

EXHIBIT A

GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS NEEDVILLE, TEXAS

Section 1: Definitions

The following words, terms and phrases, when used, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. The City Council reserves unto itself the power to, from time to time, provide such additional and/or modified definitions that they may find necessary and desirable. The words and phrases as provided shall be understood to mean:

Abatement shall mean the full or partial exemption from ad valorem taxes of certain real property and certain limited types of tangible personal property, as hereinafter provided, located in a Reinvestment Zone designated and created by the City of Needville for economic development purposes.

Affected jurisdiction shall mean any governmental, educational, or special purpose entity that levies ad valorem taxes upon and provides services to property located within a proposed or existing Reinvestment Zone.

Agreement shall mean a contractual agreement between a property owner and/or lessee and the City of Needville for the granting of tax abatement.

Base year value shall mean the assessed value of eligible property on January 1 preceding the execution of a Tax Abatement Agreement, plus the agreed-upon value of taxable property improvements made between that same January 1 and the execution date of a Tax Abatement Agreement.

City shall mean the City of Needville, Texas.

Council shall mean the governing body (City Council) of the City of Needville, Texas.

Distribution facility shall mean a facility used primarily to receive, store, and distribute goods or materials principally to points outside the City.

Eligible property shall mean new, or expanded, or modernized structures, and fixed machinery and equipment which are reasonably likely as a result of granting abatement to contribute to the retention or expansion of employment, or to attract major investment, or generate sales tax, or otherwise contribute to the economic development of the City. Eligible facilities may include, but not be limited to: retail sales establishments generating sales tax that have the potential to stem the export of retail expenditures from the City, or have the potential to draw new retail expenditures into the City; manufacturing facilities; distribution facilities; service facilities; tourism facilities; office facilities; and other facilities not herein expressly deemed ineligible, which, in the sole opinion of the Council, will have a positive impact on the economic well-being of the City.

Expansion shall mean the addition of structures, fixed machinery (as that term is herein defined), equipment, or payroll for the purposes of increasing production, efficiency, services, or a combination thereof.

Fixed machinery shall mean tangible machinery which is securely placed or fastened, and stationary within a building or structure.

Hotel/Motel shall mean a commercial structure which provides overnight accommodations to travelers.

Ineligible property shall mean land; supplies; inventory; tools; furnishings; other moveable personal property; rolling stock, railroad cars, trucks, aircraft or other forms of transportation; housing; multi-family housing; and any property which is owned or leased in whole or in part by a member of the Council. Property that is subject to a Tax Abatement Agreement in effect when a person becomes a member of the Council shall not cease to be eligible for tax abatement under the Agreement.

Manufacturing facility shall mean a facility, including fixed machinery, the primary purpose of which is the manufacture or the whole or partial assembly of tangible goods or materials, or the processing of such goods or materials by physical or chemical change.

Modernized shall mean the complete or partial modification and/or replacement of existing facilities, which increases productivity, efficiency, or trade volume.

New facility shall mean a property improvement not previously existing which comes into being by means other than modernization or expansion.

Office facilities shall mean structures whose primary purpose is the provision of one or more office spaces for commercial enterprises. Also included are corporate offices which serve as the principal office for business enterprises, and from which orders for goods and/or services and billing for same may take place.

Productive life shall mean the number of years a property improvement is expected to be in service.

Reinvestment Zone shall mean any area of the City which the Council has designated as such for the purpose of granting tax abatements, the creation of such zones being a requirement of State law related to the granting of tax abatements. It is the intent of the Council to create Reinvestment Zones on a case-by-case basis, so long as the tax abatement contemplated conforms to the guidelines herein contained.

Retail facility shall mean a facility providing for the direct sale of goods to the consumer.

Service facility shall mean a facility whose primary purpose is to receive orders for services, and/or provide services, and from which billing for the same may take place.

Tourism facility shall mean a facility which provides entertainment and/or tourism-related goods or services, and from which a majority of the revenues are generated from outside the City. Hotels/motels shall likewise be considered tourism facilities.

