

RICHARD WARREN, PRESIDENT

MIKE COOKSLEY, VICE-PRESIDENT

JAY MARTIN, BOARD MEMBER

CHUCK ENGELKEN, BOARD MEMBER



MIKE CLAUSEN, BOARD MEMBER

RANDY WOODARD, BOARD MEMBER

NANCY OJEDA, BOARD MEMBER

## **CITY OF LA PORTE DEVELOPMENT CORPORATION MEETING AGENDA**

Notice is hereby given of a meeting of the City of La Porte Development Corporation to be held on April 6, 2015, at the City Hall Council Chambers, 604 W. Fairmont Parkway, La Porte, Texas, beginning at 5:30 PM to consider the following items of business:

1. **CALL TO ORDER**
2. **AUTHORIZATIONS**
  - (a) Consider approval of minutes of the meeting of the La Porte Development Corporation Board held on March 9, 2015 - P. Fogarty
  - (b) Consider approval or other action authorizing Board President Richard Warren to execute an amended and restated Economic Development Agreement with INEOS USA, LLC. - S. Livingston
3. **DISCUSSION OR OTHER ACTION**
  - (a) Discussion or other action in connection with review of economic development program and consider establishing new guidelines for offering incentives to new and/or existing businesses in La Porte - S. Livingston
4. **SET DATE FOR NEXT MEETING**
5. **STAFF REPORTS**
  - (a) Receive Financial Report - M. Dolby
6. **Board member comments regarding matters appearing on agenda; Recognition of community members, city employees, and upcoming events; inquiry of staff regarding specific factual information or existing policies.**
7. **Adjourn**

**The La Porte Development Corporation Board reserves the right to meet in closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code (the Texas open meetings laws).**

**In compliance with the Americans with Disabilities Act, the City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281.470.5019.**

### **CERTIFICATION**

I certify that a copy of the April 6, 2015, agenda of items to be considered by the Board of the La Porte Development Corporation was placed on the City Hall Bulletin Board on March 31, 2015.

RICHARD WARREN, PRESIDENT  
MIKE COOKSLEY, VICE PRESIDENT  
CHUCK ENGELKEN, BOARD MEMBER  
JAY MARTIN, BOARD MEMBER



MIKE CLAUSEN, BOARD MEMBER  
RANDY WOODARD, BOARD MEMBER  
NANCY OJEDA, BOARD MEMBER

## MINUTES OF LA PORTE DEVELOPMENT CORPORATION BOARD MEETING OF MARCH 9, 2015

The City of La Porte Development Corporation Board met on **March 9, 2015**, at the City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, at **5:00 p.m.** to consider the following items of business:

### 1. CALL TO ORDER

President Richard Warren called the meeting to order at 5:00 p.m. The following members of the La Porte Development Corporation Board were present: Vice-President Cooksley, Board members Martin, Clausen, Woodard, and Ojeda. Board members Absent: Board member Chuck Engelken. Staff Present: Corby Alexander, Patrice Fogarty, Scott Livingston, Michael Dolby and Clark Askins.

### 2. AUTHORIZATIONS

(a) Consider approval of minutes of the meeting of La Porte Development Corporation Board held on February 23, 2015 – P. Fogarty

Board member Clausen moved to approve minutes of the meeting of La Porte Development Corporation Board held on February 9, 2015. Vice-President Cooksley seconded. **MOTION PASSED.**

Ayes:	President Warren, Vice-President Cooksley, Board members Ojeda, Woodard, Clausen and Martin
Nays:	None
Absent:	Board member Engelken

### 3. SET DATE FOR NEXT MEETING – S. Livingston

Board members set the next meeting dates for Monday, April 6, 2015, at 5:00 p.m. and Monday, April 13, 2015, at 5:00 p.m.

### 4. STAFF REPORTS

(a) Receive 2014-2015 Annual Report from Chad Buke, President/CEO of the Economic Alliance Houston Port Region – S. Livingston

Chad Buke, President/CEO of the Economic Alliance Houston Port Region, provided the 2014-2015 Annual Report and PowerPoint Presentation.

Board member Martin questioned if there are any major obstacles to continued economic development for the Houston Port Region in the next 12 months. Mr. Burke responded the two biggest issues are workforce development and transportation.

Board member Ojeda asked if there are any feedback or ripple effects of the strikers. Mr. Burke responded not really; and they try to stay in contact with the Plant Managers at Shell and Lyondell-Basell along the ship channel. Mr. Burke also informed turnaround and revamping projects are on hold.

5. **BOARD MEMBER COMMENTS** regarding matters appearing on agenda; recognition of community members, city employees, and upcoming events; inquiry of staff regarding specific factual information or existing policies.

The Board members thanked Mr. Burke for the presentation.

6. **ADJOURN** – There being no further business, Board member Clausen moved to adjourn the meeting at 5:24 p.m. Vice-President Cooksley seconded. **MOTION PASSED.**

Respectfully submitted,

---

Patrice Fogarty, City Secretary

Passed and approved on this 6th day of April, 2015.

---

President Richard Warren

**REQUEST FOR LA PORTE DEVELOPMENT CORPORATION AGENDA ITEM**

Agenda Date Requested: 6 April 2015  
Requested By: Scott D. Livingston  
Department: ~~Administration/Economic Development~~  
Report: X Resolution: \_\_\_\_\_ Ordinance: \_\_\_\_\_

<u>Budget</u>	
Source of Funds:	<u>N/A</u>
Account Number:	<u>N/A</u>
Amount Budgeted:	<u>N/A</u>
Amount Requested:	<u>N/A</u>
Budgeted Item:	YES NO

Exhibit: 2015 Development Agreement, Signed by INEOS

Exhibit: Revised INEOS Agreement, 11 Aug. 2014

Exhibit: Original INEOS Agreement, 23 Sept. 2013

---

**SUMMARY & RECOMMENDATION**

On 11 August 2014, the Board of the La Porte Development Corporation extended the deadline from 1 August **2014** to 1 August **2016**, by which INEOS USA, LLC was required to provide a letter of commitment to construct the estimated \$500 million Ethylene Oxide Unit in La Porte, Texas. Earlier this year, however, INEOS USA, LLC announced plans **not** to develop the Ethylene Oxide Unit in La Porte, Texas.

Upon the request of the Board of the La Porte Development Corporation, INEOS USA, LLC has agreed to enter into a new development agreement in which the terms for the Polyethylene Unit remain fully intact, terms pertaining to the development of the proposed Ethylene Oxide Unit have been deleted, and the LPDC is authorized by INEOS USA, LLC to re-commit the \$700,000 in funds, previously committed to the Ethylene Oxide Unit, to other economic development projects.

---

**Action Required by the La Porte Development Corporation:**

Consider approval or other action authorizing LPDC Board President Richard Warren to sign and execute the new development agreement with INEOS USA, LLC.

---

**Approved for the La Porte Development Corporation Agenda:**

\_\_\_\_\_  
Corby D. Alexander, City Manager

\_\_\_\_\_  
Date

**AMENDED AND RESTATED ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE LA PORTE DEVELOPMENT CORPORATION, AND INEOS USA LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR USE OF TYPE B DEVELOPMENT CORPORATION SALES TAX FUNDS**

THIS AMENDED AND RESTATED AGREEMENT made by and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015 between the La Porte Development Corporation, a Type B non-profit corporation operating under authority of Texas Local Government Code Chapters 501 and 505 (hereinafter "LPDC"), and INEOS USA LLC, a Delaware limited liability company (hereinafter "Recipient").

**WITNESSETH:**

WHEREAS, the voters of the City of La Porte authorized the levying of additional sales tax within the City for promotion of economic development and the LPDC is authorized to use such tax revenues for certain qualifying projects and other economic development related purposes; and

WHEREAS, Recipient wishes to expand its current business operation at its industrial complex at 1230 Independence Parkway in the Battleground Industrial District, located adjacent to the northern corporate limits of the City of La Porte, Texas (hereinafter, "Battleground Manufacturing Complex"), by opening and operating a Polyethylene manufacturing facility at a minimum capital investment cost of \$250,000,000.00, and which after three (3) years is anticipated to employ up to 24 additional personnel (hereinafter, Polyethylene Project); and

WHEREAS, LPDC and Recipient anticipate that the construction of the facilities for the Polyethylene Project will be substantially complete by the end of 2017; and

WHEREAS, Texas Local Government Code section 501.159 authorizes a Type B corporation to undertake a project in another jurisdiction in the state if the governing body of the other jurisdiction requests the corporation to exercise its powers within its jurisdiction; and whereas Harris County, Texas has requested and authorized the LPDC to undertake the projects described in this Agreement at the Battleground Manufacturing Complex; and

WHEREAS, Recipient has requested that LPDC provide financial incentives to promote the expansion of its Battleground Manufacturing Complex in an amount to cover or subsidize certain infrastructure costs, including streets and roads, drainage and related improvements, associated acquisition costs, and other purposes authorized by Texas Local Government Code chapters 501 and 505, and it is the desire of LPDC to assist in the funding of same, finding that such expenditures will contribute to promoting economic growth and development in the City; and

WHEREAS, Texas law and the by-laws of the LPDC require that certain expenditures and projects by the LPDC be approved by the governing body of

the City; and whereas the LPDC Board has duly approved such projects and the expenditures for same have been authorized by the La Porte City Council; and

WHEREAS, publication of notice for public hearing required under Texas Local Government Code section 505.160 for expenditure of Type B funds on a proposed project was made and there were no petition filed with the City registering a protest to the proposed grant; and

WHEREAS, Recipient no longer seeks to develop an Ethylene Oxide Project at its Battleground Manufacturing Complex; and

WHEREAS, LPDC and Recipient entered into an Economic Development Incentive Agreement dated September 23, 2013, and which was amended on August 11, 2014, for the development of both an Ethylene Oxide and Polyethylene Project, but both parties, pursuant to Article X of said Agreement wish to amend and restate the Agreement, and as amended, to delete any reference to development of an Ethylene Oxide Project or receipt of economic incentive payment for such purpose, which Amended and Restated Agreement shall read as set forth herein; and

WHEREAS in connection with adoption of the Amended and Restated Agreement by the parties, Recipient agrees to release the LPDC from the required allocation of \$700,000.00 to be held in reserve until August 1, 2016, for the development of an Ethylene Oxide Project, such that the LPDC may immediately unencumber said \$700,000.00 so that these funds may be available for use by the LPDC for other purposes;

NOW THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of La Porte, Texas, the parties have agreed and do hereby agree as follows:

## **ARTICLE I**

- A. In consideration of Recipient locating its proposed Polyethylene Project at its Battleground Manufacturing Complex, as specifically described in that certain public hearing authorizing the Polyethylene Project and expenditure of LPDC funds for the promotion of said project, held before the LPDC on July 16, 2012, LPDC agrees to provide Recipient an incentive package consisting of a cash payment of \$300,000.00 according to the schedule outlined in this Article I and the retention of said payment being conditioned upon Recipient's satisfaction of certain minimum construction related capital investment costs and additional permanent direct jobs as provided in this Article I.

The cash incentive herein described shall be distributed as follows:

- 1) a cash incentive payment in the amount of \$300,000.00 will be distributed to Recipient no later than 30 days after receipt by LPDC of letter from Recipient's Officer evidencing Recipient's financial commitment to construction of the Polyethylene Project

at the Battleground Manufacturing Complex; such letter of commitment shall be submitted to LPDC no later than August 1, 2014.

- B. As a condition for the receipt and retention of the referenced cash incentive payment as provided in this Article I, and as required by Texas Local Government Code section 501.158, Recipient shall provide to LPDC verification that it has satisfied the following performance standards as applicable to the Polyethylene Project. Based on the foregoing, Recipient agrees to the following requirements:

1) Recipient will submit to the LDPC by December 31, 2017;

- a) Documentation demonstrating that 24 new full-time employees have been hired by Recipient. Such documentation shall include Federal and/or State employment reports and/or monthly report to the Texas State Comptroller.
- b) Documentation that substantiates Recipient's expenditure of a minimum of \$250,000,000.00 in capital investment.

- C. Recipient will expend the cash incentive payments only towards the construction of streets and roads, drainage and related improvements, associated acquisition costs, and other related purposes authorized by Texas Local Government Code chapters 501 and 505, in furtherance of the Polyethylene Project at the Battleground Manufacturing Complex, more particularly described by metes and bounds description as reflected Exhibit A, attached to this agreement, and incorporated by reference for all purposes.

## **ARTICLE II**

Disbursement and/or retention of the cash incentive payment identified in Article I of this Agreement shall be made as follows:

- A. LPDC shall disburse to Recipient, subject to the satisfaction of the conditions precedent or conditions subsequent contained within Article I of this Agreement as applicable for the project.
- B. LPDC's obligation to Recipient shall not exceed \$300,000.00 for the Polyethylene Project.

## **ARTICLE III**

Recipient understands that the funds paid to Recipient by the LPDC are derived from tax revenues collected under Texas Local Government Code 505.252, and that LPDC has estimated the tax revenues to be collected during the term of this Agreement. Recipient further understands, acknowledges, and agrees that if the tax revenue actually collected is less than 80% of the estimated tax revenues to be collected in any 2 of 3 successive fiscal years during the term of this Agreement and prior to the year Recipient is otherwise entitled to receive

a cash incentive payment pursuant to this Agreement, LPDC will be entitled to terminate all further cash incentive payments to Recipient during or after the fiscal year for which there is a revenue shortfall; provided, Recipient's obligations with respect to the project so affected shall likewise be terminated.

#### **ARTICLE IV**

If Recipient shall fail to meet any of the capital investment or job creation thresholds outlined in the schedule contained in Article I of this Agreement for the Polyethylene Project (hereinafter, "Project"), LPDC shall have the right to reclaim and recapture, on a pro-rata basis, all or a portion of the cash incentive payment, plus the portion of accrued interest of the cash incentive payments to be repaid, which were previously disbursed to Recipient with respect to the affected Project, whether or not such disbursements have been spent by Recipient at the time of the reclamation by the LPDC. In such event interest shall be calculated utilizing the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the LPDC) as its prime or base commercial lending rate, from the Effective Date until paid. For purposes of this Agreement, LPDC's right of recapture shall apply to the percentage of the capital investment or job creation target not met by Recipient for the affected Project. In each such case, applicable percentage of the previously paid cash payment or payments for the affected Project(s) shall be remitted to the LPDC within sixty (60) days of receipt of written demand for same. The applicable percentage of the capital investment or job creation target not met by Recipient shall be mutually agreed by the Parties; provided however, should the Parties fail to agree on such percentage the Dispute Resolution clause in Article XV shall apply.

In the event of a material breach by Recipient hereunder, including, but not limited to, use of the funds provided herein for purposes other than those stated in Article I of this Agreement, LPDC may cease all future payments hereunder and terminate this Agreement; and, furthermore, LPDC shall have the right to reclaim and recapture, and Recipient shall refund, any funds that are not spent in accordance with the terms of this Agreement and any unspent and unobligated LPDC funds previously paid to Recipient but not yet paid or pledged by Recipient to third parties. In each such case, Recipient shall remit payments to the LPDC within sixty (60) days of receipt of written demand for same.

#### **ARTICLE V**

The term of this Agreement will expire on or before December 31, 2017, pursuant to Article 1 of this Agreement.

#### **ARTICLE VI**

Recipient shall provide to the LPDC within ninety (90) days following the payment made pursuant to Article 1 of this Agreement, a report and full documentation (hereinafter "Expenditure Report") showing the expenditures made by Recipient pursuant to this Agreement and a demonstration that the

funds were used only for the purposes authorized by this Agreement; and Recipient shall supplement the Expenditure report at 90-day intervals until cash incentive payments are fully spent. Recipient shall maintain books of account with correct entries of all expenditures that are made according to the terms of this Agreement and of any funds from other sources. Any and all books of account of Recipient shall be at all times open to the inspection of LPDC or any its officers or duly authorized agents. Upon such inspection and with appropriate measures to protect Recipient's confidential business information, LPDC, or its officers or agents shall be afforded the opportunity to make photographic copies of any and all documentation of books of account, including but not limited to statements of account relating to the disposition of funds provided by LPDC under this Agreement and any funds from other sources. Recipient shall maintain such books of account in Texas for a period of three (3) years following receipt of the last cash incentive disbursement by the LPDC, pursuant to Article I of this Agreement. Notwithstanding Article I, above, the LPDC shall be under no obligation to make any fund disbursements if Recipient fails to provide an Expenditure Report.

#### **ARTICLE VII**

Either party hereto may enforce this Agreement by any and all means available at law or in equity.

#### **ARTICLE VIII**

This Agreement does not create any joint venture, partnership, or agency relationship between the LPDC and Recipient. Recipient shall have exclusive control of, and the exclusive right to control the details of the work to be performed by Recipient hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of Recipient's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the LPDC.

#### **ARTICLE IX**

Recipient agrees to assume and does hereby assume all responsibility and liability for damages sustained by persons or property, whether real or asserted, by or from the carrying on of work by Recipient or in the performance of services performed and to be performed by Recipient hereunder. Recipient covenants and agrees to, and does hereby indemnify, defend, and hold harmless LPDC and all their respective officers, agents, and employees from all suits, actions, claims, and expenses of any character, including attorney's fees, brought for or incurred on account of any injuries or damages, whether real or asserted, sustained by any person or property by or in consequence of any intentional or negligent act, omission, or conduct of Recipient, its agents, servants or employees and in the course of performance by LPDC and Recipient under this Agreement.

## **ARTICLE X**

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

## **ARTICLE XI**

Recipient shall adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and shall maintain in effect during the term of this Agreement any and all federal, state, and local licenses and permits which may be required of Recipients generally.

## **ARTICLE XII**

Recipient may not assign this Agreement without the written consent of LPDC, which consent will not be unreasonably delayed, conditioned, or denied; provided, however, the foregoing notwithstanding, Recipient may assign this Agreement to an entity acquiring all or substantially all of its interest in the Polyethylene Project.

## **ARTICLE XIII**

The waiver by either party hereto of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

## **ARTICLE XIV**

The obligations of the parties to this Agreement are performable in Harris County, Texas and if legal action is necessary to enforce same, venue shall lie in Harris County, Texas.

## **ARTICLE XV**

The parties' representatives will meet as needed to implement the terms of this Agreement and shall make a good faith attempt to informally resolve any disputes.

Except to prevent irreparable harm for which there is no adequate remedy at law, neither party hereto shall file suit to enforce this Agreement without first submitting the dispute to confidential, non-binding mediation before a mediator mutually agreed upon by the parties.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

## **ARTICLE XVI**

This Agreement may be executed in triplicate, each of which shall be deemed an original and constitute one and the same instrument.

#### **ARTICLE XVII**

Neither LPDC nor Recipient shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure. As used in this Article XVII, force majeure means any cause not reasonably within the control of a party hereto and which by the exercise of due diligence such party is unable, wholly or in part, to prevent or overcome, including, but not limited to, physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes resulting in evacuation, floods, washouts, explosions, machinery malfunctions or breakdowns, inability to obtain fuel, power, or materials necessary for production, deficient transportation, electric power outages, strikes, lockouts, or other industrial disturbances, acts of a public enemy, sabotage, wars, blockades, insurrections, riots, acts of terror, and compliance with any law, order, rule, or regulation of any governmental agency.

#### **ARTICLE XVIII**

In executing this Agreement the Recipient whose signature appears below affirms its intent and commitment to comply in full with Section 2264.052 of the Government Code and certifies that it does not and will not knowingly employ an undocumented worker during the term of this Agreement. The Recipient further certifies its understanding and agreement that if it is convicted of a violation of 8 U.S.C. Section 1324a(f), providing for civil and/or criminal penalties for engaging in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens, it shall repay the amount of the funds received hereunder with interest, at the rate and according to the terms of the agreement signed under Section 2264.053 of the Government Code, not later than the 120th day after the date the LPDC notifies the business of the violation.

#### **ARTICLE XIX**

In no event will either party be liable to the other party for any indirect, special, punitive, exemplary, incidental or consequential damages and this limitation will apply regardless of whether or not the other party has been advised of the possibility of such damages. Recipient's total liability under this Agreement, including for its indemnification, defense, and hold harmless obligations, shall not exceed the amount of funds actually received by Recipient from the LPDC under the Agreement.

