October 2010

9. **Market value (taxable assets) of the firm's property that would be located at the facility in Fort Bend (new property to Fort Bend):**

Land	Construction Costs of Building Improvements	Furniture & Fixtures	Equipment	Inventory	Total
\$ 824,000	\$ 3,500,000	\$ 220,000	\$ 150,000	\$ 200,000	\$ 4,894,000

10. **Estimated percent of inventory that would be Freeport qualified:** 27%  
*Freeport goods are inventories (raw materials, goods-in-process, and finished products) acquired by a business and held for no more than 175 days before being shipped out of state.*

11. **Employment information:**

Number of new jobs to Fort Bend	Number of existing jobs to be retained (if company currently located in Fort Bend)	Total Number of
45	N/A	45

12. **Average salary (before benefits):** \$62,448 annual

13. **Amount of initial, annual local payroll to be created:** \$2,810,160

14. **The firm's estimated annual amount of taxable sales (that generate sales taxes) if the site will be located within the city limits of a Fort Bend County city:** N/A

15. **Does the company own a corporate airplane that would be housed at a local corporate airport in Fort Bend?** No

Will the company's local business practices necessitate business travel that will bring clients or employees to the Fort Bend facility, resulting in hotel/motel bookings? If so, what is the estimated number of hotel/motel stays per year that will be booked locally: Yes. 90 stays per year, with multiple meals.

17. If your company currently has operations elsewhere in the State of Texas, please list the name of the communities: Lufkin, Midland, Odessa, Kilgore, Houston, Levelland, Andrews, Breckenridge, Denver City, Giddings, Snyder, Talco, Bryan, El Dorado, Weatherford, Refugio, Victoria.
18. Employee benefit burden (percent of employee's salary that is invested by the company into the employee's benefits): 25%
19. Current owner of real property (land/building) at the time of application: Lakeview BP Land Company
20. Have you received or are you currently receiving tax abatement in Fort Bend: No
21. Is this land currently under Agriculture Exemption: No
22. What is the expected increase in value of the land once it is sold? (to be answered by GFBEDC) The EDC anticipates that the land value will increase by approximately \$1.25/ft (\$55,000/acres).
23. Productive life of proposed improvements and/or initial term of lease: 30+ years
24. Time of day activities will be taking place (i.e., # of shifts): 7am to 6 pm
25. The costs to be incurred by local government to provide facilities or services directly resulting from the new improvements: None known at this point.
26. If located in the city limits, do you (or your construction company) agree to declare "situs" for construction sales taxes at the construction site: Contractor not yet chosen, but we have no problem asking them to declare "situs" as above.  
*When purchasing construction materials for the new facility from a company that is situated outside the city where the new facility will be located, the builder agrees to declare the situs (point of sale) of the materials as the construction site address so the local city receives the sales tax revenue.*
27. Please provide wastewater information, including activities, facilities, plant processes, products, services, chemicals, materials, and hazardous substances that may be used or that may result from the activities to be conducted within the proposed improvements: No hazardous materials
28. Explain any proposed pretreatment of wastewater prior to discharge into the sanitary sewer system: N/A

29. Will there be any proposed monitoring of wastewater discharge into the sanitary sewer system: N/A
30. Public improvements to be made by the Company in which the public may benefit (please list if any): Landscaping
31. Will this business compete with existing businesses in the county? No.
32. Are there possibilities for local businesses to become suppliers? Yes. All purchases by this division are made from the local office, which will be in Missouri City.
33. Do you anticipate your relocation to attract other new businesses to the area? Please explain: Possibly. Will average 90 motel stays per year, along with meals. 45 Full time employees with many visitors daily.
34. Does the business produce any type of emissions or are there any other environmental matters for the city/county to consider: None.
35. The company agrees to participate in the continuing economic development process in Fort Bend County by becoming a Trustee member of the GFBEDC for a minimum period coinciding with the term of any County abatement agreement: Yes *The County Commissioners' Court encourages the company's participation in the Council to support the continued economic growth in the County. The Court considers your decision in their evaluation of the project.*
36. By signing and submitting this application you certify that the company, its branches, divisions and departments (company) do not and will not knowingly employ an undocumented worker. An agreement with the company will require the company to repay the total amount of the public benefit received with interest at the rate and according to the terms of the agreement if the company is convicted of a violation under 8 U.S.C. Section 1324a. Repayment will be due no later than the 120th day after the date the City/County notifies the company of the violation as provided in the agreement.

An undocumented worker is an individual who, at the time of employment, is not:

- a. (1) lawfully admitted for permanent residence to the United States; or
- b. (2) authorized under law to be employed in that manner in the United States.

**Please provide the additional information as an addendum to the EIS Questionnaire:**

- A. **Site Plans & Legal Description of the Property:** City Council and Commissioners Court will **not** place a value-added tax abatement request on their agenda without first having a copy of the project site plan, **including a metes and bounds** description of the site to be designated as the reinvestment zone.
- B. **Five year projection of planned improvements and employment, to be provided by the applicant.**

**Employment:**

Year	Number of New Jobs
2	5
3	5
4	5
5	5



**CERTIFICATION:**

1. Lufkin Industries, Inc. does hereby certify that all statements and representations made herein are accurate to the best of their knowledge and agree to comply with these terms.

By Authorized Representative:

Scott H. Semlinger  
Signature

9-14-09  
Date

Print Name: SCOTT H. SEMLINGER

Title: V. P. MANUFACTURING TECHNOLOGY

Company: LUFKIN INDUSTRIES, INC.

2. The Greater Fort Bend Economic Development Council certifies that Lufkin Industries has met the standard requirements and is qualified for value added tax abatement in Fort Bend County.

Jeff Wiley  
Jeff Wiley  
President  
Greater Fort Bend Economic  
Development Council

9-15-09  
Date

EXHIBIT C

601989 ACRES (270,024 SF)

BUILDING AREA = 40,000 SF

SITE COVERAGE = 14.8%

PARKING = 130 SPACES @ 3.51000 (CLIENT REQUIRED 75 SPACES)

MISSOURI CITY PARKING CODES REQUIRED 50 SPACES

SITE PLAN