Section 2: Application

- A. Any present or potential owner of taxable property in the City may request the creation of a Reinvestment Zone and property tax abatement by filing a written application with the City Secretary in a form prescribed by the City. The applicant shall at no time acquire any rights, privileges or authority, monetary or otherwise, by reason of filing an application, or providing any documentation in conjunction with an application filed herein. The City reserves the right to reject any application.
- B. As a part of the application process, the following shall be provided:
 - 1. Completed and executed application form

2. Vicinity map along with a legal description of the property: Such legal description shall be a metes and bounds survey or other survey prepared by a registered Texas Engineer or a Licensed Texas Surveyor
3. Such financial and other information as deemed appropriate by the City for the purposes of evaluating the application
4. Certification that the applicant does not, and will not knowingly employ an undocumented worker(s)

Section 3: Action by Council on an Application

- A. The Council, within a reasonable time after completion of the review of all documents submitted by the applicant and such other investigation and inquiry as may be deemed appropriate, shall, through the exercise of its absolute discretion, either approve or deny the application.
- B. Denial of the application will terminate the process and require no further Council action.
- C. Approval of the application will constitute Council's approval to proceed with the process of establishing a Reinvestment Zone and the negotiation and development of an Agreement for its consideration. The approval of a Tax Abatement Application does in no wise presuppose the creation of a Reinvestment Zone, nor does it presuppose the Council's granting of a tax abatement and entering into an Agreement with the applicant.

Section 4: Creation of a Reinvestment Zone

- A. Prior to the adoption of an Ordinance designating a Reinvestment Zone, the Council shall, through Public Hearing, afford the applicant, representatives of any affected jurisdiction, and the general public, an opportunity to show cause why the Reinvestment Zone should or should not be created and a tax abatement granted.
 1. The presiding officers of affected jurisdictions shall be notified in writing of the Public Hearing no later than the seventh (7th) day prior to the date of the Public Hearing.
 2. A notice of Public Hearing for the creation of a Reinvestment Zone shall be published in a newspaper of general circulation within the taxing jurisdiction no later than the seventh (7th) day prior to the date of the Public Hearing.
- B. The Council reserves the right to not establish a Reinvestment Zone and/or enter into a Tax Abatement Agreement if it finds that construction, alteration, or the installation of improvements being considered for tax abatement commenced prior to creation of a Reinvestment Zone and the execution of a Tax Abatement Agreement. Site preparation, as that term is commonly understood, shall not constitute commencement of construction, alteration, or installation of improvements.

Section 5: Criteria for Entering Into an Agreement

- A. *Eligibility for Tax Abatement:* Upon application, eligible facilities may be considered for tax abatement as herein provided. Abatement may only be granted for new or added taxable value of eligible property improvements, subject to such limitations as the Council may from time to time require, or as may be specified in the Agreement. Existing taxable value may not be abated.

- B. *Ineligibility for Tax Abatement:* Ineligible property as herein defined may not be granted tax abatement.
- C. *New and Existing Facilities:* Abatement may be granted for new facilities and improvements to existing facilities.
- D. *Owned / Leased Facilities:* If a leased facility is granted abatement, the Agreement shall be executed with the lessor and lessee.
- E. *Authorized Date:* Abatement may only be granted for the new or added value of a property improvement(s) that is created subsequent to the creation of a Reinvestment Zone and the execution of a Tax Abatement Agreement.
- F. *Economic Qualification:* In order to be eligible for designation as a Reinvestment Zone and receive tax abatement, the planned improvement must be expected to have an increased appraised ad valorem tax value of at least one hundred thousand dollars (\$100,000) upon completion, based on the Fort Bend County Central Appraisal District assessment.
- G. *Standards for Tax Abatement:* The following factors, among such other factors as deemed necessary by the Council, shall be considered in determining whether to grant tax abatement:
 - 1. Type and value of the proposed improvements
 - 2. Value of land and existing improvements, if any
 - 3. Amount of additional ad valorem taxes to be paid the City during and after the abatement period as a result of the contemplated improvements
 - 4. Ratio of real property value to personal property value being considered for abatement
 - 5. Amount of local sales tax to be generated
 - 6. Number and type of new jobs to be created
 - 7. Number of existing jobs to be retained
 - 8. Number of new jobs to be filled by local residents, or by persons projected to reside in the City
 - 9. Extent to which business opportunities will be created for local businesses by the proposed improvements
 - 10. Extent to which the proposed improvements will compete with existing businesses
 - 11. Impact on attracting other new businesses as a result of the improvements
 - 12. Productive life of the improvements
 - 13. Cost to be incurred by the City to provide services directly resulting from the contemplated improvements
 - 14. Population growth that will occur directly as a result of the improvements

15. Value of public improvements, if any, to be made by the applicant seeking tax abatement
16. Environmental compatibility and the amount, if any, of negative impact on the City's quality of life
17. Impact the planned improvements may have on other taxing jurisdictions within the City

After an evaluation and review utilizing some or all of the above factors, the Council may, within the exercise of its full discretion, either deny the abatement, or grant an abatement and enter into an Agreement as deemed appropriate.