#### **ARTICLE XX**

LPDC and Recipient acknowledge and agree this Agreement amends and restates in its entirety that certain *ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT* by and between the parties dated September 23, 2013, and as amended August 11, 2014.

## **ARTICLE XXI**

The Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties, which relate to matters in this Agreement.

SIGNED AND AGREED to by LPDC and Recipient on the dates indicated below.

LA PORTE DEVELOPMENT CORPORATION

\_\_\_\_\_  
Richard Warren, President

\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Secretary of the Corporation

INEOS USA LLC, a Delaware limited liability company

By:

Dennis J. Leith

2-24-2015  
Date

ATTEST

[Signature]

## AMENDMENT TO ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Amendment to Economic Development Incentive Agreement (hereinafter "Amendment") is made by and entered into this 11 day of August, 2014 by and between La Porte Development Corporation, a Type B non-profit corporation operating under authority of Texas Local Government Code Chapters 501 and 505 (hereinafter "LPDC"), and INEOS USA LLC, a Delaware limited liability company (hereinafter "Recipient").

WHEREAS, LPDC and Recipient are parties to that certain *Economic Development Incentive Agreement* for use of Type B Development Corporation Sales Tax Funds dated September 23, 2013 (hereinafter "Incentive Agreement"); and,

WHEREAS, Recipient desires extension of deadlines relating to the Ethylene Oxide Project under the Incentive Agreement; and,

WHEREAS, LPDC desires to grant Recipient's request for extension of deadlines relating to the Ethylene Oxide Project under the Incentive Agreement;

NOW THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of La Porte, Texas, the parties have agreed and do hereby agree as follows:

1. Terms capitalized herein and not otherwise defined will have the meanings ascribed to such terms in the Incentive Agreement.
2. The third recital in the preamble to the Incentive Agreement is modified by striking the current text and substituting the following:

" WHEREAS, LPDC and Recipient anticipate that the construction of the facilities for the Ethylene Oxide Project will be substantially complete by the end of 2019 and the Polyethylene Project will be substantially complete by the end of 2017; and"

3. Article I.A.1 of the Incentive Agreement is modified by striking the current text and substituting the following:

"1) a cash incentive payment in the amount of \$700,000.00 for the Ethylene Oxide Project will be distributed to Recipient no later than 30 days after receipt by LPDC of letter from Recipient's Officer evidencing Recipient's financial commitment to construction of the Ethylene Oxide Project at the Battleground Manufacturing Complex; such letter of commitment shall be submitted to LPDC no later than August 1, 2016."

4. Article I.B.1 of the Incentive Agreement is modified by striking the current text and substituting the following:

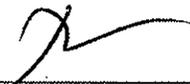
"1) For the Ethylene Oxide Project, Recipient will submit to the LPDC by December 31, 2019;"

5. Article V of the Incentive Agreement is modified by striking the current text and substituting the following:

" The term of this Agreement will expire on or before December 31, 2019, pursuant to Article 1 of this Agreement."

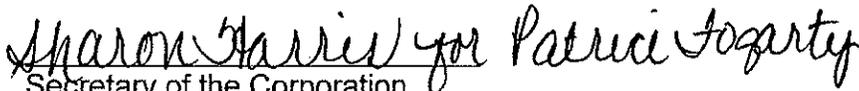
SIGNED AND AGREED to by LPDC and Recipient on the dates indicated below.

LA PORTE DEVELOPMENT CORPORATION

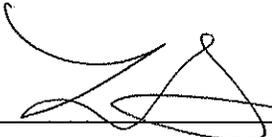
  
\_\_\_\_\_  
Richard Warren, President

8/11/14  
\_\_\_\_\_  
Date

ATTEST

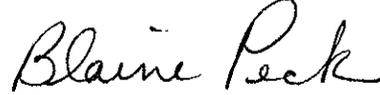
  
\_\_\_\_\_  
Secretary of the Corporation

INEOS USA LLC, a Delaware limited liability company

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

8/14/2014  
\_\_\_\_\_  
Date

ATTEST

  
\_\_\_\_\_

**ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN THE LA PORTE DEVELOPMENT CORPORATION, AND INEOS USA LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR USE OF TYPE B DEVELOPMENT CORPORATION SALES TAX FUNDS**

THIS AGREEMENT made by and entered into this 23<sup>rd</sup> day of September, 2013 between the La Porte Development Corporation, a Type B non-profit corporation operating under authority of Texas Local Government Code Chapters 501 and 505 (hereinafter "LPDC"), and INEOS USA LLC, a Delaware limited liability company (hereinafter "Recipient").

**WITNESSETH:**

WHEREAS, the voters of the City of La Porte authorized the levying of additional sales tax within the City for promotion of economic development and the LPDC is authorized to use such tax revenues for certain qualifying projects and other economic development related purposes; and

WHEREAS, Recipient wishes to expand its current business operation at its industrial complex at 1230 Independence Parkway in the Battleground Industrial District, located adjacent to the northern corporate limits of the City of La Porte, Texas (hereinafter, "Battleground Manufacturing Complex"), by opening and operating 1) an Ethylene oxide manufacturing facility at a minimum capital investment cost of \$500,000,000.00 and which after three (3) years is anticipated to employ up to 60 additional personnel (hereinafter, Ethylene Oxide Project); and 2) a Polyethylene manufacturing facility at a minimum capital investment cost of \$250,000,000.00, and which after three (3) years is anticipated to employ up to 24 additional personnel (hereinafter, Polyethylene Project); and

WHEREAS, LDPC and Recipient anticipate that the construction of the facilities for the Ethylene Oxide Project and the Polyethylene Project will be substantially complete by the end of 2017; and

WHEREAS, Texas Local Government Code section 501.159 authorizes a Type B corporation to undertake a project in another jurisdiction in the state if the governing body of the other jurisdiction requests the corporation to exercise its powers within its jurisdiction; and whereas Harris County, Texas has requested and authorized the LPDC to undertake the projects described in this Agreement at the Battleground Manufacturing Complex; and

WHEREAS, Recipient has requested that LPDC provide financial incentives to promote the expansion of its Battleground Manufacturing Complex in an amount to cover or subsidize certain infrastructure costs, including streets and roads, drainage and related improvements, associated acquisition costs, and other purposes authorized by Texas Local Government Code chapters 501 and 505, and it is the desire of LPDC to assist in the funding of same, finding that such expenditures will contribute to promoting economic growth and development in the City; and

WHEREAS, Texas law and the by-laws of the LPDC require that certain expenditures and projects by the LPDC be approved by the governing body of the City; and whereas the LPDC Board has duly approved such projects and the expenditures for same have been authorized by the La Porte City Council; and

WHEREAS, publication of notice for public hearing required under Texas Local Government Code section 505.160 for expenditure of Type B funds on a proposed project was made and there were no petition filed with the City registering a protest to the proposed grant.

NOW THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of La Porte, Texas, the parties have agreed and do hereby agree as follows:

## ARTICLE I

- A. In consideration of Recipient locating its proposed Ethylene Oxide Project at its Battleground Manufacturing Complex, as specifically described in that certain public hearing authorizing the proposed projects and expenditure of LPDC funds for the promotion of said projects, held before the LPDC on July 16, 2012 (hereinafter, the "Public Hearing"), LPDC agrees to provide Recipient an incentive package consisting of a cash payment of \$700,000.00 according to the schedule outlined in this Article I and the retention of said payment being conditioned upon Recipient's satisfaction of certain minimum construction related capital investment costs and additional permanent direct jobs as provided in this Article I. Furthermore, in consideration of Recipient locating its proposed Polyethylene Project at its Battleground Manufacturing Complex, as specifically described in the Public Hearing, LPDC agrees to provide Recipient an incentive package consisting of a cash payment of \$300,000.00 according to the schedule outlined in this Article I and the retention of said payment being conditioned upon Recipient's satisfaction of certain minimum construction related capital investment costs and additional permanent direct jobs as provided in this Article I.

The cash incentives herein described shall be distributed as follows:

- 1) a cash incentive payment in the amount of \$700,000.00 for the Ethylene Oxide Project will be distributed to Recipient no later than 30 days after receipt by LPDC of letter from Recipient's Officer evidencing Recipient's financial commitment to construction of the Ethylene Oxide Project at the Battleground Manufacturing Complex; such letter of commitment shall be submitted to LPDC no later than August 1, 2014.
- 2) a cash incentive payment in the amount of \$300,000.00 will be distributed to Recipient no later than 30 days after receipt by LPDC of letter from Recipient's Officer evidencing Recipient's financial commitment to construction of the Polyethylene Project at the Battleground Manufacturing Complex; such letter of

commitment shall be submitted to LPDC no later than August 1, 2014.

B. As a condition for the receipt and retention of each of the referenced cash incentive payments as provided in this Article I, and as required by Texas Local Government Code section 501.158, Recipient shall provide to LPDC verification that it has satisfied the following performance standards as applicable to each of the projects. Based on the foregoing, Recipient agrees to the following requirements:

1) For the Ethylene Oxide Project, Recipient will submit to the LDPC by December 31, 2017;

a) Documentation demonstrating that 60 new full-time employees have been hired by Recipient. Such documentation shall include Federal and/or State employment reports and/or monthly report to the Texas State Comptroller.

b) Documentation that substantiates Recipient's expenditure of a minimum of \$500,000,000.00 in capital investment.

2) For the Polyethylene Project, Recipient will submit to the LDPC by December 31, 2017;

a) Documentation demonstrating that 24 new full-time employees have been hired by Recipient. Such documentation shall include Federal and/or State employment reports and/or monthly report to the Texas State Comptroller.

b) Documentation that substantiates Recipient's expenditure of a minimum of \$250,000,000.00 in capital investment.

C. Recipient will expend the cash incentive payments only towards the construction of streets and roads, drainage and related improvements, associated acquisition costs, and other related purposes authorized by Texas Local Government Code chapters 501 and 505, in furtherance of the Ethylene Oxide Project and the Polyethylene Project at the Battleground Manufacturing Complex, more particularly described by metes and bounds description as reflected Exhibit A, attached to this agreement, and incorporated by reference for all purposes.

## ARTICLE II

Disbursement and/or retention of the cash incentive payments identified in Article I of this Agreement shall be made as follows:

A. LPDC shall disburse to Recipient, subject to the satisfaction of the conditions precedent or conditions subsequent contained within Article I of this Agreement as applicable for each project.

- B. LPDC's obligation to Recipient shall not exceed \$700,000.00 for the Ethylene Oxide Project and \$300,000.00 for the Polyethylene Project.

### ARTICLE III

Recipient understands that the funds paid to Recipient by the LPDC are derived from tax revenues collected under Texas Local Government Code 505.252, and that LPDC has estimated the tax revenues to be collected during the term of this Agreement. Recipient further understands, acknowledges, and agrees that if the tax revenue actually collected is less than 80% of the estimated tax revenues to be collected in any 2 of 3 successive fiscal years during the term of this Agreement and prior to the year Recipient is otherwise entitled to receive a cash incentive payment pursuant to this Agreement, LPDC will be entitled to terminate all further cash incentive payments to Recipient during or after the fiscal year for which there is a revenue shortfall; provided, Recipient's obligations with respect to the project so affected shall likewise be terminated.

### ARTICLE IV

If Recipient shall fail to meet any of the capital investment or job creation thresholds outlined in the schedule contained in Article I of this Agreement for the Ethylene Oxide Project or the Polyethylene Project (hereinafter, individually, a "Project"), LPDC shall have the right to reclaim and recapture, on a pro-rata basis, all or a portion of the cash incentive payments, plus the portion of accrued interest of the cash incentive payments to be repaid, which were previously disbursed to Recipient with respect to the affected Project, whether or not such disbursements have been spent by Recipient at the time of the reclamation by the LPDC. In such event interest shall be calculated utilizing the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the LPDC) as its prime or base commercial lending rate, from the Effective Date until paid. For purposes of this Agreement, LPDC's right of recapture shall apply on a Project-by-Project basis and shall apply to the percentage of the capital investment or job creation target not met by Recipient for the affected Project. In each such case, applicable percentage of the previously paid cash payment or payments for the affected Project(s) shall be remitted to the LPDC within sixty (60) days of receipt of written demand for same. The applicable percentage of the capital investment or job creation target not met by Recipient shall be mutually agreed by the Parties; provided however, should the Parties fail to agree on such percentage the Dispute Resolution clause in Article XV shall apply.

In the event of a material breach by Recipient hereunder, including, but not limited to, use of the funds provided herein for purposes other than those stated in Article I of this Agreement, LPDC may cease all future payments hereunder and terminate this Agreement; and, furthermore, LPDC shall have the right to reclaim and recapture, and Recipient shall refund, any funds that are not spent in accordance with the terms of this Agreement and any unspent and unobligated LPDC funds previously paid to Recipient but not yet paid or pledged

by Recipient to third parties. In each such case, Recipient shall remit payments to the LPDC within sixty (60) days of receipt of written demand for same.

#### **ARTICLE V**

The term of this Agreement will expire on or before December 31, 2017, pursuant to Article 1 of this Agreement.

#### **ARTICLE VI**

Recipient shall provide to the LPDC within ninety (90) days following each payment made pursuant to Article 1 of this Agreement, a report and full documentation (hereinafter "Expenditure Report") showing the expenditures made by Recipient pursuant to this Agreement and a demonstration that the funds were used only for the purposes authorized by this Agreement; and Recipient shall supplement the Expenditure report at 90-day intervals until cash incentive payments are fully spent. Recipient shall maintain books of account with correct entries of all expenditures that are made according to the terms of this Agreement and of any funds from other sources. Any and all books of account of Recipient shall be at all times open to the inspection of LPDC or any its officers or duly authorized agents. Upon such inspection and with appropriate measures to protect Recipient's confidential business information, LPDC, or its officers or agents shall be afforded the opportunity to make photographic copies of any and all documentation of books of account, including but not limited to statements of account relating to the disposition of funds provided by LPDC under this Agreement and any funds from other sources. Recipient shall maintain such books of account in Texas for a period of three (3) years following receipt of the last cash incentive disbursement by the LPDC, pursuant to Article I of this Agreement. Notwithstanding Article I, above, the LPDC shall be under no obligation to make any fund disbursements if Recipient fails to provide an Expenditure Report.

#### **ARTICLE VII**

Either party hereto may enforce this Agreement by any and all means available at law or in equity.

#### **ARTICLE VIII**

This Agreement does not create any joint venture, partnership, or agency relationship between the LPDC and Recipient. Recipient shall have exclusive control of, and the exclusive right to control the details of the work to be performed by Recipient hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of Recipient's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the LPDC.

## **ARTICLE IX**

Recipient agrees to assume and does hereby assume all responsibility and liability for damages sustained by persons or property, whether real or asserted, by or from the carrying on of work by Recipient or in the performance of services performed and to be performed by Recipient hereunder. Recipient covenants and agrees to, and does hereby indemnify, defend, and hold harmless LPDC and all their respective officers, agents, and employees from all suits, actions, claims, and expenses of any character, including attorney's fees, brought for or incurred on account of any injuries or damages, whether real or asserted, sustained by any person or property by or in consequence of any intentional or negligent act, omission, or conduct of Recipient, its agents, servants or employees and in the course of performance by LPDC and Recipient under this Agreement.

## **ARTICLE X**

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

## **ARTICLE XI**

Recipient shall adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and shall maintain in effect during the term of this Agreement any and all federal, state, and local licenses and permits which may be required of Recipients generally.

## **ARTICLE XII**

Recipient may not assign this Agreement without the written consent of LPDC, which consent will not be unreasonably delayed, conditioned, or denied; provided, however, the foregoing notwithstanding, Recipient may assign this Agreement, in whole or on a Project-by-Project basis, to an entity acquiring all or substantially all of its interest in the Ethylene Oxide Project or Polyethylene Project.

## **ARTICLE XIII**

The waiver by either party hereto of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

## **ARTICLE XIV**

The obligations of the parties to this Agreement are performable in Harris County, Texas and if legal action is necessary to enforce same, venue shall lie in Harris County, Texas.

## **ARTICLE XV**

The parties' representatives will meet as needed to implement the terms of this Agreement and shall make a good faith attempt to informally resolve any disputes.

Except to prevent irreparable harm for which there is no adequate remedy at law, neither party hereto shall file suit to enforce this Agreement without first submitting the dispute to confidential, non-binding mediation before a mediator mutually agreed upon by the parties.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

## **ARTICLE XVI**

This Agreement may be executed in triplicate, each of which shall be deemed an original and constitute one and the same instrument.

## **ARTICLE XVII**

Neither LPDC nor Recipient shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure. As used in this Article XVII, force majeure means any cause not reasonably within the control of a party hereto and which by the exercise of due diligence such party is unable, wholly or in part, to prevent or overcome, including, but not limited to, physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes resulting in evacuation, floods, washouts, explosions, machinery malfunctions or breakdowns, inability to obtain fuel, power, or materials necessary for production, deficient transportation, electric power outages, strikes, lockouts, or other industrial disturbances, acts of a public enemy, sabotage, wars, blockades, insurrections, riots, acts of terror, and compliance with any law, order, rule, or regulation of any governmental agency.

## **ARTICLE XVIII**

In executing this Agreement the Recipient whose signature appears below affirms its intent and commitment to comply in full with Section 2264.052 of the Government Code and certifies that it does not and will not knowingly employ an undocumented worker during the term of this Agreement. The Recipient further certifies its understanding and agreement that if it is convicted of a violation of 8 U.S.C. Section 1324a(f), providing for civil and/or criminal penalties for engaging in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens, it shall repay the amount of the funds received hereunder with interest, at the rate and according to the terms of the agreement signed under Section 2264.053 of the Government Code, not later than the 120th day after the date the LPDC notifies the business of the violation.

**ARTICLE XIX**

In no event will either party be liable to the other party for any indirect, special, punitive, exemplary, incidental or consequential damages and this limitation will apply regardless of whether or not the other party has been advised of the possibility of such damages. Recipient's total liability under this Agreement, including for its indemnification, defense, and hold harmless obligations, shall not exceed the amount of funds actually received by Recipient from the LPDC under the Agreement.

**ARTICLE XX**

The Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties, which relate to matters in this Agreement.

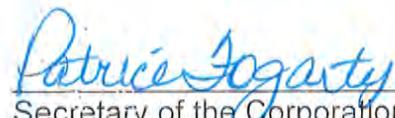
SIGNED AND AGREED to by LPDC and Recipient on the dates indicated below.

LA PORTE DEVELOPMENT CORPORATION

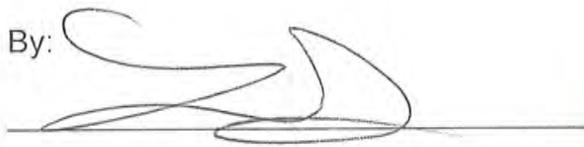
  
\_\_\_\_\_  
Richard Warren, President

9-23-13  
\_\_\_\_\_  
Date

ATTEST

  
\_\_\_\_\_  
Secretary of the Corporation

INEOS USA LLC, a Delaware limited liability company

By:  

SEPT 9, 2013  
Date

ATTEST 

# REQUEST FOR LA PORTE DEVELOPMENT CORPORATION AGENDA ITEM

Agenda Date Requested: <u>6 April 2015</u>
Requested By: <u>Scott D. Livingston</u>
Department: <u>Administration/Economic Development</u>
Report: <input checked="" type="checkbox"/> Resolution: <input type="checkbox"/> Ordinance: <input type="checkbox"/>

<u>Budget</u>	
Source of Funds:	<u>N/A</u>
Account Number:	<u>N/A</u>
Amount Budgeted:	<u>N/A</u>
Amount Requested:	<u>N/A</u>
Budgeted Item:	YES      NO

- Exhibit: Prospective Projects Financial Cash Flow Analysis
- Exhibit: Incentive Discussion – 18 Aug. 2014
- Exhibit: City Council’s 2013 Five Year Strategic Plan
- Exhibit: Incentives Available in La Porte, TX
- Exhibit: La Porte Enhancement Grant Program
- Exhibit: La Porte’s Tax Abatement Policy
- Exhibit: Tax Increment Reinvestment Zone Guidelines
- Exhibit: Retail Incentives - Survey of Five Communities
- Exhibit: LPDC Project Score Card w/Other Projects
- Exhibit: TX Local Govt. Code Chapters 501, 505, 378, and 380

## SUMMARY

On 18 Aug. 2014, the Board met to discuss its **priorities** regarding the variety of projects for which it may wish to consider awarding financial incentives. Although the discussion was **not** intended to create a rigid framework for offering financial incentives to any particular project, it was intended to provide each member of the Board and staff with a better understanding of the Board’s **priorities** and a general scale of comparison that may be used to offer a financial incentive to a broad range of project types. A significant part of the discussion included an Excel spreadsheet called “LPDC Project Score Card – PRIORITIES”, which provided an objective basis for assigning value to projects.

The purpose of tonight’s workshop is to discuss “rules of thumb”, “metrics”, “guidelines”, and/or written “policies” which the Board may wish to consider and give staff direction to assign value to, or even filter, prospective projects that are interested in requesting financial incentives from the La Porte Development Corporation and/or the City of La Porte.

## Community's Goals

Based upon the City of La Porte's 20 Year Comprehensive Plan, the La Porte City Council's Five Year Strategic Plan, and the City of La Porte's FY 2013 CAFR, staff understands that the citizens of La Porte want to:

- Attract new retail and restaurant establishments,
- Promote revitalization and redevelopment in La Porte's commercial corridors,
- Revitalize, redevelop, and reinvest in La Porte's historic/downtown area,
- Create opportunities in downtown that create a destination that combines a lively entertainment district in a historically significant area,
- Attract/develop retail stores interspersed with restaurants, professional offices, and a blend of residential units,
- Optimize Main Street in a way that encourages small business development, and
- Dress up facades on Broadway shopping centers.

## Tools for Economic and Community Development

A wide variety of tools are available to local communities to support economic and community development. In summary, the Community of La Porte currently offers the following tools to foster economic and community development: (1) Industrial District Agreements, (2) Tax Abatement, (3) Freeport Exemption (LPISD only), (4) Foreign Trade Zone, (5) La Porte Enhancement Grant Program, (6) Tax Increment Reinvestment Zone, and (7) 4B Economic Development Grants. The first five (5) incentive programs are governed by strict, written policies, ordinances, and/or guidelines. The TIRZ is also strictly governed by policy, ordinances, and guidelines, but the TIRZ Board has a limited amount of discretionary authority within the limits of the program. 4B Economic Development Grants offer a tremendous amount of discretionary flexibility, but they are limited in scope to the types of projects for which grants may be awarded. This subject is covered in more detail in the next section called "Texas Statutes Governing 4A/4B".

Considering the wider scope of projects, like downtown/Main Street redevelopment, retail redevelopment, and/or retail expansion, which the Community of La Porte may wish to address, it may benefit the La Porte City Council and the Board of the LPDC to add new tools to its economic development toolbox such as **Chapter 378** and **Chapter 380**. This subject is covered in more detail in another section below called "Chapters 378 and 380".

## Texas Statutes Governing 4A/4B

Economic development has both a **general** and **specific** definition. In general, "economic development" has to do with improving the quality of life for the citizens of a community and increasing a community's "wealth", which itself has many diverse meanings. However, "economic development" is specifically defined by legal statute **Section 501.004(2)** "to promote the existence, development, and expansion of business, commerce, industry, higher education, and job training which are essential to the economic growth of this state and to the full

employment, welfare, and prosperity of residents of this state”. **Chapters 501** and **505** of the Local Government Code explicitly say that 4A/4B funds are to be used to create “primary jobs”, which are narrowly limited to the NAICS codes listed in **Section 501.002.(12)**:

"Primary job" means:

(A) a job that is: (i) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and (ii) included in one of the following sectors of the North American Industry Classification System (NAICS):

NAICS Sector #	Description
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51	Information (excluding 512131, 512132, motion picture theaters, and drive-in motion picture theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413	
5415	
5416	
5417, and	
5419	Architectural, Engineering, and Related Services; Computer System Design and Related Services; Management, Scientific, and Technical Consulting Services; Scientific Research and Development Services; Other Professional, Scientific, and Technical Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions; or

(B) a job that is included in North American Industry Classification System (NAICS) sector number 928110, National Security, for the corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps, and Military Bases.”

-----

Additionally, **Section 505.152** says that 4B funds may be used for recreational or community “projects” which include “. . . land, buildings, equipment, facilities, and improvements found by

the board of directors to be required suitable for use for professional and amateur sports, including children’s sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert facilities, and . . . related improvements.”

Some communities loosely interpret and use **Section 501.103** for downtown/Main Street redevelopment, retail redevelopment, and/or retail expansion projects. Please note here that the term “retail” refers to any business which does **not** create one or more “primary jobs” as specifically defined by, and limited to, the NAICS codes listed in Section 501.002.(12). **Section 501.103** says:

**CHAPTER 501. PROVISIONS GOVERNING DEVELOPMENT CORPORATIONS**

**Sec. 501.103. CERTAIN INFRASTRUCTURE IMPROVEMENT PROJECTS.**

*In this subtitle, "project" includes expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to:*

- (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements;*
- (2) telecommunications and Internet improvements; or*
- (3) beach remediation along the Gulf of Mexico.*

**Chapters 378 and 380**

Communities may use Chapters 378 and 380 of the Texas Local Government Code to stimulate downtown/Main Street redevelopment, retail development, and/or retail expansion projects. Neither Chapters 378 nor 380 must be tied to the creation of “primary jobs”, and they give city councils authorization to pursue broader projects related to community and economic development. Please note, however, that these tools must be approved by the City Council, and all Chapter 380 funds must come from the city’s General Fund. Again, please note that all references to the term “retail” in this memo refer to any business which does **not** create one or more “primary jobs” as specifically defined by, and limited to, the NAICS codes listed in Section 501.002.(12) of the Texas Local Government Code.

Some communities use “Public Improvement Districts” (i.e. PIDs), “Business Improvement Districts” (i.e. BIDs), special “Management Districts”, and “Municipal Utility Districts” (i.e. MUDs) to address economic development projects (i.e. the general definition) which are not tied to the necessary creation of primary jobs. Please note that PIDs, BIDs, special “Management Districts”, and MUDs, however, usually require an additional property tax levy, which must be approved by a majority of the property owners in the affected district and the City Council.

Chapter **378** is an effective tool to use/share *broadly* with all property owners in a defined area, while Chapter **380** may be an effective tool to use/share *narrowly* on a case-by-case basis. Chapter **378** is designed to be used with written policies and ordinances, while Chapter **380** may be used by the City Council to undertake economic development projects (i.e. the general definition) on a case-by-case basis. Please note again, however, that all Chapter 380 funds must come from the city’s General Fund.

Excerpts of Chapters 378 and 380 are given below, while the entire chapters are enclosed in the packet.

**CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE**

*Sec. 378.002. CREATION OF ZONE. A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:*

- (1) the creation of affordable housing, including manufactured housing, in the zone;*
- (2) an increase in economic development in the zone;*

*Sec. 378.004. MUNICIPAL POWERS. In addition to other powers that a municipality may exercise, a municipality may:*

- (1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;*
- (2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;*
- (3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code;*

**CHAPTER 380. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PLANNING AND DEVELOPMENT**

*Sec. 380.001. ECONOMIC DEVELOPMENT PROGRAMS.*

- (a) The governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality.*

*Sec. 380.002. ECONOMIC DEVELOPMENT GRANTS BY CERTAIN MUNICIPALITIES.*

- (b) The funds granted by the municipality under this section shall be derived from any source lawfully available to the municipality under its charter or other law, other than from the proceeds of bonds or other obligations of the municipality payable from ad valorem taxes.*

**Current City of La Porte/LPDC Incentives for Retail Development or Redevelopment**

Only four (4) of the seven (7) incentive programs, which are currently offered by the City of La Porte, may be utilized for retail development or retail redevelopment, and they are:

- (1) Tax Abatement -- 50% for retail and 10% for industrial, for up to five years,
- (2) La Porte Enhancement Grant Program -- 50% up to \$25,000 maximum contribution,
- (3) Tax Increment Reinvestment Zone -- 100% reimbursement for qualifying projects, and

- (4) 4B Economic Development Grants -- Currently awarded on a case-by-case basis for projects for which the Board has set an informal rule of thumb guideline of a 10 year payback.

The first three (3) incentive programs are governed by strict, written policies, ordinances, and/or guidelines. 4B Economic Development Grants, however, are up to the discretion of the Board of the LPDC with final approval reserved by the City Council.

In any discussion regarding economic development incentives for any industrial or retail project, the Board may wish to reference La Porte's current **Tax Abatement Policy**. The maximum abatement for industry, whether for "advanced manufacturing" or "warehouse/ distribution", is an average of **10% for 5 years**. These percentages are **too low** to be the **sole basis** for awarding an economic development grant to industry. The maximum tax abatement offered for retail development is **50% for 5 years**. For the caliber of retail development that La Porte wishes to attract, these percentages are **too low** to be the **sole basis** for awarding an economic development incentive.

La Porte's Tax Abatement Policy, generally speaking, does **not** sufficiently address the following:

- Small retail projects, either for new or existing projects, whether for expansion or re-development, because the investor only receives \$7,100 per year (100%) and \$3,550 (50%) for each \$1 million of investment in the City of La Porte.
- The large costs often associated with retail projects including the cost of land, necessary infrastructure, and incentives to attract retail anchors.
- The high cost to remove or re-develop blighted/dilapidated structures.
- 10% tax abatement for five years won't come close to attracting a "home-run" industrial project, like INEOS (\$1 billion) or a Tesla Gigafactory (est. \$6 billion), to a location within La Porte's city limits.
- The high value of industrial advance manufacturing jobs, which are not considered in a Tax Abatement policy.
- The potentially high value of inventory/business personal property associated with warehouse distribution that may not be sufficiently valued by tax abatement alone.

Therefore, in addition to **tax abatement**, the Board and the City Council may wish to consider using other tools, such as **economic development cash grants**, **sales tax rebates**, **Chapter 378**, and **Chapter 380**, to incentivize desired economic development projects related to retail development and retail redevelopment in the City of La Porte. Additional non-empirical factors upon which to assign value to a project and offer economic development incentives may be considered are as follows:

- Redevelop, revitalize and beautify the City's commercial corridors including Main Street and S. Broadway (i.e. "Downtown"),
- Attract new retail business for both greenfield development and redevelopment,
- Retain local retail business,
- Support local retail business expansion, and

- Stop retail business leakage from leaving the community.

Although each of the non-empirical factors outlined above has significant value, it is very difficult to quantify the value of an existing business until the local business deteriorates slowly over time, closes, and/or leaves town.

### Business Retention and Business Attraction

Incentives to **new** businesses attract new/added business investment and tax revenue, while incentives to **existing** businesses *retain* valuable businesses and tax revenue in the community. If incentives are only offered to **new** businesses, the practical impact of this policy may be that it encourages existing businesses to relocate outside of La Porte for expansions or relocations. Also, the community may lose existing and/or expanding businesses to other communities that offer them an incentive to move to their community as a new business. Therefore, to what degree does the Board wish to offer financial incentives and/or assistance, if any, to existing and/or new retail businesses?

### Current Projects

If we assume that the Board wishes to move forward with a financial incentive model and/or “rule of thumb” to offer up to 25% of the total construction cost and a payback shorter than 10 years, then please note the following examples of projects, which are at different stages in the current project pipeline:

	Investment	Add. Taxable Sales/Yr	Additional Revenue/Yr	25%	Incentive Requested	Payback
<b>Pipeline Grill</b>	\$1.2 million	\$4 million	\$0	\$300,000	\$300,000	<b>3.54</b>
<b>Craft Brewery &amp; Brew School (L)</b>	\$500,000	\$350,000	\$48,000 **	\$125,000	\$300,000	<b>5.12</b>
<b>El Toro</b>	\$2 million	\$1 million	\$0	\$500,000	\$300,000	<b>8.77</b>
<b>Southern Komfort</b>	\$500,000	\$500,000	\$0	\$125,000	\$125,000	<b>9.23</b>
<b>Fischers Hardware</b>	\$1.5 million	\$500,000	\$0	\$375,000	\$350,000	<b>16.63</b>
<b>Retal Strip on the NEC of W. Fairmont and S. Broadway</b>	\$500,000	\$200,000	\$0	\$125,000	\$150,000	<b>19.87</b>
<b>Craft Brewery &amp; Brew School (P)</b>	\$500,000	\$350,000	\$0	\$125,000	\$300,000	<b>28.44</b>

Notes: The green-shaded figures represent either actual or more firm estimates based upon information which staff has received from the project principals. All other estimates in the

column called “Incentive Requested” are staff’s best estimate at this time. Two project references are made to the “Craft Brewery & Brew School”. (L) denotes an option to *lease* the former TPW building, while (P) denotes an option to *purchase* the former TPW building.

**Projected Future Cash Inflows and Outlays**

The enclosed file called “Prospective Projects Financial Cash Flow Analysis” shows a detailed, 3-4 year projection of the impact that all of the current, proposed projects are anticipated to have on the 4B Board’s Fund Balance. The chart below shows an itemized detail of all the projects which are combined under the line item called “Current, Prospective Projects”. It is anticipated that the Board would **not** spend the full amount of the funds committed for each proposed project in FY 14-15. Instead, payments to most projects will be paid over a period of years, based upon the projects proven performance set forth in the respective development agreements. Notes to the chart are provided below the chart.

<b><u>Projected Payments to Proposed Projects</u></b>				
	<u>FY 14 - 15</u>	<u>FY 15 - 16</u>	<u>FY 16 - 17</u>	<u>FY 17 - 18</u>
<b>ACT Turbo</b>	\$260,000	\$166,000	\$0	\$0
<b>Pipeline Grill</b>	\$100,000	\$100,000	\$100,000	\$0
<b>Craft Brewery &amp; Brew School (L)</b>	\$300,000	\$0	\$0	\$0
<b>El Toro</b>	\$100,000	\$100,000	\$100,000	\$0
<b>Fischers Hardware</b>	\$200,000	\$75,000	\$75,000	\$0
<b>Southern Komfort</b>	\$75,000	\$25,000	\$25,000	\$0
<b>Retail Strip on the NEC of W. Fairmont and S. Broadway</b>	\$100,000	\$25,000	\$25,000	\$0

Notes: Figures in the chart above represent payments from the 4B Board’s fund balance to proposed projects. Figures for “ACT Turbo” are figures based upon the executed development agreement, and the timing of payments assume an aggressive timeframe.

<b>Projected Sales Tax Revenues from Proposed Projects to the LPDC</b>				
	<u>FY 14 - 15</u>	<u>FY 15 - 16</u>	<u>FY 16 - 17</u>	<u>FY 17 - 18</u>
<b>Pipeline Grill</b>	\$5,000	\$20,000	\$20,000	\$20,000
<b>Craft Brewery &amp; Brew School(L)</b>	\$12,000	\$60,000	\$60,000	\$60,000
<b>El Toro</b>	\$0	\$5,000	\$5,000	\$5,000
<b>Fischers Hardware</b>	\$0	\$2,500	\$2,500	\$2,500
<b>Southern Komfort</b>	\$0	\$2,500	\$2,500	\$2,500
<b>Retail Strip on the NEC of W. Fairmont and S. Broadway</b>	\$0	\$1,000	\$1,000	\$1,000

Notes: Figures in the chart above represent anticipated revenues from proposed projects that include only the estimated revenues that will come directly to the LPDC. In other words, these revenues represent the **0.5%** of all local sales tax, plus a possible lease payment from the Craft Brewery & Brew School, and, therefore, not the full, local amount of 2%, that has been dedicated for use by the LPDC. All other project figures represent staff's best estimates at this time.

---

**Action Required by the La Porte Development Corporation:**

Consider approval or other action of new incentive policies which economic development staff may use to attract a variety of businesses to the City of La Porte.

---

**Approved for the La Porte Development Corporation Agenda**

\_\_\_\_\_  
**Corby D. Alexander, City Manager**

\_\_\_\_\_  
**Date**

*This is an Unaudited Statement.*

**City of La Porte  
La Porte Development Corporation Fund Projections  
(Section 4B Sales Tax)**

	<u>FY 2014-15</u>	<u>FY 2015-2016</u>	<u>FY 2016-2017</u>	<u>FY 2017-2018</u>
<b>Estimated Beginning Funds</b>	\$ 3,313,389	\$ 1,657,240	\$ 2,298,280	2,092,855
<b>Plus Year to Date Revenues:</b>				
1/2 Cent Sales Tax	2,208,630	2,252,803	2,297,859	2,343,816
Interest Income	4,500	4,590	4,682	4,775
Release of District 23	175,000			
Release of Project Nebula/Ineos		700,000		
<b>Total Revenues</b>	<u>2,388,130</u>	<u>2,957,393</u>	<u>2,302,540</u>	<u>2,348,591</u>
<b>Equals Total Resources</b>	5,701,519	4,614,633	4,600,820	4,441,446
<b>Less Year to Date Expenditures:</b>				
Payroll	100,367	103,378	106,479	109,674
Supplies	3,000	3,075	3,152	3,231
Services & Charges (Memberships, Training, Advertising, Legal, Utilities)	331,427	339,713	348,205	356,911
Capital Outlay	-	-	-	
Debt Service Transfer *	1,083,817	680,668	698,519	1,026,610
<b>Total Expenditures</b>	<u>1,518,611</u>	<u>1,126,834</u>	<u>1,156,356</u>	<u>1,496,425</u>
<b>Estimated Year to Funds Before Commitments</b>	\$ 4,182,908	\$ 3,487,799	\$ 3,444,465	\$ 2,945,021
<b>Commitments</b>				
Project Nebula/Ineos**	\$ 700,000			
Richard Industrial Group	10,000			
ACT Independent Turbo Service, Inc.	260,000	166,000	\$ -	
Current Prospective Projects	875,000	325,000	\$ 325,000	-
Debt Service Reserve	680,668	698,519	\$ 1,026,610	1,037,783
	<u>\$ 2,525,668</u>	<u>\$ 1,189,519</u>	<u>\$ 1,351,610</u>	<u>\$ 1,037,783</u>
<b>Adjusted Year to Date Funds</b>	\$ 1,657,240	\$ 2,298,280	\$ 2,092,855	\$ 1,907,238

**Previously Funded Projects (Funding in Fund 015 - General CIP Fund)**

	<u>Budget</u>	<u>Expenditures</u>	<u>Balance</u>
Enhancement Grants	300,000	81,570	218,430
<b>Total</b>	<u>300,000</u>	<u>81,570</u>	<u>218,430</u>

\*Debt Service Payments for Library, Bay Area Boulevard & Canada Road and Ballfields.

\*\*EDC Coordinator awaiting termination letter.



Retail or Restaurant Re-Development/Blight Removal/EHG (Higher)	9
	9
Quality Waterfront Development	8
Main Street Improvements	7
New Retail/Restaurant Development (Lower)	6
Retail or Restaurant Re-Development/Blight Removal/EHG (Lower)	6
Industry - NEW Development (Higher)	5
NEW Office/HQ Development	4
NEW Office/Regional Development	4
Industry - NEW Development (Lower)	3
Industry - RETENTION/EXPANSION (Higher)	3
Industry - RETENTION/EXPANSION (Lower)	2
Airport Re-Development	1

Project's 10 Year TAX or PILOT (Payments in Lieu Of Taxes) Revenue

Staff calculated the project type's estimated ten (10) year tax and/or PILOT revenue. This figure includes **all** estimated tax and/or PILOT revenues for each project type. Please note that some of these values are based upon hypothetical, and, therefore, current best estimates.

Project's Multiplier Value (Up to 4)

Staff assigned a value, from a maximum of **4** to a minimum of **1**, for each project. A value of **4** means that the project will have a significant multiplier effect to bring new money and/or people into the local economy. A value of **1** means that the project will have little or no multiplier effect to bring new money and/or people into the local economy.

# of New Full Time Jobs

Staff estimated the project type's full time job creation. Some of these values are based upon hypothetical, and, therefore, current best estimates. Please note that all retail jobs are considered to be **0**, since they're not considered to be "primary jobs".