Section 6: Agreement

- A. After approval of the Tax Abatement Application and the adoption of an Ordinance creating a Reinvestment Zone, the Council may pass a Resolution authorizing the execution of an Agreement.
 1. No later than the seventh (7th) day prior to taking action to authorize execution of an Agreement, the Council shall notify in writing the presiding officers of each of the affected jurisdictions of its intention to enter into an Agreement.
- B. The Agreement shall include, among other provisions, the following:
 1. The estimated value to be abated and the base year value
 2. A list of the kind, number, and location of all proposed improvements to and on the property
 3. The percentage of value to be abated each year and the number of years abatement will be granted
 4. The commencement and termination date of the abatement
 5. The commencement and completion date of the proposed improvements
 6. Amount of investment and number of jobs to be created, if any
 7. For the term of the Agreement, the right of access for City employees and/or designated representatives to the Reinvestment Zone and its improvements for the purpose of determining if the terms and conditions of the Agreement are being met: Such inspections to be in accordance with the provisions of Section 8 (C)
 8. The responsibility of the recipient of tax abatement to file the appropriate documents with the Chief Appraiser of the Fort Bend County Central Appraisal District for the receipt of tax abatement
 9. Contractual obligations related to default, violation of terms or conditions, recapture, administration, amendment, and assignment
 10. A statement stipulating that if the recipient knowingly employs undocumented workers, as that term is defined in Chapter 2264, Section 2264.001, Tex. Gov. Code, and is convicted of a violation under 8 U.S.C. Section 1324a(f), such conviction will trigger

written notice that the conviction is a breach of contract and that the Agreement terminates 30 days from the date of the notice

C. Such Agreement shall be executed in duplicate originals by both parties to the Agreement.

Section 7: Term and Amount of Abatement

The Council reserves unto itself absolute discretion in the granting, on a case-by-case basis, of a term and percentage of taxes to be abated in each year of the term. Such term and percentage of taxes abated will in no wise exceed one hundred percent (100%) per year for ten (10) years.

Section 8: Administration

- A. The Chief Appraiser of the Fort Bend County Central Appraisal District will annually determine an assessment of the taxable value of the recipient's property, taking into consideration the terms of the Agreement relating to such real and personal property found within the Reinvestment Zone which is subject to the Agreement.
- B. It shall be the exclusive duty and responsibility of the recipient to comply with all requirements of the Fort Bend County Central Appraisal District in order to secure and continue to receive the benefit of any approved Agreement. Failure to do so shall not be deemed the fault of the City or any of its officers, employees, or agents.
- C. Employees and/or designated representatives of the City, during the term of the Agreement, shall have the right of access to the Reinvestment Zone, facilities contained therein, and records related to real and personal property investments and employment, in order to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice, and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the recipient present, and in accordance with the recipient's safety standards.
- D. During the construction, installation, or modification of abated improvements, the recipient may be required to provide the City with reports on the progress and status of such improvements. Such reports shall be on a schedule as requested by the City, and would require as a minimum the following:
 - 1. The date of commencement of improvements, significant progress dates, and actual as well as anticipated completion dates
 - 2. Expenditures made to date
 - 3. A disclosure and description of any and all changes or modifications that were made in the contemplated improvements
- E. Upon completion of all contemplated improvements the recipient may be required to provide the City a final report, such report containing as a minimum the following:
 - 1. Improvement completion dates
 - 2. Actual improvement costs
 - 3. Disclosure and description of any and all changes or modifications that were made in the contemplated improvements

- F. Any required reporting by the recipient shall be in a form approved by the City, or on a form(s) provided by the City.
- G. Upon completion of anticipated improvements, a designated representative of the City may annually evaluate each facility receiving abatement to insure compliance with the Agreement, and a formal report of such evaluations shall be made to the Council regarding the findings.
- H. The recipient shall provide to the City an annual certification as to compliance with the terms and conditions of the Agreement.
- I. The City shall file reports required of the City by State law, such reports being filed with the appropriated agency(-ies).