Full Time Job Avg. Value

Staff assigned a value, from a maximum of **0.15** to a minimum of **0.075**, for each type of "primary job" associated with each project type. A value of **0.15** was assigned to higher paying, white collar, engineering, engineering design, or executive positions. A value of **0.125** was assigned to highly skilled positions for a process technician and/or advanced manufacturer. A value of **0.10** was assigned to skilled positions. A value of **0.075** was assigned to unskilled positions.

Project's Existing 10 Year Incentives

Data in this column identifies all other local incentives, like PILOT abatements under an existing IDA or scheduled TIRZ reimbursements, that any project may be entitled to receive.

## Regression Analysis

The formulas embedded in this column represent staff's best estimate using **regression analysis** to tie together all the columns of data. Important assumptions of the formulas are as follows:

- Retail projects are **five** times (5x) more valuable to the community than industrial projects. For reference, please see page #6 of La Porte's enclosed **Tax Abatement Policy**.
- Each "project type" is **not** equal to every other project type. Therefore, each project type's value of priority is included in the formula.
- The value of incentives that a project is already scheduled to receive, and is shown in the "Project's Existing 10 Year Incentives", must be deducted from the total tax/PILOT revenue that the project is expected to generate, which is shown in "Project's 10 Year Tax or PILOT Revenue".
- Each project's value to create a "multiplier effect" on our local economy should be included. See the values listed under "Project's Multiplier Value (Up to 4)".
- Each value in the column for "Regression Analysis" is divided by 1 million just to make the values under "Regression Analysis" smaller, more manageable, and easier to compare.

The two (2) basic formulas used in "Regression Analysis" are as follows:

- For all Retail, Restaurant, Re-Development, and Waterfront Projects,

$$\frac{\text{"Project's PRIORITY Value (Up to 10)" x 5}}{\text{times}} \times \frac{\text{"Project's 10 Year Tax or PILOT Revenue" - "Project's Existing 10 Year Incentives"}}{\text{times}} \times \frac{\text{"Project's Multiplier Value (Up to 4)"}}{\text{divided by 1 million}}$$

- For all Industry and Office Projects:

$$\frac{\text{"Project's PRIORITY Value (Up to 10)" x 1}}{\text{times}} \times \frac{\text{"Project's 10 Year Tax or PILOT Revenue" - "Project's Existing 10 Year Incentives"}}{\text{times}} \times \frac{\text{"Project's Multiplier Value (Up to 4)"}}{\text{divided by 1 million}}$$

## Estimated Incentive Value

The values in this column are simply the value from the column called “Regression Analysis” times \$7,500. So, each point under “Regression Analysis” is worth \$7,500.

### Incentive Value Allowed by Tax Abatement Policy

Data in this column shows the value of incentive recommended for each project type, according to the La Porte’s current Tax Abatement Policy. The percentage (%) of tax abatement allowed for each project type is shown in the next column called “% Allowed by Tax Abatement Policy”.

Please note that La Porte’s current tax abatement policy is enclosed.

### Staff Comments

Tax Abatement Policies, generally speaking, do **not** sufficiently address the following:

- Large costs often associated with **retail projects** such as subsidizing the cost of land, subsidizing the cost of necessary infrastructure, and offering sales tax rebates to attract retail anchors,
- Expensive removal of blighted structures, and/or re-development expenses,
- “Home-Run” industrial projects like INEOS (\$1 billion) which could, at least theoretically speaking, place a facility on industrial-zoned land in La Porte. (Note: The City needs high value, high paying industrial development to go in industrial-zoned areas of La Porte, but a tax abatement rate of 10% won’t come close to attracting a “home-run” industrial project to a location within La Porte’s city limits.),
- The lack of parity between the 37% tax abatement and lack of city regulation in La Porte’s two (2) industrial districts, versus the restricted opportunity for industrial development within La Porte’s incorporate city limits,
- The high value of industrial advance manufacturing jobs. (Note: Tax Abatement only considers the taxable value of a project’s personal and business personal property),
- The potentially high tax value of inventory/business personal property associated with warehouse distribution.

### Staff Recommendation

La Porte’s Tax Abatement Policy should never be used as the **sole basis** for offering economic development incentives for either industrial or retail projects. Additional factors upon which to offer economic development incentives should be considered.

In an effort to present an objective, empirical basis by which to value potential economic incentives for a wide variety of project types, staff has created the enclosed spreadsheet for the Board’s consideration. It should be noted that this “Score Sheet” is not intended to restrict the Board’s discretion in considering potential incentives. Instead, given the wide variety of projects that are being presented to staff and the Board, the “Score

Card” is intended to provide a starting point for discussion and an empirical base upon which a reasoned decision regarding incentives can be determined.

Please study the enclosed materials, and especially the assumptions and factors in the enclosed spreadsheet, and be prepared to discuss what assumptions and factors in the spreadsheet, if any, should be revised. At this time, staff is seeking direction from the Board on two primary questions:

1. Whether the assumptions and factors in the “Score Card” accurately reflect the Board’s priorities for development incentives; and
2. If those factors are representative, whether the “Score Card” is a tool that staff should use in preparing incentive proposals for Board consideration.

---

**Action Required by the La Porte Development Corporation Board:**

No formal action or vote requested.

---

**Approved for the La Porte Development Corporation Agenda**

---

**Corby D. Alexander, City Manager**

---

**Date**

Strategic Plan  
2013-2017



City of La Porte, Texas

Approved by the City Council on April 8, 2013

## **Overview**

On October 27, 2012, the Mayor, City Council, City Manager and key staff of the City of La Porte met together in a retreat planning session. The purpose of that meeting was to establish the Council's Strategic Plan for the next five years. A report was prepared outlining the City Council's Mission, Vision and Core Values, as well as six overall goals. Each goal had identified objectives and strategies, with time lines for beginning and completing the goals.

On March 9, 2013, the City Manager and his key staff met. Their purpose was two-fold. First, staff reviewed and discussed the Mission, Vision and Core Values developed by the City Council and created Leadership Statements for the staff to follow to ensure their work is consistent with the value of the City Council. Secondly, staff reviewed and clarified the goals, objectives and strategies identified by the City Council; if necessary identify additional goals consistent with the overall mission, vision and values; and establish the framework for an action plan. The result of their work is documented in this report.

The Strategic Plan will provide a blueprint for action over the next five years. When developing the annual budget, staff will be tasked with making sure that expenditures and programs further the goals and Core Values stated in this document. This provides clear direction to the staff as to what priorities are important to the Council and plans can be made accordingly to make sure that resources are allocated towards those ends. Additionally, this plan is an excellent communication tool that the Council and the staff can use when speaking with residents and businesses. Many times, ad hoc requests can derail longer-term plans. The Strategic Plan outlines a framework for receiving, prioritizing, and budgeting for resident requests.

All participants, staff and Council, agreed to commit to the success of this plan. A plan only becomes a useful and working document when all the participants (as a whole and as individuals) make a commitment to review it regularly, use it monthly, and modify it as needed. It is a tool that can and should be used regularly to track progress, make notes of variations between expectations and actuals, of timelines and expenses, to help accomplish each goal, and to hold one another accountable for updates and completion.

## **Mission Statement**

The Council reviewed and revised the Mission Statement & Vision Statement of the City and the results are as follows:

**The City of La Porte embraces our heritage, community values, and opportunities, while enhancing the quality of life for our citizens.**

## **Vision Statement**

**To provide improved infrastructure, to drive economic growth, and to enhance quality of life for our citizens.**

## **Core Values**

The City Council wanted to specify the core values under which the City and its staff function. Core values are the general guidelines that establish the foundation for how an organization will operate. Staff then discussed these value statements to define and gain an understanding of what those Core Value meant to staff from a leadership perspective. Staff first discussed what the elements of each Core Value represented, then prepared a Leadership Statement for each one.

The listed the following as the Core Values of the City of La Porte:

- **Health & Public Safety:** City employees will ensure the health and safety of our citizens by providing and maintaining superior public infrastructure and public safety services.
- **Integrity & Accountability:** City employees will be open, honest and transparent, and be accountable to the Council so that Council can be responsive to the citizens.
- **Superior Customer Service:** City employees will proactively provide superior customer service in a positive and timely manner.
- **Quality in everything we do:** City employees will strive for superiority in all services we provide.

## **Goal and Plan Development**

During the Council Retreat in October 2012, six goals were developed by the Council, with staff providing assistance to flesh out the objectives for each. In March 2013, the staff further added “meat to the bone” to outline more specifically the actions that would be necessary to achieve the stated goals. The development and implementation of the action plan will serve to provide Council a clear understanding of how and when each of their goals will be accomplished. The action plan proposes to do the following:

- Identify a team leader: Each Goal needs a champion who will lead the effort to accomplish the goal and be held accountable for the action plan that is developed. A team leader for each goal was assigned.
- Identify team members. Likewise each goal needs a larger team, consisting of fellow staff from across all departmental lines where appropriate, to assist in the implementation process.
- Identify partners. Each team should identify the partners, outside the city organization, who can provide expertise and resources to accomplish the goal.
- Define action steps. Each objective needs defined action steps showing Council how the goal will be accomplished. The action steps provide the basis for benchmarks.
- Prepare a timeline. Timelines were prepared for each of the objectives. Staff will be asked to review those timelines and recommend adjustments, once the action steps are better defined.

The Council-identified goals are:

- Improve Infrastructure
- Preserve Heritage – to preserve the structure and amenities that make La Porte unique
- Ensure that all departments and facilities are ready for any disaster
- To encourage economic development/retail development
- To provide Superior Customer Service
- To revitalize blight/146

In addition to the six Council-identified goals, it was agreed that key areas of city government were not included in the goals identified by Council. Staff was tasked with discussing other areas where they would establish goals and objectives and bring them to Council for consideration and approval to include in the Strategic Plan. Several new goals were identified and are proposed for Council consideration:

- To provide and maintain superior public safety
- Continue to improve the quality of life through recreational amenities
- Create a Neighborhood Preservation Program
- Provide diverse and timely communications that promote and influence a positive public perception of La Porte

One critical component to ensuring that the elements of the Strategic Plan are being implemented is to provide regular status reports to the City Council. Staff proposes quarterly written reports supplemented by oral reports or action items for implementation that may be necessary in-between written reports.

Council Goal 1: Improve Infrastructure

Objective 1a: Street repair at 5.5-6 miles per year (4 mile asphalt, 1.5-2 miles concrete)

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Evaluate conditions	Currently	Quarterly	Q2 2013
2. Prioritize	Budget for year one	Quarterly	Q3 2013
3. Identify the number of actual miles to be rehabilitated	Budget for year one	Quarterly	Q4 2013
4. Re-evaluate needs annually	Q1 2014	Annually	Q1 2017

Objective 1b: Replace water main at 3 miles per year (2 miles by contract and 1 mile by City crews)

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Identify the number of actual water lines	Budget for year one	Quarterly	Q3 2013
2. Prioritize	Budget for year one	Quarterly	Q3 2013
3. Identify the number of miles to be replaced	Budget for year one	Quarterly	Q3 2013
4. Re-evaluate needs annually	Q1 2014	Annually	Q1 2017

Objective 1c: Continue annual sanitary sewer inflow and infiltration program

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Evaluate conditions through smoke testing and televising lines	Continuous	Quarterly	Continuous
2. Prioritize based on data from condition evaluation	Continuous	Quarterly	Continuous
3. Identify the number of linear feet to be rehabilitated	Budget for year one	Quarterly	Q4 2013
4. Re-evaluate needs annually	Q1 2014	Annually	Q1 2017

Objective 1d: Complete \$300,000 in smaller, isolated drainage repairs per year

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Evaluate conditions through televising storm sewer lines, inspecting outfalls, and observing conditions after rain events	Throughout the Year	Quarterly	Throughout the Year
2. Prioritize based on data from condition evaluation	Continuous	Quarterly	Continuous
3. Identify the drainage facilities to be rehabilitated	Budget for year one	Quarterly	Q4 2013
4. Re-evaluate needs annually	Q1 2014	Annually	Q1 2017

Team Leader: David Mick

Council Goal 2: Preserve Heritage – to preserve the structure and amenities that make La Porte unique

Objective 2a: To promote historical structures available to the public that provide a historical look into La Porte’s rich history and complete within 5 years

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Secure good title to the properties	Q4 2013	Annually	Q2 2013
2. Secure funding and obtain historical designation from the State to open the original Northside Schoolhouse	Q2 2014	Annually	Q3 2014
3. Reach out to private and public entities for start-up and implementation	Q2 2014	Annually	Q3 2014
4. Develop agreements with LPBHS to operate as part of the Museum	Q4 2012	Annually	Q4 2013
5. Begin physical improvements to structures	Q3 2014	Annually	Q3 2015
6. Research for period furniture and accessories to highlight the facility.	Q3 2014	Annually	Q3 2015

Objective 2b: To optimize historic Main Street in a way that encourages small business development

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Continue to promote the enhancement grant program (a) Meet with each business owner on Main Street, (b) Review and promote the Enhancement Grant Program, (c) Identify and address ways to broaden and strengthen the Enhancement Grant Program, and (d) Implement a broader, more robust Enhancement Grant Program.	Q1 2014	Annually	Q4 2017
2. Review existing zoning with a goal to encourage small business growth	Q4 2012	Annually	Q4 2013

Objective 2b (continued): To optimize historic Main Street in a way that encourages small business development

<p>3. Review short-term financial incentives to attract Main Street development</p> <p>(a) Identify communities whose Main Street program and development represent our goals &amp; aspirations,</p> <p>(b) Survey these communities to learn what they did to develop their main street program(s),</p> <p>(c) Identify the steps needed to further improve our own main street program, and</p> <p>(d) Structure an incentive program and/or set of popular initiatives to support and implement our objectives.</p>	<p>Q4 2012</p>	<p>Annually</p>	<p>Q4 2013</p>
--	----------------	-----------------	----------------

Objective 2c: Identify additional historic structures that may be eligible for inclusion in the Heritage Park site or Stand Alone Siting

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Explore and identify other potential historical structures and prepare a listing	Q4 2013	Annually	Q4 2017
2. Identify funding sources and set up installation/operational budgets	Q2 2014	Annually	Q4 2013
3. Develop agreements with LPBHS to operate as part of the Museum	Q4 2012	Annually	Q4 2013
4. Begin physical improvements to structures	As identified	Annually	
5. Research for period furniture and accessories to highlight the facility.	As identified	Annually	

Team Leader: Stephen Barr

Council Goal 3: Ensure that all departments and facilities are ready for any disaster

Objective 3a: Review, revise, and distribute City emergency plans each year for departments to update. New employees should receive a copy of their respective roles and responsibilities regarding emergencies at new orientation.

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Require each department to turn in a revised emergency plan to EOC by May 1 <sup>st</sup> of each year	Q1 each year		Q2 each year
2. Assign a department emergency coordinator the responsibility of training new employees in their respective roles	Ongoing		Ongoing
3. Make sure Human Resources has the proper information to give to new employees regarding their role and responsibilities for disasters	Ongoing		Ongoing

Objective 3b: Conduct a citywide drill simulating a specific emergency event or disaster on an annual basis

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Conduct an annual drill to include EOC staff and critical personnel from all departments	Q1		Q4 of each year
2. Conduct an annual drill to include EOC staff, LEPC members and LPISD	Q1		Q4 of each year
3. Add facility preparation (generators, window treatments, recovery systems)	Q2 2013		Ongoing

Team Leader: Jeff Suggs

Council Goal 4: To encourage economic development/retail development

Objective 4a: Increase retail business measured by sales tax revenues and new business permits

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
<p>1. Offer incentives to retail similar to those offered to industrial, i.e. “retail zones”</p> <p>(a) Identify incentives that may be used to attract new retail development and re-development, and</p> <p>(b) Start to implement a broader, more robust program to attract new retail development and re-development by using the new retail incentive program.</p>	Q3 2013	Q4 2013	Q2 2014
<p>2. “Dress up” facades on Broadway shopping center</p> <p>(a) Meet with each business owner on the Broadway shopping center,</p> <p>(b) Review and promote the Enhancement Grant Program,</p> <p>(c) Identify and address ways to broaden and strengthen the Enhancement Grant Program, and</p> <p>(d) Start to implement a broader, more robust Enhancement Grant Program.</p>	Q1 2014	Annually	Q4 2017
<p>3. Remove obstacles to building permits and site inspections for business improvement and new businesses</p> <p>(a) Implement recommendations from the Planning Audit to streamline these processes</p> <p>(b) Implement commercial courtesy walk-throughs for potential remodels</p>	Q3 2013	Quarterly	Q2 2014

Objective 4b: Bring our airport into our Economic Development plan as a revenue generating property. Enhance revenues to the City by 20%.

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
<p>1. Explore lease options on properties – many vacancies</p> <ul style="list-style-type: none"> <li>(a) Survey our existing industries and large businesses to determine how important the airport is to them and identify what would need to be done to attract more of their business,</li> <li>(b) Ask the Governor’s office ED and DOT what improvements should be made to the airport so that we can use the airport as an asset to attract more companies to La Porte,</li> <li>(c) Identify and survey prospective businesses to determine their current level of interest and prospective level of interest if further improvements were to be made to the airport, and</li> <li>(d) Identify which improvements will be necessary to attract new business to the airport.</li> </ul>	Q1 2014	Q2 2014	Q4 2014
<p>2. Promote opportunities for retail on Spencer</p> <ul style="list-style-type: none"> <li>(a) Create a development map of available properties,</li> <li>(b) Implement findings from the Catalyst Retail Study,</li> <li>(c) Get involved in HCREN, BACREN, ICSC, SIOR, ACRP, and CCIM events, and</li> <li>(d) Market to brokers, developers, and end users.</li> </ul>	Q3 2013	Annually	Q4 2017

Objective 4c: Utilize Bay Front for possible Economic Development. Increase business development by 10%.

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
<p>1. Breakwater Marina with waterfront restaurant</p> <ul style="list-style-type: none"> <li>(a) Survey the City Council, P&amp;Z Commission, ED Board, and leading citizens to determine what types of development the community will support,</li> <li>(b) Create development maps and marketing collateral,</li> <li>(c) Implement findings from the Catalyst Retail Study,</li> <li>(d) Get involved in HCREN, BACREN, ICSC, SIOR, ACRP, and CCIM events, and</li> <li>(e) Market to brokers, developers, and end users.</li> </ul>	Q3 2013	Annually	Q4 2017
<p>2. Encourage other private development/investment</p> <ul style="list-style-type: none"> <li>(a) Survey the City Council, P&amp;Z Commission, ED Board, and leading citizens to determine what types of development the community will support.</li> <li>(b) Create development maps and marketing collateral,</li> <li>(c) Implement findings from the Catalyst Retail Study,</li> <li>(d) Get involved in HCREN, BACREN, ICSC, SIOR, ACRP, and CCIM events, and</li> <li>(e) Market to brokers, developers, and end users.</li> </ul>	Q3 2013	Annually	Q4 2017

Team Leader: Scott Livingston

Council Goal 5: To provide Superior Customer Service

Objective 5a: Implement 100% employee customer service training by the end of 2013

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Provide Customer Service Excellence training for 80-120 employees	Q1 2014	Quarterly	Q4 2014
2. Provide Train-the Trainer workshop for managers/staff who will train others on Customer Service Excellence for the future	Q2 2014	Quarterly	Q4 2014

Objective 5b: Conduct audit on 100% of processes of all City departments

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Professional services	Q1 2013	Annually	Q1 2017
2. Decide which departments to review and when	Q3 2013	Annually	Q1 2017

Objective 5c: Conduct quality professional development to ensure that all employees are properly trained

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Develop a comprehensive training program that addresses issues facing existing supervisors and prepares line employees to step into supervisory roles (a) Identify areas of need for existing supervisors (b) Evaluate options for in-house versus third party training modules to address those needs (c) Implementation of selected supervisory training (d) Evaluation of succession training to prepare current line employees to successfully become effective managers and supervisors	Currently underway	Quarterly	Q2 2014

Council Goal 6: To revitalize blight/146

Objective 6a: Promote greenfield tract development along 146 by facilitating contact, providing information, and offering incentives to development types consistent with our industry/market

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
<p>1. Target retail and office users that cater to our industry types for a campus-style development park</p> <p>(a) Create a development map of available properties and marketing collateral,</p> <p>(b) Implement findings from the Catalyst Retail Study,</p> <p>(c) Get involved in HCREN, BACREN, ICSC, SIOR, ACRP, and CCIM events, and</p> <p>(d) Market to brokers, developers, and end users.</p>	Q3 2013	Annually	Q4 2017
<p>2. Create abatement programs/EDC incentives and infrastructure inputs consistent with needs of applicants</p> <p>(a) Survey active and prospective customers,</p> <p>(b) Identify and document the commonly sought or needed incentives and infrastructure inputs needed to attract new retail development/re-development, and</p> <p>(c) Create a plan to put the necessary infrastructure inputs into place that will attract new retail development and re-development.</p>	Q1 2014	Annually	Q4 2017
<p>3. Production of data (census, current demographics stats, BDG, etc.) for use of customers in decision making process</p>	Q3 2013		Q4 2013

Objective 6a (continued): Promote greenfield tract development along 146 by facilitating contact, providing information, and offering incentives to development types consistent with our industry/market

<p>4. Market our City to ICSC (International Council of Shopping Centers) and Site Selection Consultants</p> <p>(a) Create a development map of available properties and marketing collateral,</p> <p>(b) Implement findings from the Catalyst Retail Study,</p> <p>(c) Get involved in HCREN, BACREN, ICSC, SIOR, ACRP, and CCIM events, and</p> <p>(d) Market to brokers, developers, and end users.</p>	Q3 2013	Annually	Ongoing
--	---------	----------	---------

Objective 6b: Promote revitalization and development where appropriate along 146, Main, and Broadway by facilitating contact, providing information, and offering incentives to development types consistent with our industry/market

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Target code enforcement on said thoroughfares through a “carrot vs. stick” approach to blight	Q1 2014		Q4 2017
<p>2. Create abatement programs/EDC incentives and infrastructure inputs consistent with needs of applicants</p> <p>(d) Survey active and prospective customers,</p> <p>(e) Identify and document the commonly sought or needed incentives and infrastructure inputs needed to attract new retail development/re-development, and</p> <p>(f) Create a plan to put the necessary infrastructure inputs into place that will attract new retail development and re-development.</p>	Q1 2014	Annually	Q4 2017
3. Production of data (census, current demographics stats, BDG, etc.) for use of customers in decision making process	Q3 2013		Q4 2013

Objective 6b (continued): Promote revitalization and development where appropriate along 146, Main, and Broadway by facilitating contact, providing information, and offering incentives to development types consistent with our industry/market

<p>4. Market our City to ICSC (International Council of Shopping Centers) and Site Selection Consultants</p> <ul style="list-style-type: none"> <li>(a) Create a development map of available properties and marketing collateral,</li> <li>(b) Implement findings from the Catalyst Retail Study,</li> <li>(c) Get involved in HCREN, BACREN, ICSC, SIOR, ACRP, and CCIM events, and</li> <li>(d) Market to brokers, developers, and end users.</li> </ul>	<p>Q3 2013</p>		<p>Ongoing</p>
---	----------------	--	----------------

Team Leader: Scott Livingston

Staff Goal 7: To provide and maintain superior public safety

Objective 7a: Enhance communications infrastructure and promote interoperability

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Ensure all radio systems meet current and future requirements.	Q1 2013	Q3 2013	Ongoing
2. Identify current deficiencies within all communication systems and work to correct them.	Q1 2013	Q1 2014	Q4 2016
3. Put a system in place to ensure proper system maintenance and replacement when needed.	Q1 2013	Q3 2013	Ongoing

Objective 7b: Maintain appropriate staffing levels in all emergency services departments for both paid employees and volunteer members.

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Identify national standards relating to recommended staffing levels for each emergency service department.	Q2 2013	Q4 2013	Ongoing
2. Work to attract and hire the most qualified candidates by developing a comprehensive recruitment program.	Q4 2013	Q2 2014	Ongoing
3. Develop retention incentives.	Q4 2013	Q2 2014	Ongoing
4. Create and maintain an employee development program for existing employees at all levels within the organization.	Q1 2013	Q3 2013	Ongoing

Objective 7c: Identify and capitalize on advanced technologies as a force multiplier.

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Develop a response safety program,	Q1 2013	Q3 2013	Ongoing
2. Improve the community warning system.	Q1 2013	Q3 2013	Ongoing
3. Develop crime prevention measures: cameras, air monitoring, license plate readers, etc.	Q4 2013	Q2 2014	Ongoing
4. Focus on trend/ pattern analysis using incident geographical mapping in order to target resources.	Q1 2013	Q3 2013	Ongoing

Objective 7d: Identify and employ best strategies, management practices, policies and procedures, and organizational systems that promote accountability, open communication, collective responsibility, visionary leadership, fiscal responsibility, and organizational effectiveness.

Strategies	Start Quarter/Year	Check-in	Completion Quarter/Year
1. Seek out and attain available state and national “best-practices” organizational certifications and accreditations.	Q3 2013	Q1 2014	Ongoing
2. Create appropriate inspection and auditing systems.	Q3 2013	Q1 2014	Ongoing

Team Leaders: Chief Ken Adcox, Chief Mike Boaze, Emergency Management Coordinator Jeff Suggs

Staff Goal 8: Continue to improve the quality of life through recreational amenities

Objective 8a: Continue trail system implementation

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Obtain easements for equestrian/bicycle/pedestrian trail in Lomax	Q1 2014	Quarterly	Q4 2014
2. Continue paving sections of various sections of infill trail	Q1 2014	Quarterly	Q4 2014

Objective 8b: Maintain and improve sports field infrastructure

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Replacing lighting system at 9 soccer fields at Northwest Park	Q1 2014	Quarterly	Q4 2014

Objective 8c: Continue to offer modern and cost-effective aquatic facilities

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Evaluate options and cost-benefit analysis for potential locations of future sprayparks and make recommendations for implementation at next Pre-Budget retreat	Q3 2014	Q3 2014	Q3 2014
2. Include recommended location(s) into the City's Capital Improvement Plan for upcoming FY 2014 budget	Q3 2014		Q4 2014
3. Installation of spraypark	Q1 2015	Quarterly	Q3 2015

Team Leader: Stephen Barr

Staff Goal 9: Create a Neighborhood Preservation Program

Objective 9a: Create an environment of open communication and cooperation with existing neighborhood groups

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Create centralized database of neighborhood/HOA and leaders with contact information and update at least annually	Q4 2013	Annually	Q4 2013
2. Establish regular communications with neighborhood groups regarding important City matters and issues affecting neighborhoods, such as new code enforcement regulations	Q4 2013		Continuous
3. Actively seek neighborhood input and comments regarding issues impacting them	Q4 2013		Continuous
4. Create education/outreach program (Neighborhood University)	Q3 2014	Quarterly	Q1 2015

Objective 9b: Improve City coordination to respond to neighborhood issues and concerns

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Create a cross departmental team, including engineering, inspecting, planning and police, to comprehensively address neighborhood issues	Q2 2014		Continuous

Objective 9c: Continue investing in neighborhood improvement initiatives

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Create a neighborhood matching grant program for community improvements	Q3 2013	Annually	Q1 2014

Team Leader: Tim Tietjens

Staff Goal 10: Provide diverse and timely communications that promote and influence a positive public perception of La Porte

Objective 10a: Identify scope and job description for Marketing/PR position

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Recruit and hire individual to fill communications, marketing, and public relations needs	Q1 2014		Q2 2014
2. Develop a communication strategy that ensures that information about the City is disseminated in a timely and professional manner and meets the needs of the various audiences within and outside of the City	Q2 2014	Quarterly	Q3 2014

Objective 10b: Engage development partners to positively promote the city

Strategies	Start Quarter/Year	Check-In	Completion Quarter/Year
1. Create effective methods for utilizing development partners to help promote the City	Q2 2014	Quarterly	Q3 2014

Team Leader: Traci Leach

# City of La Porte

## BUSINESS. BY THE BAY!

### ECONOMIC DEVELOPMENT INCENTIVES



La Porte, Texas

604 W. Fairmont Parkway La Porte, Texas 77571 (281) 470-5016

# Local Incentives

---

## Tax Abatements

The City of La Porte offers ad valorem tax abatements for new construction of the following qualifying facilities within the City's corporate limits:

- Regional Distribution/Service (up to 10%)
- Manufacturing/Other Basic Industry (up to 10%)
- Retail/Commercial Office/Regional Entertainment (up to 50%)

To be eligible to apply for an abatement, a company must meet the following criteria:

- Minimum Capital Investment: \$3 million
- Minimum Job Creation: 10
- Term of abatement: averaged over five (5) years

For further information about our tax abatement program, please contact **Scott D. Livingston** in the Economic Development Department at (281) 470-5016 or [livingstons@laportetx.gov](mailto:livingstons@laportetx.gov).

## Industrial District Agreements

To attract a business into an area, a city may choose to encourage the business to locate in the city's Extraterritorial Jurisdiction ("ETJ"). If the business locates in the city's ETJ, the City Council may enter into an agreement not to annex the business property for a set period of time. The agreement may call for the business to pay the city an annual fee in lieu of taxes for the use of city facilities. The city may also provide certain contractual services (i.e. firefighting services) to the business during the non-annexation period.

## Tax Increment Reinvestment Zone

Developers of business property within a defined area (i.e. business parks, service centers) may receive municipal financing assistance through the use of tax increment financing. The City Council may create a Tax Increment Reinvestment Zone (TIRZ) where construction of public improvements using tax increment funds is likely to result in significant commercial investment. The cost of improvements within the zone is repaid by the contribution of future tax revenues by each taxing unit that levies taxes on the affected properties. Once the city initiates tax increment financing, counties and school districts may also participate in the tax increment financing program.

## Public Improvement Districts

A Public Improvement District ("PID") enables a commercial area to make improvements benefiting the area and spread the cost equally among all properties. Property owners are assessed based on benefit. These assessments may be used to pay the debt service on bonds or they may be used to pay for services directly if no bonds are issued. PID funds may be used to purchase real property in connection with improvements. Improvements include a wide variety of enhancements such as water and wastewater, streets, drainage, parking, landscaping, etc.

### **Foreign Trade Zone**

The City of La Porte supports companies applying for this federal exemption from state and local ad valorem taxes on tangible personal property imported from outside the United States, and held in a Foreign Trade Zone (FTZ) for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing or processing and tangible personal property produced in the United States. Property must be held in a Foreign Trade Zone for exportation, either in its original form or as altered by any of the above processes. This program is managed by the Port of Houston Authority.

### **Freeport Exemption (La Porte ISD)**

The Freeport Exemption exempts personal property consisting of inventory goods or ores, other than oil, natural gas and petroleum. Eligible property must be transported out of the state within 175 days of acquisition but may first be assembled, stored, manufactured, processed or fabricated locally. Currently, Freeport Exemptions are offered by the LPISD.

### **Municipal Grants-Chapter 380**

The City Council of the City of La Porte may provide loans and grants of city funds as well as city employees and equipment to promote economic development projects within the city. Eligible projects involving significant investment may contract with the City to receive sales tax grants, franchise fee grants, water or sewer line extensions, building permit fee waivers and grants for capital recovery fees.

### **Chapter 313**

The La Porte ISD may offer an incentive to new and expanding industries through a Chapter 313 Agreement, which offers a temporary limitation for school property tax purposes on the property's value. The school district may defer for 8 years the time before a new investment project goes onto the tax rolls at full value. The limitation on the taxable value of a project does not take effect until the third year of the project. A taxpayer may also make a separate application to the school district for a credit for taxes paid during the first two years on the value of property in excess of the limitation amount.

# Harris County Incentives

---

## **Tax Abatement**

New projects that meet the following criteria qualify for Tax Abatement in Harris County: (1) Increase the tax roll value of new real property by at least \$1,000,000; (2) create at least 25 new full-time permanent positions at the project site; and (3) are competitively sited (i.e. Senior Management is actively evaluating jurisdictions in addition to Harris County and, but for the tax abatement, the project would not be constructed in Harris County); and (4) must be shown not to solely or primarily have the effect of transferring employment from one part of the County to another. Amount of the tax abatement is a standard 50 percent per year, up to ten years.

## **Leadership in Energy and Environmental Design (LEED®) Tax Abatement**

If the owner of new commercial construction has registered with the U.S. Green Building Council (“USGBC”) seeking LEED Certification, then the County Community Services Department (“CSD”) may recommend approval of a partial tax abatement for the incremental investment associated with obtaining such certification. The Agreement shall be effective up to 10 years, at a percentage based upon the level of certification actually obtained after completion of construction. The minimum value increase requirement derived from the “Imputed LEED-Related Value Increment” to meet the eligibility test is \$100,000. Applicant must be registered with USGBC seeking LEED Certification, prior to submitting its application to the County.

## **Additional Incentive for Locating New Project in HUD-Designated Low Income Target Area in the County**

Construction of a new eligible facility in a “HUD-Designated Low-Income Target Area” within the County, as determined on the application date, may enable CSD to recommend that Commissioners Court approve an additional tax abatement up to 10%. A qualifying project must nevertheless meet the three basic requirements to for an economic development tax abatement: (1) creation of at least \$1 million in new tax roll value, (2) creation of at least 25 new permanent full-time jobs, and (3) competitive siting. A specific “Target Area Project Site Incentive” provision must be contained in the Agreement approved by Commissioners Court and cannot be added at a later date.

## **Additional Incentive for Full-Time Permanent Job Creation for Residents of HUD-Designated Low Income Target Areas in the County**

Construction of a new eligible facility resulting in creation of jobs for residents of “HUD-Designated Low-Income Target Areas” within the County, as determined on application date, may enable CSD to recommend that Commissioners Court approve an additional tax abatement up to 20 percent. A qualifying project must meet the three basic requirements to for an economic development tax abatement: (1) creation of at least \$1 million in new tax roll value, (2) creation of at least 25 new permanent full-time jobs, and (3) competitive siting.

# State of Texas Incentives

---

## **Texas Enterprise Fund**

The Texas Enterprise Fund provides financial resources to help strengthen the state's economy. The Governor, Lieutenant Governor, and the Speaker of the House must unanimously agree to support the use of the Texas Enterprise Fund for each specific project. Projects that are considered must demonstrate a project's worthiness, maximize the benefit to the State of Texas and realize a significant rate of return of the public dollars being used for the project. Significant job creation and capital investment, above average wages generated, financial strength of the applicant, applicant's business history, analysis of the relevant business sector, and financial support from the local community and private sector will all be significant factors in approving the use of the Enterprise Fund.

## **Texas Emerging Technology Fund**

The Texas Emerging Technology Fund provides Texas with an unparalleled advantage in the research, development and commercialization of emerging technologies. The program works through partnerships between the state, institutions of higher education and private industry and is dedicated to three areas: Regional Centers of Innovation and Commercialization; matching grant funds for R&D projects that accelerate commercialization and that have demonstrated an ability to receive or have received federal grants or non-state grants; and assisting Texas public universities in attracting highly renowned research teams from universities and institutions in other states.

## **Skills Development Fund**

The Skills Development Fund offers funding to train employees through customized job training programs provided by the state's community colleges. This fund is administered by the Texas Workforce Commission, is application driven and competitively based. The grants are provided to community colleges and technical schools as part of a partnership with companies and labor unions to provide training not currently available in the region. Average training grants per trainee are \$1,000.

## **Texas Enterprise Zone Program**

The Texas Enterprise Zone Program allows local communities to partner with the State of Texas to promote job creation and capital investment in economically distressed areas. Companies may qualify for refunds of state sales tax paid on eligible items used at the qualified business site. The total amount of any refund is predicated on the investment amount and number of jobs created/retained at the qualified business site. In order to qualify, companies must commit that at least 25% of their new employees will meet economically disadvantaged or enterprise zone residence requirements - if the company is locating or expanding into one of the state's Enterprise Zones. If the company is not locating into one of the Enterprise Zones, then they must commit that at least 35% of their new employees will meet economically disadvantaged or enterprise zone residence requirements.

## **Manufacturing Sales Tax Exemption**

Machinery and equipment that is used in the manufacturing, processing, fabricating or repairing of tangible personal property for ultimate sale, are exempt from state and local sales

tax. This incentive is also applicable for natural gas and electricity consumed by companies that use more than 50 percent of their utilities in the manufacturing, processing or fabricating of products for resale.

### **Tax Exempt Industrial Revenue Bonds**

Tax Exempt Industrial Revenue Bonds are designed to provide tax-exempt financing to finance land and depreciable property for eligible industrial or manufacturing projects. The maximum bond amount is \$20 million (which can include certain capital and administrative costs). These bond issues must receive a reservation under the State's volume limitation ("volume cap") managed by the Texas Bond Review Board.

### **Texas Product Development Fund**

The Texas Product Development Fund provides financing to aid in the development, production and commercialization of new or improved products within the state. Products appropriate for the fund are inventions, devices, techniques or processes that have advanced beyond the theoretical stage and are ready for immediate commercial application. Preference for funding will be given to the state's defined industry clusters within emerging technology fields, including: semiconductors; nanotechnology; biotechnology and biomedicine; renewable energy; agriculture and aerospace. Businesses with unencumbered assets that are available to collateralize loans are suited for further consideration of this fund.

### **Texas Small Business Fund**

The Texas Small Business Fund provides financing to foster and stimulate the development of small and medium sized businesses in Texas. Special funding preferences will be given to emerging technologies including: semiconductors, nanotechnology, biotechnology and biomedicine, renewable energy and aerospace. Additional preference will apply to applicants that have acquired other sources of financing, have formed companies in Texas and are receiving assistance from designated state small business development centers or through the Small Business Innovation Research program (SBIR).

### **Pollution Control Property Tax Abatement**

This incentive is available to companies with facilities, devices and equipment used to control air, water or land pollution. Companies wishing to apply for tax relief for their efforts in controlling pollution can apply for a tax credit from the Texas Commission on Environmental Quality (TCEQ).

### **Texas Economic Development Act**

The Texas Economic Development Act is a mechanism for school districts to offer temporary property tax limits to companies undertaking a large-scale capital investment project in the community. Under current law, only the following project categories are eligible: manufacturing; research and development; clean coal projects; advanced clean energy projects; renewable energy electric generation; and nuclear electric power generation.

# Key Contacts

---



**CITY OF LA PORTE**  
[www.laportetx.gov](http://www.laportetx.gov)

**Mailing Address:**

604 West Fairmont Pkwy.  
La Porte, TX 77571

**Scott D. Livingston, Economic Development Coordinator**

(281) 470-5016  
[livingstons@laportetx.gov](mailto:livingstons@laportetx.gov)

**Corby Alexander, City Manager**

(281) 470-5011  
[alexanderc@laportetx.gov](mailto:alexanderc@laportetx.gov)

**Traci Leach, Assistant City Manager**

(281) 470-5012  
[leacht@laportetx.gov](mailto:leacht@laportetx.gov)



**HARRIS COUNTY COMMUNITY SERVICES DEPARTMENT**  
[www.csd.hctx.net](http://www.csd.hctx.net)

**Mailing Address:**

8410 Lantern Point Dr.- Annex M  
Houston, TX 77054

**Phone:** (713) 578-2000

**Email:** [hrc@csd.hctx.net](mailto:hrc@csd.hctx.net)



**STATE OF TEXAS**  
**ECONOMIC DEVELOPMENT AND TOURISM DIVISION**  
[www.texaswideopenforbusiness.com](http://www.texaswideopenforbusiness.com)

**Mailing Address:**

P.O. Box 12428  
Austin, Texas 78711-2428

**Phone:** 512-936-0100

**Fax:** 512-936-0080

**Email:** [locatetx@governor.state.tx.us](mailto:locatetx@governor.state.tx.us)



## LA PORTE ENHANCEMENT GRANT PROGRAM

The La Porte Enhancement Grant Program, which is sponsored by the La Porte Development Corporation, offers matching grants to businesses which are located in the La Porte Enhancement Grant District. A map of the La Porte Enhancement Grant District is provided in the full explanation of the program.