Section 9: Assignment

- A. The rights granted under an Agreement may be transferred and assigned by the recipient to a new owner or lessee of the subject improvements only upon the approval by Resolution of the Council, and the execution of an Assignment Agreement between the City and the new owner or lessee. Such assignment shall be at the sole discretion of the Council, and subject to the following conditions:
 - 1. Financial capacity of the assignee
 - 2. Contemplated facility use, and proposed and/or completed improvements being as stated in the Agreement
 - 3. No outstanding taxes or other debts being owed to any governmental entity by the parties to the Agreement or the assignee

Section 10: Default and Recapture

- A. *Cause:* The Agreement may be terminated by the Council for any of the following causes, which shall be considered a default of the Agreement:
 - 1. Recipient allows the ad valorem taxes owed the City or other affected jurisdictions to become delinquent and fails to timely and properly follow the requirements of law for their protest and/or cure
 - 2. Recipient violates any of the terms and conditions of the Agreement and fails to cure during the cure period described elsewhere in this Section
 - 3. Recipient fails to, or ceases to utilize the property subject to abatement in the manner and for such purposes as stated in a Tax Abatement Application and/or Tax Abatement Agreement
- B. *Procedure:* Should the Council determine that the recipient is in probable default of the Agreement, the following shall occur:
 - 1. A Notice of Probable Default shall be delivered in writing to the recipient of tax abatement. Such notice shall identify the probable cause(s) for default, and afford the recipient an opportunity to request a hearing before the Council, who shall finally determine if a default has occurred.

2. If no request for hearing is made within fifteen (15) days of delivery of the Notice of Probable Default, the Council may confirm the existence of default.
3. If default is determined either by hearing or by failure of recipient to request a hearing, the City shall deliver in writing a Notice of Default to the recipient of tax abatement.
4. The recipient shall, within thirty (30) days of delivery of a Notice of Default, cure the cause(s) for default. Failure to do so will be cause for the City to terminate the Agreement without further notice.
5. Notices shall be deemed delivered when deposited, postage paid, with the United States Postal Service as Certified Mail, return receipt requested.

C. Recapture:

1. Should the Agreement be terminated, all taxes abated prior to the termination, plus five percent (5%) per annum interest, along with all costs associated with termination, including attorney's fees, shall be due and payable to the City within thirty (30) days.
2. Should the recipient discontinue operations of improvements as stated in the Application for Abatement or the Agreement for reasons excepting fire, explosion, or other disaster, for a period of one (1) year during the abatement term, the Agreement shall be considered terminated, and all taxes abated prior to the termination, plus five percent (5%) per annum interest, along with all costs associated with termination, including attorney's fees, shall be due and payable to the City within thirty (30) days.

Section 11: Confidentiality

- A. The city will make every effort within the laws of the State of Texas to maintain confidentiality of information related to an Application for Abatement and the granting or denial of abatement.
- B. Information which is provided to the City in connection with an Application for Abatement and the granting or denial of abatement is confidential, and not subject to public disclosure until an Agreement is executed. Any information remaining in the custody of the City after execution of an Agreement is not confidential and therefore is subject to public disclosure. Upon request, and prior to execution of an Agreement, the City will return the following type(s) of information:
 1. Trade secrets
 2. Commercial or financial information for which disclosure would cause substantial competitive harm to the person or company from whom the information was obtained
 3. Information describing specific processes or business activities
- C. Upon execution of an Agreement, information about a financial or other incentive being offered to a business prospect is no longer confidential, and subject to public disclosure.

Section 12: Severability

In the event any section, clause, sentence, paragraph, or any part of these Guidelines and Criteria shall for any reason be judged by a court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria.

Section 13: Time Limitation and Review

- A. These Guidelines and Criteria are effective upon the date of their adoption by the Council, and will remain in force for two (2) years, at which time all Reinvestment Zones and Agreements created pursuant to its provisions will be reviewed by the Council to determine whether the goals of the abatement program have been achieved. Based upon that review, the Guidelines and Criteria may be renewed, modified, or eliminated.
- B. Prior to the date of review, these Guidelines and criteria may be modified by a three-fourths (3/4) vote of the entire membership of the Council.
- C. Any modification or elimination of these Guidelines and Criteria will have no effect on Agreements approved prior to the date of such modification or elimination.

Section 14: Discretion of the City

The adoption of these Guidelines and Criteria by the City does not:

- A. Limit the discretion of the Council to decide whether to enter into a specific Agreement, which absolute right of discretion the Council reserves unto itself, whether or not such discretion may be deemed arbitrary or without basis in fact.
- B. Limit the discretion of the Council to delegate to its employees or assigns the authority to determine whether or not the Council should consider a particular Tax Abatement Application.
- C. Create any property, contract, or other legal rights in any person or entity to have the Council consider or approve a particular Tax Abatement Application.