Eligible improvements of the EGP include facade renovation, beautification projects, and new awnings, canopies, porches, and signage. A single owner of multiple properties may apply for grant funds for each property owned, but each matching grant must be for more than \$2,500 and less than \$25,000 per property. Each program application will be evaluated on a case-by-case basis.

Interested business owners are welcome to complete the enclosed application form. Please deliver applications to the following address:

**Scott D. Livingston**  
Economic Development Coordinator  
City of La Porte  
604 W. Fairmont Parkway  
La Porte, TX 77571

Please contact Scott D. Livingston at [livingstons@laportetx.gov](mailto:livingstons@laportetx.gov) or 281/470-5016, if you have any questions about the La Porte Enhancement Grant Program.

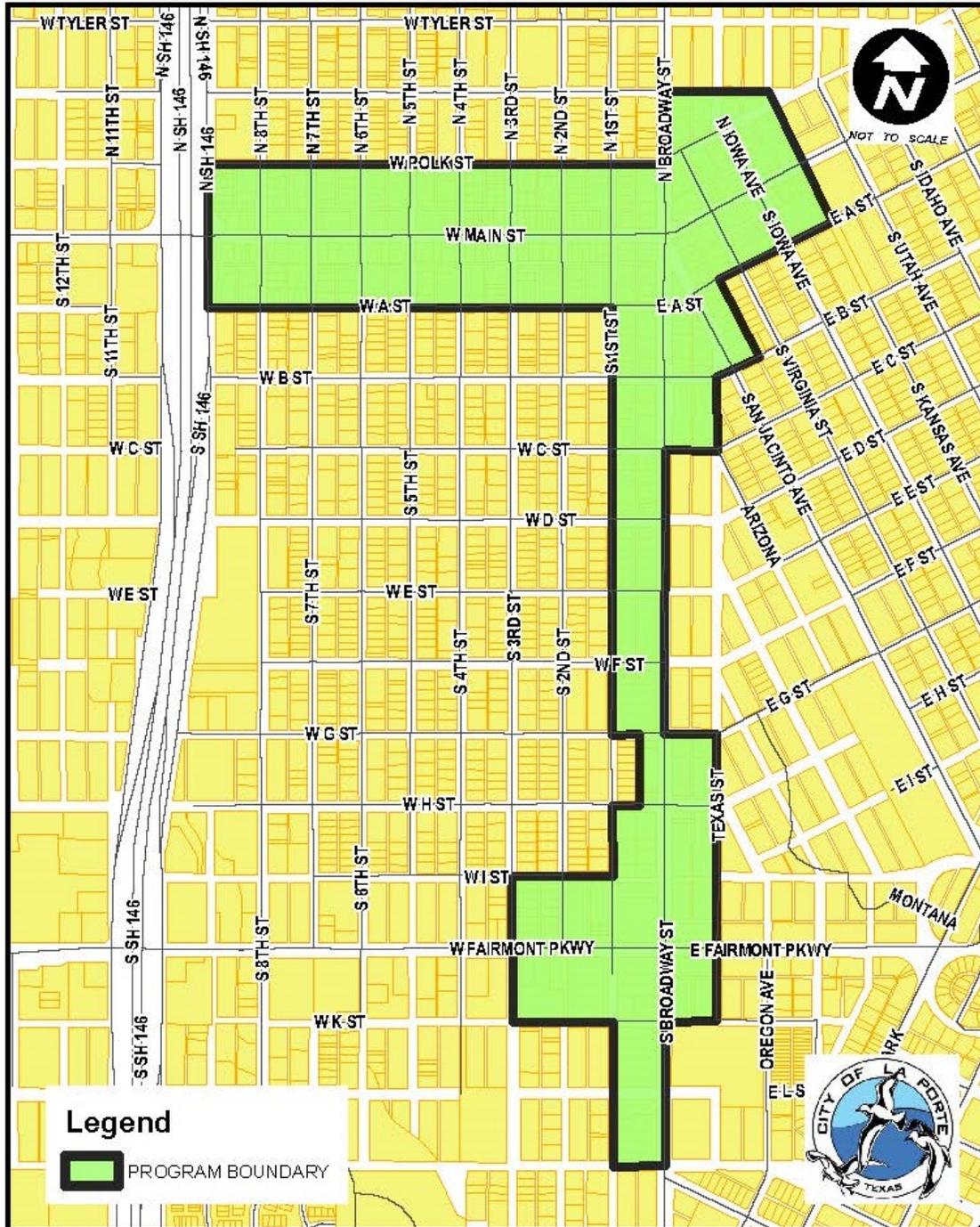
Sincerely,

A handwritten signature in blue ink that reads "Scott D. Livingston".

Scott D. Livingston  
Economic Development Coordinator  
City of La Porte

## La Porte Enhancement Grant Program

The La Porte Enhancement Grant Program provides matching funds to enhance and/or beautify businesses in the La Porte Enhancement Grant District which is outlined with a **bold black line** below.



## ELIGIBLE PROJECTS

Business owners may be eligible for a reimbursement grant of funds used to enhance and/or beautify their businesses. The following types of projects are eligible for reimbursement grants:

- **Façade Rehabilitation/Enhancement**  
This includes work done on existing structures, such as removing non-historic/added facades, re-pointing brick or replacing mortar joints, replacing or restoring cornices, removing paint from brick, replacing windows, restoring transom windows, repairing facades, etc.
- **New Awnings, Canopies, Porches and Signage**  
This includes replacing, adding, or repairing awnings, canopies, porches and signs. Signs may include signboards, projecting signs, pedestrian signage, window signs, hanging signs, and awning/canopy signs.
- **Beautification Projects**  
This may include public art, landscaping, and other beautification projects as approved by the Enhancement Grant Evaluation Committee (EGEC).

## PROGRAM GUIDELINES

1. Grant funds are available only for exterior work on commercial property and building facades that are visible from public streets in the La Porte Enhancement Grant District.
2. In general, grants offered to businesses are intended to support project to renovate or convert existing structures to their original historic condition.
3. Grants will be processed and considered for award on a first-come, first-served basis until funds are depleted or until the program ends, whichever comes first.
4. Grants will **not** be awarded for work that has already been started or completed, or for work that is covered by insurance. If desired work is above and beyond what insurance will pay, and is, therefore, considered an upgrade and enhancement in the opinion of the EGEC, it may be eligible for grant funds.
5. Grants will **not** be awarded to any Applicant that owes any delinquent indebtedness\* to the City of La Porte or the La Porte Development Corporation (LPDC).

*\*\*“Delinquent Indebtedness” shall mean any indebtedness due and owing to the City of La Porte or the La Porte Development Corporation, including but not limited to, ad valorem taxes on real and personal property, which property is in fact owned by and is legally subject to taxation, whether or not the same may have been properly rendered to the tax assessor-collector by any person. Such term shall also include, but not be limited to, charges for penalties, interest and costs on any such ad valorem taxes; charges for water, sewer, garbage and other services rendered or goods furnished by the City of La Porte or the La Porte Development Corporation to any person; and any other manner of indebtedness to the City of La Porte or the La Porte Development Corporation, now existing or which may hereafter be created by any person. No such indebtedness shall be considered “delinquent” until the time for its current payment under the various ordinances of the City of La Porte, or state statutes, or contractual agreement, shall have expired, without payment having been made.*

6. Each grant will be awarded on a reimbursement basis once completed work has been verified by the EGEC to be compliant with the plans proposed in the approved application. Any deviation from the approved project may result in the total or partial withdrawal of the grant.
7. Each enhancement grant application will be subject to review by the EGEC, and approval from the LPDC. The review criteria include the following:
  - The project demonstrates a significant improvement over the existing situation,
  - The project will add to the beautification of Main Street and/or Broadway,
  - The project will enhance Main Street and/or Broadway's appeal to new businesses and visitors,
  - The project will complement the surrounding buildings, and
  - The project will add value to the City of La Porte.
8. Grant applications and awards may be made in any of the reimbursable activities described above and may be combined for any single property or project.
9. An applicant is defined as an owner, tenant, or combination thereof, who occupies space in an eligible property within the La Porte Enhancement Grant District. A single owner of multiple properties may apply for grant funds for each property owned, but the matching grant must be for more than \$2,500 and less than \$25,000 per property in a three (3) year period.

## **APPLICATION PROCESS**

1. Determine eligibility: Discuss project plans with the Economic Development Coordinator, and the Coordinator will set up a pre-development meeting with the EGEC.
2. Complete the application and sign the agreement form. Each grant application must include the following:
  - a. A **scale drawing** by the project architect or design professional of all the work to be completed.
  - b. **Samples** -- i.e. paint samples, fabric swatches, sign material, etc. -- that will enable the EGEC to envision the finished project.
  - c. **Three (3) itemized work estimates** on all project work from contractors or project architects. Self-contracted work will be reimbursed for actual legitimate expenses, excluding labor.

- d. **Photographs** of the building's exterior. The Applicant shall be required to provide before and after photographs of the building before the reimbursement grant can be awarded. For the initial application, "before" photographs will suffice, but "after" photographs of the completed project must be submitted before the grant may be considered for reimbursement.
3. Return the completed application form, with all applicable items, to:

**Scott D. Livingston**  
Economic Development Coordinator  
City of La Porte  
604 W. Fairmont Parkway  
La Porte, TX 77571

4. The application will undergo an approval process, which includes but is not limited to the following:
  - a. Each project must meet current building standards and codes, as well as building permit requirements.
  - b. The EGEC will only consider applications that have been properly and fully completed, and which contain all information requested in the application and/or by the committee.
  - c. All itemized work estimates submitted by the Applicant must be dated no earlier than ninety (90) days prior to the Application request. Bids shall be submitted on the contractor's or project architect's letterhead and shall contain the contractor's name, address, and telephone number and shall itemize the bid in a manner that allows the EGEC to determine the bid components and authenticity of the bid.
  - d. Applications receiving approval by the EGEC shall commence construction described in the application within ninety (90) days from the date that the enhancement grant is approved. Each Applicant must complete the construction described in the Application within one (1) year from the date that the grant is approved. If the Applicant cannot meet this timeline, then the Applicant may submit a written request for an extension of the commencement date or completion date provided the extension request is made prior to the ninety (90) day or one (1) year time limit. The EGEC shall not be obligated to grant an extension, but it may do so for good cause determined solely by the members of the Committee. The extensions, if granted, shall be for the term and for the conditions determined exclusively by the EGEC. Denial of an extension request may not be appealed.
  - e. As a condition of this grant Application, the Applicant consents, and shall allow, the EGEC to request city inspections to determine that the grant, if awarded, will not be used for construction on any building that is not in compliance with the City Municipal

Codes and Ordinances that are applicable to the construction contemplated in the application.

- f. The EGEC and LPDC shall have sole discretion in awarding grants. They shall award grants considering the amount requested, grant funds available, the guidelines of the grant program, condition of the building in which the grant funds will be used, economic impact, other grant requests, the type and nature of the construction, and the proposed construction results considering the grant program.
  - g. No Applicant has a proprietary right to receive grant funds. The EGEC shall consider any application within its discretionary authority to determine what grant amount would be in the best interest of the grant program.
  - h. The Applicant shall be required to furnish “before” photographs of the building’s exterior, and any other site locations that are included as part of the application request. The applicant shall also provide “after” photographs once the construction has been completed, as a condition of final grant disbursement.
  - i. The EGEC has the final discretion with regard to funding and reserves the right to recommend modifications or reject any project or elements of any project.
5. Reimbursement. When the entire enhancement grant project has been completed, the Applicant shall present the Economic Development Office with the following:
    - a. Copies of all paid invoices, including copies of cancelled checks and/or credit card receipts for a single payment reimbursement of the approved funding, and
    - b. Photographs of all completed work.
  6. When the project has been reviewed and signed off by the EGEC and their recommendations have been presented and approved by the LPDC, a reimbursement check will be issued.

## La Porte Enhancement Grant Application

*Please print clearly. Please submit a completed application to:*

**Scott D. Livingston**  
**Economic Development Coordinator**  
**City of La Porte**  
**604 W. Fairmont Pkwy**  
**La Porte, TX 77571**

### APPLICANT INFORMATION:

APPLICATION DATE: \_\_\_\_\_

\_\_\_\_\_  
Applicant Name

\_\_\_\_\_  
Business Name

\_\_\_\_\_  
Physical Business Address

\_\_\_\_\_  
Business Owner (if different from applicant)

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Contact Phone

\_\_\_\_\_  
Email Address

### TYPE OF WORK (*check all that apply*):

Façade Rehabilitation/Enhancement

Awnings/Signage

Beautification

Other (*describe*): \_\_\_\_\_

### DETAILS OF PLANNED IMPROVEMENTS (*attach additional pages if necessary*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please list the name of each Contractor and/or Project Architect and the Total Amount of each bid. Please, also, attach the original proposals and work estimates:

CONTRACTOR/PROJECT ARCHITECT	TOTAL AMOUNT
1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____
5. _____	\$ _____

**BUDGET DETAIL**

PROJECT EXPENDITURES	FUNDS REQUESTED	FUNDS APPLIED	TOTAL
Façade Rehab	\$ _____	\$ _____	\$ _____
Awnings/Signage	\$ _____	\$ _____	\$ _____
Beautification	\$ _____	\$ _____	\$ _____
Other (list):	\$ _____	\$ _____	\$ _____
Other (list):	\$ _____	\$ _____	\$ _____
<b>TOTALS</b>	\$ _____	\$ _____	\$ _____

Total estimated cost of proposed project: \$ \_\_\_\_\_

Amount requested (up to 50% of total cost, \$2,500 to \$25,000): \$ \_\_\_\_\_

*Please attach color samples, model numbers (for windows, doors, etc.), photos, scale drawing, and other illustrations of work to be completed. Please include as much detail as possible.*

*Your signature on this application certifies that you understand and agree with the following statements:*  
 I have met with the EGE and I fully understand the Enhancement Grant procedures and details established. I intend to use these grant funds for the renovation projects, as spelled out in the application. I have not received, nor will I receive insurance monies for this revitalization project OR I have disclosed all pertinent insurance information.

I understand that if I am awarded an Enhancement Grant, any deviation from the approved project may result in the partial or total withdrawal of the grant funds. If I am awarded a reimbursement grant for façade, awning, signage, beautification, or other approved work, alterations should not be made within five (5) years from construction; otherwise I may be required to reimburse the La Porte Development Corporation immediately for the full amount of the grant.

\_\_\_\_\_  
 APPLICANT SIGNATURE

\_\_\_\_\_  
 DATE



approves the agreement by a majority vote. Other taxing entities will have the option to enter into a separate agreement with the property owner after the City has approved the tax abatement agreement.

We feel that this tax abatement package would serve as a valuable tool for attracting the types of businesses we need in La Porte, and serve as an important part of our economic development strategy.

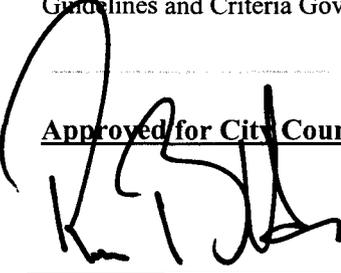
---

**Action Required by Council:**

Consider approval of an ordinance amending the Code of Ordinances of the City Of La Porte by adding Article V Guidelines and Criteria Governing Tax Abatement Agreements by the City Of La Porte.

---

**Approved for City Council Agenda**

  
\_\_\_\_\_  
Ron Bottoms, City Manager

4/22/00  
\_\_\_\_\_  
date

**ORDINANCE NO. 3245**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LA PORTE BY REPEALING ARTICLE V "GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT AGREEMENTS BY THE CITY OF LA PORTE", SECTIONS 66-140 THROUGH 66-151 INCLUSIVE, AND REPLACING WITH NEW ARTICLE V "GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT AGREEMENTS BY THE CITY OF LA PORTE", SECTIONS 66-140 THROUGH 66-151 INCLUSIVE, FOR THE PURPOSE OF ADOPTING NEW REGULATIONS FOR TAX ABATEMENT AGREEMENTS WITH THE CITY OF LA PORTE; CONTAINING A REPEALING CLAUSE; CONTAINING A SEVERABILITY CLAUSE; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE:**

Section 1. The City Council of the City of La Porte hereby amends the Code of Ordinances of the City of La Porte by repealing Article V. "Guidelines and Criteria Governing Tax Abatement Agreements by the City of La Porte", Sections 66-140 through 66-151 and replacing with new Article V. "Guidelines and Criteria Governing Tax Abatement Agreements by the City of La Porte", Sections 66-140 through 66-151 inclusive, as follows, to-wit:

**"ARTICLE V. GUIDELINES AND CRITERIA  
GOVERNING TAX ABATEMENT AGREEMENTS**

**Section 66-140. REDEVELOPMENT TAX ABATEMENT AUTHORIZED.**

**(1) Creation of Reinvestment Zones.**

(a) A property tax abatement program is hereby created to be administered in accordance with V.T.C.A., Tax Code Ch. 312, as amended from time to time. Tax abatement shall only be allowed in a reinvestment zone.

(b) Reinvestment zones in the city for this purpose will be considered for designation by city council upon the recommendation of the City Manager's Office. The city council may approve the creation of these reinvestment zones on a zone-by-zone basis after a public hearing before the city council. Following the public hearing the city council may consider the ordinance creating a new reinvestment zone in the proposed area.

(c) The city council may not adopt an ordinance designating a reinvestment zone until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be given at least seven days prior to the hearing. The presiding officers of eligible jurisdictions shall be notified in writing at least seven days prior to the hearing.

A notice of the public hearing shall be given to other affected taxing jurisdictions, published in the legal classified section of the local daily newspaper having general circulation, and posted in other places as deemed appropriate, including notice to civic associations in the area surrounding the proposed zone, at least seven days prior to the hearing. The notice shall contain the location,

time, and place of the public hearing and a description of the proposed boundaries of the reinvestment zone.

(d) The designation of such a zone by ordinance shall constitute an affirmative finding by the city council that the improvements sought to be constructed or repairs to be made within the zone are feasible and practical and would be of benefit to the land to be included within a zone and to the city.

(e) In determining whether an area qualifies as a reinvestment zone for the property tax abatement program, the city council shall use any one or more of the following criteria as guidelines:

(1) The area substantially impairs or arrests the sound growth of the city; retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use by reasons of the presence of substantial number of substandard, slum, deteriorated, or deteriorating structures, predominance of defective or inadequate sidewalks or street layout; faulty lot layout in relation to size, accessibility, or usefulness, unsanitary or unsafe conditions; deterioration of site or other improvements; tax or special assessment delinquency exceeds the fair value of the land; defective or unusual conditions of title; the existence of conditions that endanger life or property by fire or other cause; or any combination of these factors or conditions.

(2) The area is predominantly open and, because of obsolete platting or deterioration of structures or site improvements or other factors, substantially impairs or arrests the sound growth of the city.

(3) The area has been designated a local or state-federal enterprise zone under the Texas Enterprise Zone Act.

(4) The area is located wholly within an eligible blighted area, as identified from time to time by city council.

(5) There has been a demonstration of community interest and there is evidence that substantial number of owners of taxable real property in the reinvestment zone will participate in such a program.

(6) Be reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the city.

(f) The goals and objectives expressed above and the standards and restrictions expressed in V.T.C.A., Tax Code Ch. 312, as amended, are not exhaustive and shall be supplemented by such further and additional goals, objectives, rules, standards and restrictions as the city council may from time to time impose.

(g) The designation of a reinvestment zone hereunder shall expire five years after the date of its designation and may be renewed for periods not to exceed five years. The expiration of a

designation, however, shall not affect existing agreements entered into pursuant to section 66-140 or section 66-145 of this chapter.

**(2) Agreement for redevelopment property tax abatement.**

(a) Upon designation of a reinvestment zone, the city may enter into property tax abatement agreements with interested owners of taxable real property located within the reinvestment zone. The agreement shall be conditioned on the owner of the property making certain improvement or repairs to the property as outlined in Section 66-143, "Application", of this Article.

(b) In addition to the guidelines and criteria contained herein, to be eligible for tax abatement the planned improvement:

(1) Should provide an economic benefit to the city, taking all relevant factors into consideration, including (i) size of the abatement, (ii) income from sales tax and franchise fees generated by the planned improvement, and (iii) any additional expense to the city services as a result of the improvement; and

(2) Must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements; and

(c) Property in a reinvestment zone that is owned or leased by a member of the city council or by a member of the city planning commission is excluded from property tax abatement.

(d) The city may enter into a property tax abatement agreement with the interested owners of taxable real property for improvements or repairs completed before the city's approval of the tax abatement agreement if:

(1) The applicant has complied with the requirements of section 66-143 of this Article; and

(2) The applicant provides evidence of good cause as to why the city should grant tax abatements for improvements or repairs completed before the city's approval of the tax abatement agreement; and

(3) The agreement is consistent with the requirements of subsections (a) through (c) above, except as provided in paragraph (2) of this subsection.

Notwithstanding any other provision of this section, for tax abatement agreements approved under this subsection (d), city council shall determine the year that property tax abatement shall begin.

## Section 66-141. DEFINITIONS

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real property (including fixed-in-place machinery & equipment) in a reinvestment zone designated for economic development purposes.
- (b) "Eligible Jurisdiction" means the city and any school district, college district or other taxing district eligible to abate its taxes according to Texas law that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- (c) "Agreement" means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (d) "Base Year Value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1, but before the execution of the agreement, or the sales price, if the property was conveyed subsequent to January 1, whichever is greater.
- (e) "Commercial Office Facility" means office buildings utilized by or rented primarily to non-retail users. These buildings are designed as garden, mid-rise or high-rise structures.
- (f) "Department" shall mean the department of finance of the city.
- (g) "Economic Life" means the number of years a property improvement is expected to be in service in a facility.
- (h) "Employee" means a person whose employment is both permanent and fulltime, who works for and is an employee of the Owner or an employee of a Contractor, who works a minimum of 1,750 hours per year exclusively within the Zone, who receives industry standard benefits, and whose employment is reflected in the Owner's (and Contractor's, if applicable) quarterly report filed with the Texas Workforce Commission; but *excluding* any direct contract (seasonal, part-time, and full-time equivalent).
- (i) "Expansion" means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity.
- (j) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (k) "Manufacturing Facility" means buildings and structures, including fixed-in-place machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (l) "New Facility" means a property, previously undeveloped, which is placed into service by means other than or in conjunction with expansion or modernization.

- (m) "Other Basic Industry Facility" means buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which primarily serve a market in the creation of new permanent employment and bring in new wealth.
- (n) "Owner of taxable real property" shall mean the person, corporation, company or other entity responsible for paying property taxes on certain property or an interest therein including a leasehold interest or interests.
- (o) "Regional Distribution Center Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator where a majority of the goods or services are distributed to points outside the city.
- (p) "Regional Entertainment Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside outside the city.
- (q) "Regional Service Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate outside the city.
- (r) "Retail Facility" means buildings and structures used or to be used for the conducting and management of business, including the storing and selling of goods directly to the customer.

**Section 66-142. ABATEMENT AUTHORIZED**

- (a) Authorized Facility. A facility may be eligible for abatement if it is a: Regional Distribution Center Facility that is rail-served, Regional Service Facility that is rail-served, Manufacturing Facility, Other Basic Industry, Regional Entertainment Facility, Commercial Office Facility, or Retail Facility.
- (b) Creation of New Value. Abatement may only be granted for the additional value of eligible real property (including fixed-in-place machinery and equipment) listed in an abatement agreement between the City and the property owner and lessee (if required), subject to such limitations as City Council and the property tax code may require.
- (c) New and Existing Facilities. Abatement may be granted for new facilities, the expansion of existing facilities, or the improvement to existing facilities having the effect of improving current environmental conditions.
- (d) Eligible Property. Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility. The value of all property shall be the Certified Appraised Value for each year, as finally determined by the County Appraisal District ("HCAD").

- (e) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; aircraft; housing; hotel accommodations; deferred maintenance investments; property to be rented or leased (except as provided in the Section 66-142(f), “Owned/Leased Facilities”); property which has an economic life of less than 15 years; property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas, or any property exempted by local, state or federal law. When such exempted property includes manufacturing machinery and equipment listed in the Investment Budget (as required in Section 3, “Application”), then the value of such property may not be included toward the achievement of the investment or valuation thresholds set out in the Tax Abatement Agreement.
- (f) Owned/Leased Facilities. If a leased facility is granted abatement the agreement shall be executed by both the lessor and the lessee.
- (g) Value and Term of Abatement. A tax abatement shall be granted in accordance with the terms of a Tax Abatement Agreement, as follows:
  1. Either with the January 1st valuation date immediately following the date of execution of the agreement or a subsequent January 1st valuation date not more than three years after execution of a tax abatement agreement, but not beyond the completion of construction. Projects are eligible for abatement of new value. Under no circumstances will any facility be granted the benefit of a tax abatement for longer than five (5) years. Value subject to abatement must remain greater than or equal to the contractually-defined “Minimum Value Requirement.”

To determine the amount of each year’s exemption, the adjusted cap shall be multiplied by a sliding scale as follows:

<b>Type of Facility</b>	<b>Year 1 Abatement</b>	<b>Year 2 Abatement</b>	<b>Year 3 Abatement</b>	<b>Year 4 Abatement</b>	<b>Year 5 Abatement</b>
Regional Distribution/Svc (rail-served facility)	20%	15%	5%	5%	5%
Manufacturing/ Other Basic Industry	20%	15%	5%	5%	5%
Retail/Office/Regional Entertainment (0 – 50k s.f.)	20%	15%	5%	5%	5%
Retail/Office/Regional Entertainment (50k – 100k s.f.)	50%	25%	10%	10%	5%
Retail/Office/Regional Entertainment (100k – 200k s.f.)	50%	50%	25%	25%	25%
Retail/Office/Regional Entertainment (200k s.f. or more)	50%	50%	50%	50%	50%

2. No tax abatement shall be given in any year in which the facility fails to meet the contractually defined “Minimum Value Requirement.”

3. All Tax Abatement Agreements shall set out in detail the exact method to be used in computing each year's exemption.
4. No tax abatement shall be given in any year in which the facility fails to meet the employment minimum set forth in Section 66-142(h), "Basic Qualifications for Tax Abatement" of this Article.

(h) Basic Qualifications for Tax Abatement. To be eligible for designation as a reinvestment zone and receive tax abatement the planned improvement:

1. **must be shown to increase the assessed value of the property at least \$3.0 million** upon completion of the contractually-defined "Construction Period;"
2. **must be shown to directly create or prevent the loss of permanent full-time employment for at least 10 people** within the reinvestment zone upon completion of the contractually-defined "Employment Period;"
3. must be shown not to solely or primarily have the effect of transferring employment from one part of City to another.
4. the City may, at its discretion, take into account alternative or competing site information provided with the application for tax abatement.

(i) Taxability. From the execution of the abatement to the end of the agreement period, taxes shall be payable as follows:

1. value of ineligible property (as provided in Section 66-142 (e), "Ineligible Property,") shall be fully taxable;
2. the non abatable real property within the reinvestment zone shall be fully taxable each year;
3. additional value of new eligible property shall be taxable in the manner described in Section 66-142 (g), "Value and Term of Abatement;"
4. when due to the employment formula (as described in Section 66-142 (g), "Value and Term of Abatement,"), the maximum amount eligible for abatement ("the cap") is less than the total value of the new facility, the amount of the cap will be reduced each year at the same rate as the taxable improvements are reduced in value from the previous year's value; and
5. each year's exemption will be computed by HCAD in the following manner:
  - (a) The Base Property Value will be the current value of all real property plus fixed-in-place machinery and equipment within the zone that is not subject to abatement.

- (b) The Base Year Value will be subtracted from the value of the Abated Property plus the Base Property Value, the result to be called Current Amount Eligible for Abatement. In no case can this amount exceed the cap set out in the abatement contract.
- (c) The Current Amount Eligible for Abatement is then multiplied by the abatement schedule set out in section 66-142 (g) to determine the amount of each year's exemption.
- (j) Environmental and Worker Safety Qualification. In determining whether to grant a tax abatement, consideration will be given to compliance with all state and federal laws designed to protect human health, welfare and the environment ("environmental laws") that are applicable to all facilities in the State of Texas owned or operated by the owner of the facility or lessee, its parent, subsidiaries and, if a joint venture or partnership, every member of the joint venture or partnership ("applicants"). Consideration may also be given to compliance with environmental and worker safety laws by applicants at other facilities within the United States.

### **Section 66-143. APPLICATION**

- (a) Timely application: Any current or potential owner or lessee of taxable property in City must request a tax abatement by filing a completed application with the City prior to any public expression of a siting decision or any commitment (legal or financial) to the proposed project.
- (b) A complete application package for consideration of a tax abatement shall consist of:
- a completed City Application form;
  - a completed narrative prepared in accordance with the template provided with the City Application and its instructions;
  - an "Investment Budget" detailing components and costs of the real property improvements and fixed-in-place improvements for which tax abatement is requested, including type, number, economic life, and eligibility for a tax exemption granted by the Texas Commission on Environmental Quality ("TCEQ") (if known);
  - a map and legal description of the property;
  - a time schedule for undertaking and completing the proposed improvements;
  - a ten-year environmental and worker safety compliance history for all facilities located within the State of Texas and owned in whole or in part by applicants (as defined in Section 66-142(k), "Environmental and Worker Safety Qualification");
  - copies of the immediately preceding quarterly report(s) filed with the Texas Workforce Commission, documenting the current number of permanent full-

time employees, and full-time Contractor employees, if any, at the time the application is submitted;

- financial and other information, as the City deems appropriate for evaluating the financial capacity and other factors of the applicant;
  - certification prepared by City Tax Assessor-Collector stating that all tax accounts within City are paid on a current basis;
  - *for a leased facility*, the applicant shall provide with the application the name and address of the lessor and a draft copy of the proposed lease, or option contract. In the event a lease or option contract has already been executed with owner of site, the document must include a provision whereby abatement applicant may terminate such contract without penalty or loss of earnest money, in the event that City does not grant a tax abatement.
- (c) Upon receipt of a completed application, the City shall notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible taxing jurisdiction.
- (d) After receipt of an application for creation of a reinvestment zone and application for abatement, the City shall determine whether the application qualifies for a tax abatement under the terms of these guidelines and criteria. Such determination may be delegated to an employee or City department. If it is determined that an application qualifies for abatement, it shall be recommended to the City Council that the applicant be notified in writing that subject to a public hearing, if applicable, and approval of a contract by City Council, the project qualifies for abatement.
- (e) The City shall not establish a reinvestment zone or enter into an abatement agreement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization, expansion or new facility. Property eligible for abatement includes only the new improvements that occur after the completion of an abatement agreement with City.

#### **Section 66-144. PUBLIC HEARING AND APPROVAL**

- (a) The City Council may not adopt an ordinance designating a reinvestment zone for the purposes of considering approval of a tax abatement until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be clearly identified on the City Council agenda at least 10 days prior to the hearing. The presiding officers of eligible Jurisdictions shall be notified in writing at least 7 days prior to the hearing.
- (b) At the public hearing, interested persons shall be entitled to speak and present written materials for or against the approval of the proposed project or tax abatement agreement.

(c) In order to enter into a tax abatement agreement, the City Council must find that the terms of the proposed agreement meet these Guidelines and Criteria and that:

1. there will be no substantial adverse effect on the provision of the jurisdictions' service or tax base; and
2. the planned use of the property will not constitute a hazard to public safety, health or morals.

Any variance to these guidelines must be approved by a vote of at least three-fourths (3/4) of the City Council.

### **Section 66-145. AGREEMENT**

After approval the City shall formally pass an ordinance and execute an agreement with the owner of the facility and lessee as required which shall include:

- (a) estimated value to be abated and the base year value;
- (b) percent of value to be abated each year as provided in Section 66-142 ("Abatement Authorized);
- (c) **the commencement date and the termination date of abatement;**
- (d) the proposed use of the facility; nature of construction, time schedule, survey, property description and improvement list;
- (e) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Section 66-142 ("Abatement Authorized"), Section 66-146 ("Recapture"), Section 66-147 ("Administration"), and Section 66-148 ("Assignment"), or other provisions that may be required for uniformity or by state law;
- (f) amount of investment, increase in assessed value and number of jobs involved, as provided in Section 66-142 ("Abatement Authorized");
- (g) a requirement that the applicant annually submit to HCAD and City, a January employee count for the abated facility which corresponds to employment counts reported in the facility's Employer's Quarterly Report to the Texas Workforce Commission for the quarter most recently ended at calendar year-end, and a separate notarized letter certifying the number of jobs created or retained as a direct result of the abated improvements and the number of employees in other facilities located within the City and the compliance with the environmental and worker safety requirements in the agreement for the preceding calendar year, for as of January 1. Submission shall be used to determine abatement eligibility for that year and shall be subject to audit if requested by the governing body. Failure to submit will result in the ineligibility to receive an abatement for that year; and

- (h) A requirement that the owner or lessee will (a) obtain and maintain all required permits and other authorizations from the United States Environmental Protection Agency and the TCEQ for the construction and operation of its facility and for the storage, transport and disposal of solid waste; and (b) seek a permit from the TCEQ for all grandfathered units on the site of the abated facility by filing with the TCEQ, within three years of receiving the abatement, a technically complete application for such a permit.
- (i) Amount of investment and total permanent employees to be retained or created and total full-time equivalent jobs to be retained or created.
- (j) A requirement that the company, on or before February 1 of each year the tax abatement agreement is in effect, provide the director a sworn statement that includes a delineation of the number of permanent employees, contract employees and part-time employees of the applicant company as of the immediately preceding January 1, who report to work in the reinvestment zone at each site covered by the agreement.
- (k) A requirement that the company annually file the Form 111.28 with the appropriate County appraisal district to qualify for the abatement.
- (l) Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.
- (m) Contain each term agreed to by the owner of the property.
- (n) Require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement.
- (o) Provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

Such agreement normally shall be executed within 60 days after the applicant has forwarded all necessary information and documentation to the City

#### **Section 66-146. RECAPTURE**

- (a) If the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason for a period of 180 days during the abatement period, or one year in the event of natural disaster, then the agreement shall terminate and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year shall be paid to the City within sixty (60) days from the date of termination. The company or individual shall notify the City in writing at the address stated in the agreement within ten (10) days from any discontinuation, stating the reason for the discontinuation and the projected length of the discontinuation. If the City determines that such requirement has not been complied with, the agreement may be terminated immediately and all taxes previously abated by virtue of the agreement may be recaptured and paid within sixty (60) days of the termination.

- (b) If the company or individual is in default according to the terms and conditions of its agreement, the company or individual shall notify the City in writing at the address stated in the agreement within ten (10) days from the default, and cure such default within sixty (60) days from the date of the default ("Cure Period"). If the City determines that such requirement has not been complied with, the agreement may be terminated immediately and all taxes previously abated by virtue of the agreement may be recaptured, together with interest at 6% per annum calculated from the effective date of the agreement and paid within sixty (60) days of the termination. If the City does not receive full payment within said sixty (60) days, a penalty may be added, equal to 15% of the total amount abated.
- (c) If the company or individual allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for its protest and/or contest, the agreement then may be terminated, and all taxes previously abated by the agreement may be recaptured and paid within sixty (60) days of the termination, and penalties and interest may be assessed as set out in Section 66-146 ("Recapture").

#### **Section 66-147. ADMINISTRATION**

- (a) The Chief Appraiser of the County annually shall determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions, which levies taxes of the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of the City will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after giving 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 company or individual and in accordance with the facility's safety standards.
- (c) Upon completion of construction, the City or the jurisdiction creating the reinvestment zone annually shall evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the contract and agreement to the City Council and the City Attorney and the affected jurisdictions which levy taxes.

#### **Section 66-148. ASSIGNMENT**

A tax abatement agreement may be assigned to a new owner or lessee of a facility with the written consent of the City Council, which consent shall not be unreasonably withheld. Any assignment

shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that continues the same improvements or repairs to the property (except to the extent such improvements or repairs have been completed), and continues the same use of the facility as stated in the original Tax Abatement Agreement with the initial applicant. No assignment shall be approved if the assignor or the assignee is indebted to the City for past due ad valorem taxes or other obligations.

#### **Section 66-149. SUNSET PROVISION**

- (a) These Guidelines and Criteria are effective, and will remain in force until , at which time all tax abatement contracts created pursuant to these provisions will be reviewed by the City to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed, or eliminated.
- (b) This policy is mutually exclusive of existing Industrial District Contracts and owners of real property in areas deserving of special attention as agreed by the affected jurisdictions.

#### **Section 66-150. LIMITATIONS**

The adoption of the guidelines and criteria by the city council of the City of La Porte does not:

- (1) Limit the discretion of the city council of the City of La Porte to decide whether to enter into a specific tax abatement agreement;
- (2) Limit the discretion of the city council of the City of La Porte to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or
- (3) Create any property, contract, or other legal right in any person to have the city council of the City of La Porte consider or grant a specific application or request for tax abatement.

#### **Section 66-151. NONAPPLICABLE AREAS; EXCEPTION**

The city council of the City of La Porte hereby establishes the policy of the City of La Porte, that tax abatement agreement applications will not be accepted for areas within any existing Industrial District or Tax Increment Reinvestment Zone of the City of La Porte or any Industrial District or Tax Increment Reinvestment Zone, which may be created. However, as to any portion of such areas which are not within the corporate limits of the City of La Porte, Harris County Commissioners Court may establish tax abatement agreements for the benefit of itself, and taxing units other than the City of La Porte having jurisdiction over said area.”

Section 2: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 3. Should any section or part of this ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

Section 4. The City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

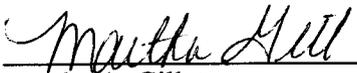
**Section 5.** This Ordinance shall be effective from and after its passage and approval.

**PASSED AND APPROVED this 26th day of April, 2010.**

CITY OF LA PORTE

By:   
Barry Beasley  
Mayor

**ATTEST:**

  
Martha A. Gillett  
City Secretary

**APPROVED:**

  
Knox W. Askins  
City Attorney

CONFLICT OF INTEREST AFFIDAVIT

THE STATE OF TEXAS §  
COUNTY OF HARRIS §

I, John Black as a member of the City of La Porte City  
Council, make this affidavit and hereby on oath state the following: I have a  
substantial interest in a business entity or real property as defined in Chapter 171, Texas Local  
Government Code, and a vote is to be taken or a decision is to be made that will have a special  
economic effect on this business entity or real property.

The agenda item on April 26, 2001, affecting this business entity or real  
property is: Tax abatements

COMPLETE (A) OR (B): (A) The business entity is Frontier Dragon (name); or  
(B) The real property is located at: \_\_\_\_\_

I have a substantial interest for the following reasons: (check all which are applicable)

- Ownership of 10% or more of the voting stock or shares of the business entity.
- Ownership of 10% or more or \$15,000 or more of the fair market value of the  
business entity.
- Funds received from the business entity exceed 10% of gross income for the  
previous year.
- Real property is involved and I have an equitable or legal ownership of the  
property with a fair market value of at least \$2,500.
- A relative of mine has a substantial interest in the business entity or real  
property that would be affected by a decision of the public body of which I  
am a member.

Upon filing of this affidavit with the City Secretary, I affirm that I will abstain from voting on any  
decision involving this business entity or real property and from any further participation on this  
matter by discussion or debate.

Signed this 26th day of April, 2001  
John Black  
Signature of Official

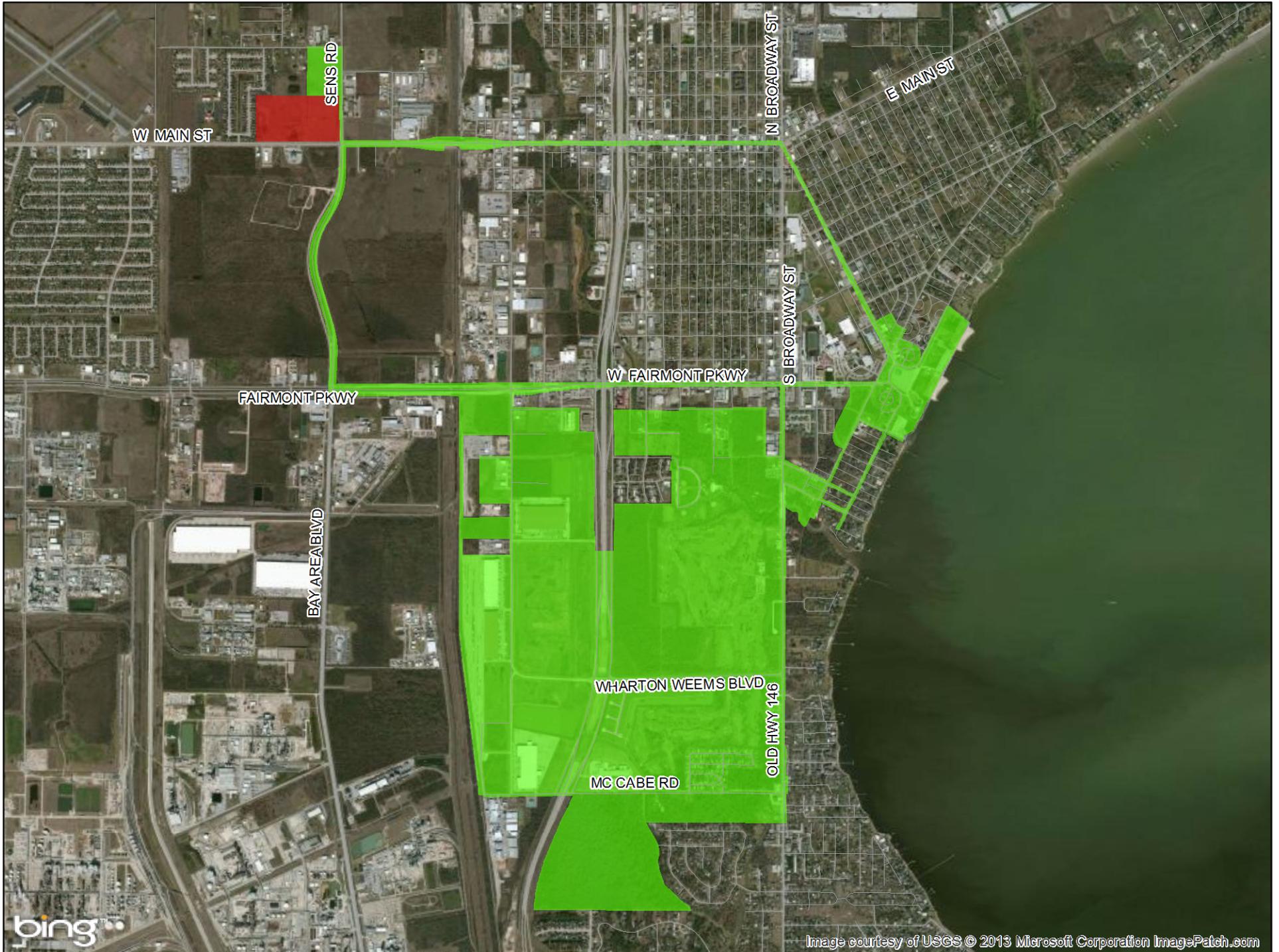
THE STATE OF TEXAS §  
COUNTY OF HARRIS §

Before me Martha A. Gillett on this day personally appeared  
John Black known to me to be the person whose name is subscribed to the  
foregoing instrument and acknowledged to me that he/she executed the same for the purposes and  
consideration therein expressed.

Given under my hand and seal of office this 26th day of April, 2001.  
(SEAL)

Martha Gillett  
Notary Public in and for the State of Texas





ORDINANCE NO. 99 - 2328

AN ORDINANCE ADOPTING TAX INCREMENT REINVESTMENT ZONE GUIDELINES FOR THE CITY OF LA PORTE; FINDING COMPLIANCE WITH THE OPEN MEETINGS LAW; AND PROVIDING AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE:

**Section 1.** The City Council of the City of La Porte hereby adopts Tax Increment Reinvestment Zone Guidelines, in form attached to this ordinance as Exhibit "A", incorporated by reference herein, and made part hereof for all purposes.

**Section 2.** The City Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 3.** This Ordinance shall be effective from and after its passage and approval, and it is so ordered.

PASSED AND APPROVED, this 24<sup>th</sup> day of MAY, 1999.

CITY OF LA PORTE

By: *[Signature]*

ATTEST:

*[Signature]*  
Martha A. Gillett  
City Secretary

APPROVED:

*[Signature]*  
Knox W. Askins  
City Attorney

## EXHIBIT "A"

### CITY OF LA PORTE, TEXAS TAX INCREMENT REINVESTMENT ZONE GUIDELINES

#### A. Purpose of Guidelines

The purpose of these guidelines is to establish the policy of the City of La Porte as it relates to the power granted by Chapter 311 of the Texas Property Tax Code (Tax Code) and Article b, Section 1-g of the Texas Constitution (together cited as the Tax Increment Financing Act) to finance the development and redevelopment of unproductive, underdeveloped or blighted areas within the City.

State law allows a municipality to designate an area as a Tax Increment Reinvestment Zone (Zone) to promote development or redevelopment of the area, if the City Council determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

There are two different methods of creating a Zone. One is City initiated and the other is initiated by the property owners. The second method has its beginning when a petition is submitted to the City. While a large portion of the law applies to both types, there are enough differences in creating the Zones that the two types will be discussed separately, beginning with the Zone created by petition.

#### 1. Creation of Zone by Petition

The owners of property constituting at least fifty (50%) percent of the appraised value of the property in an area, may petition the City for the creation of a Zone. Such petition is legally required for creation of a Zone if the Zone contains more than ten (10%) percent residential property based on existing use (referred to as a Residential Zone, if less than 10%, it is referred to as a Commercial Zone).

a. In considering a petition for creation of a Zone, Council will take into consideration the factors applicable to a City created Zone, which are described in Section A 2 a. Additional considerations are as follows:

1. a decrease in the aggregate property value of at least twenty (20%) percent over the most recent ten (10) years;
2. a substantial absence, deterioration or substandard condition in the City's infrastructure, streets, water and waste water lines, and storm drainage; and
3. A statement certifying that "except for" the creation of the Zone, the reinvestment would not occur.

- b. The area within the Zone must be contiguous and be not less than twenty (20) acres.
- c. Documentation required with Petition

Submission of a petition under 311.005(a)(5) of the Tax Code to create a Zone for the purpose of tax increment financing must be accompanied by a Preliminary Financing Plan. Both the petition and Preliminary Financing Plan must be finalized and submitted to the City on or before September 1, in order for a Zone to be created and to take effect the following tax year. The plan must include:

- 1. a description of the proposed boundaries of the proposed zone, including both a map (showing existing uses and conditions of real property in the Zone) and a legal description;
- 2. tentative plans and schedules for the development or redevelopment of the Zone, including conceptual drawings or descriptions of the public improvements proposed to be financed by the Zone, including a preliminary estimate of the total costs of the improvements;
- 3. an estimate of the general impact on the proposed Zone on property values and the tax revenues of the City and the other governmental entities levying ad valorem taxes throughout the life of the proposed Zone;
- 4. a schedule indicating total appraised values for the proposed Zone for the previous ten years (if available);
- 5. evidence that all tax arrearages and public liens on property owned or controlled by the petitioner has been satisfied; and
- 6. a statement certifying that "except for" the creation of the Zone, it would not be properly developed.

## 2. Creation of Zone by City

An area may be designated as a Zone by the City Council, if it meets the conditions listed below:

- a. The area is determined to substantially arrest or impair the sound growth of the City because of the presence of:
  - 1. substantial number of substandard, slum, deteriorated, or deteriorating structures;

2. the predominance of defective or inadequate sidewalk or street layout;
3. faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
4. unsanitary or unsafe conditions;
5. the deterioration of site or other improvements;
6. tax or special assessment delinquencies which exceed the fair market value of the land;
7. evidence of chronic abandonment or demolition of commercial or residential structures;
8. defective or unusual conditions of title;
9. conditions that endanger life or property by fire or other cause; or that
10. the area of the proposed Zone is predominately open and because of obsolete platting, deterioration of structures or site improvements or other factors substantially impair or arrest the sound growth in the City.

- b. The area within the Zone must be contiguous and be not less than twenty (20) acres.
- c. The area within the Zone currently contains ten percent (10%) or less residential use.

The remainder of the guidelines apply to the Zone, regardless of whether it was created by petition or initiated by the City.

## B. Redevelopment Activities

Redevelopment Activities for the Zone must:

1. be in accordance with redevelopment and land use plans approved by the Planning and Zoning Commission, and consistent with the City's Comprehensive Plan; and
2. be reasonably likely to increase the aggregate taxable value of property within the Zone by at least twenty (20%) percent during the life of the Zone; and

3. provide adequate infrastructure improvements to serve the Zone, including but not limited to streets, water and waste water facilities, and drainage structures, designed and constructed according to City standards; and
4. provide relocation assistance for low/moderate persons resident in the Zone who may be displaced by the implementation of the project plan (as defined by 311.002(2) of the Tax Code), and as such persons are defined by the U.S. Department of Housing and Urban Development.

C. Procedures for Creating a Reinvestment Zone

1. Before adopting an ordinance providing for a Reinvestment Zone, these actions must occur, in the following sequence:
  - a. City Council must schedule a public hearing to allow public comment on the proposed Zone. Notice of this hearing must be published in a newspaper having general circulation in the City at least seven (7) days prior to the hearing.
  - b. At least sixty (60) days before the scheduled public hearing, City Council must notify in writing the other taxing jurisdictions that levy real property taxes in the Zone that it intends on establishing a Zone. This notice must contain:
    1. a description of the proposed boundaries of the Zone;
    2. tentative plans for development or redevelopment of the zone;
    3. an estimate of the general impact of the proposed Zone on property values and tax revenues.
  - c. A Preliminary Financing Plan must be prepared and sent to the other affected taxing jurisdictions.

D. Powers of the Zone

1. The City's current Land Use Regulations and Zoning Ordinance shall apply to all development within the Zone.
2. However, the City may authorize by ordinance the enforcement of additional land use controls authorized by statute subject to the following:
  - a. Subject to the approval of the City Council, the board of the Zone may adopt additional powers granted by the provisions of state law found in Chapter 211, Local Government Code necessary to implement the Zone Project Plan and Reinvestment Zone Financing Plan.

- b. Any additional land use component shall include a description of the proposed land use regulations, a description of the economic and financial need for each land use regulation and a description of the effect of the comprehensive plan on the economic integrity of the Zone Project Plan and Reinvestment Zone Financing Plan. The land use component shall be reviewed annually by the Zone's board to ensure that both the public and private investment in the Zone are protected, and if additional restrictions are required, may approve amendments and changes for City Council review and approval.
- c. The Land Use Plan may impose maximum height, minimum square footage on new construction, maximum lot coverage and other restrictions to provide for sufficient private investment in the Zone's development or redevelopment to support Zone bonds, notes or obligations.
- d. Any additional land use controls shall be operative for at least the life of the Zone, and the Board may, with City Council approval, provide that a restriction adopted by the Board continues in effect after the termination of the Zone. If the land use controls continue after the termination of the Zone, such restrictions shall be treated as if adopted by the City in the first instance.
- e. The Board shall contract with the City for the purpose of enforcement of any additional land use controls authorized for use in the Zone.
- f. Essentially, the City's Zoning Ordinance establishes the process for identifying and terminating nonconforming uses.

Lawful nonconforming uses in Zones may be terminated as follows:

1. when the use ceases or is abandoned; or
  2. when the primary structure has been demolished or when rehabilitation in excess of 50% of the assessed value of the improvement at the time of Zone creation is completed; or
  3. when a sufficient period of time has elapsed to allow the recovery of the owner or owners investment in the nonconforming use or uses
- g. Nonconforming business uses may not be altered or expanded in any residential area in the Zone (e.g. no additional new employees, outside storage or parking may be created).

3. Under current Texas law, the City cannot delegate or extend to the Board its power of eminent domain. If the applicable state law is amended to permit the delegation or extension of such power, the policy of the City is not to authorize the delegation or extension of its power to the Board.

In addition, the City will utilize its power of eminent domain within the Zone only if the City Council finds that a public purpose will be served by such an exercise of the City's power.

If the Board proposes to condemn property for purposes related to redevelopment or urban renewal, the City will not exercise its power of eminent domain unless the City Council additionally finds that the property or the area immediately surrounding that property contains a substantial number of substandard, slum, deteriorated, or deteriorating structures. Provided, however, that in no event will the City condemn a residential homestead for purposes of redevelopment or urban renewal unless City Council finds that the property proposed to be condemned is, in fact, in a substandard or blighted condition.

4. The City will hold a public hearing prior to the approval of a Land Use Plan for the Zone in accordance with the City's Zoning Ordinance. The City will provide notice to all property owners within the Zone by certified mail, return receipt requested not less than fifteen (15) days prior to the hearing.
5. The City Council by ordinance may authorize the Board to provide for the management and administration of a public improvement district created within the Zone, as provided in such district's service plan required by law.
6. The City will not consider the creation of Municipal Utility Districts within the Zone.

#### E. Eligible Project Costs

1. In conformance with 311.002 of the Tax Code, the City shall consider the "except for" requirements required for the creation of the Zone and make a determination on a case by case basis of the project costs necessary to implement the Project Plan and Reinvestment Zone Financing Plan. In general, the City may consider the following project costs as eligible, but is neither obligated nor limited to the following:
  - a. Off-site utilities required to bring utilities to the Zone (e.g. water, waste water, road and drainage facilities, street lighting and traffic lights);
  - b. Upgrade existing infrastructure to provide additional capacity for future development of properties within the Zone (e.g. lift stations,

water and waste water improvements, turning lanes/intersection improvements, waste water treatment plant enhancements);

- c. Land purchase for public facilities and construction of projects that serve the general public such as overpasses, interchanges roadway beautification, convention centers, amphitheaters, marinas, park improvements, etc.
  - d. Oversizing of infrastructure within the Zone, including water, waste water, streets (arterial or greater), drainage (major channels and detention basins) and street lighting.
  - e. Specialty items such as signage, streetscape/landscape improvements and including the construction of sound barriers, buffering landscape between residential and nonresidential uses, and common recreation areas shall be considered on a case by case basis.
  - f. In general, the City will not consider as eligible costs the public infrastructure or land acquisition costs for individual developments within the TIRZ boundaries that serve only that development.
  - g. Exceptions to the policy on eligible costs will be considered on a case by case basis.
2. The City may retain funds as provide in Chapter 311.002 of the Tax Code to be reimbursed for the following:
- a. administrative costs attributed to others, plus reasonable charges for the time spent by employees of the City in connection with the implementation of the Project Plan and Reinvestment Zone Financing Plan;
  - b. the amount of any contribution made by the City from general revenue for the implementation of the project plan; and
  - c. payments made at the discretion of the governing body of the City that the City finds necessary or convenient to the creation of the Zone or to the implementation of the Project Plan and Reinvestment Zone Financing Plan.

F. Board of Directors

The Composition of the Board of Directors is determined by the Tax Increment Financing Act.

For a Commercial Zone (less than 10% of the Zone is currently residential use), the Board of Directors consist of at least five (5) and no more than fifteen (15)

members. Each taxing unit that levies real property taxes in the Zone may appoint one member of the Board. City Council determines the total size of the Board and appoints the remaining members, not to exceed a total of fifteen (15) members. To be eligible for appointment, individuals will be a qualified voter in the City or be at least eighteen (18) years of age and own real property in the Zone.

For a Residential Zone (more than 10% of the Zone is currently residential use), the Board of Directors consists of nine (9) members. Each participating school district or county may appoint one (1) member. The State Senator and the State Representative in whose districts the Zone is located are members of the Board. Each may designate another person to serve in his/her place. The remaining members are appointed by City Council. To be eligible for appointment, an individual must be eighteen (18) years of age or own real property in the Zone or be an agent of a person who owns real property in the Zone.

Board members serve two (2) year terms. The chairman is appointed by City Council to serve a term of one (1) calendar year.

G. Project Plan and Reinvestment Zone Financing Plan

The Zone Board of Directors shall submit a proposed Project Plan and Reinvestment Zone Financing Plan for the approval of City Council. The Plans must be prepared in accordance with 311.011 of the Tax Code.

H. Use of Funds

1. The tax increment or the proceeds of bonds, notes or obligations issued for any project or projects secured by the tax increment may be used for any purpose authorized in the Project Plan and Reinvestment Zone Financing Plan.
2. Proceeds shall be used for project facilities and improvements which are approved by the City and which have an estimated average useful life at least equal to the life of the Zone or notes financing such improvements, if any.
3. The funds of the Zone shall be budgeted, expended and audited in the same general manner as City bond and tax funds with such changes required by the provisions of state law. The costs of such City financial controls shall be included in the costs of administration of the Zone. The Zone budget must be submitted annually to the City Finance Department for approval. A copy of the Zone's Annual Audit must be forwarded to the City Secretary after Board approval.

## **Incentives Used in Deer Park, Pasadena, Baytown, Seabrook, and League City**

### Deer Park

The City of Deer Park has used **tax abatement** as a tool for any project only twice in the past thirty years. Although the City has an ordinance in place to authorize the use of **Chapter 380** on a case by case basis, no business has ever made application to use this tool. The City leaders want to use incentives only for homerun projects, such as “white table cloth restaurants” and “destination shopping/dining”, that meet a minimum investment threshold of \$2 million. Although Chapter 380 is available for use as a tool, and variances to customary practices may be considered, the City has not yet used it to encourage retail re-development, expansion, or retention. Fortunately, the City has very few vacant spaces that need to be filled with new tenants. The City fosters “organic”, home-grown redevelopment by drawing attention to new business enterprises through a monthly newsletter and advertising. Self-sustained retail redevelopment, which in general requires little to no public assistance, has been attributed to a large number of citizens who want to open their own small business in Deer Park.

### Pasadena

The City of Pasadena currently does **not** have a **Chapter 380** ordinance in place, but that would be economic development staff’s tool of choice to spur retail redevelopment. The City currently does not wish to offer any incentives to either new, existing, or expanding retail businesses. Although the City has a plan to redevelop the Northside of Pasadena, the City wishes to use all 4B funds for only those projects which create “primary jobs” as outlined by the Economic Development Act and listed in Section 501.002.(12) of the Local Government Code.

### League City

The City of League City does not offer incentives to existing retail businesses. It offers sales tax rebates and/or financial incentives through **Chapter 380** over a five (5) year period on a case-by-case basis to encourage quality retail development in selected areas of town. Many times they will offer incentives to new retailers to control the outer look and exterior of a new development, ensure upgraded/additional landscaping, and/or provide additional ease and accessibility to the business. They offered a 66% sales tax rebate to Cabela’s for five years, and a 35% sales tax rebate for five years to the new Kroger. For more simple projects, like retail strip centers, they will generally offer a sales tax rebate of 10-15% for five years, but, all projects are awarded on a case-by-case basis.

### Seabrook

The City of Seabrook offers a **Façade Improvement Program, Neighborhood Empowerment Zone Program, Chapter 380**, and **4B funds** for qualifying projects. Façade Improvement Grants are funded at 25% of the cost of construction up to a maximum grant amount of \$40,000. Grant recipients are responsible for all project costs that exceed \$40,000 for construction including all architectural and engineering fees. Eligible construction activity includes storefront improvements, awnings, canopies, entries, signage, and lighting. Financial assistance in the City’s Neighborhood Empowerment Zone Program is available only to businesses that invest a minimum of \$500,000 in capital improvements in the zone. Additional benefits are offered only to businesses that invest a

minimum of \$1 million in capital improvements in the zone. For businesses to qualify for Chapter 380 and 4B funds, they must qualify according to the prioritized goals which have been established by the EDC Board. All projects are considered and weighed by the EDC Board utilizing the Board's prioritized goals and criteria. All performance measures are customized according to the incentive.

Qualifying business may receive funding assistance in the form of a loan or grant for site development, public infrastructure improvements, permit and impact fees, and sales tax rebates.

The Seabrook Economic Development Corporation may also recommend and sponsor the project for consideration by City Council for property tax abatements, special district creation, planning and development considerations and variance requests.

### Baytown

The City of Baytown uses the **Baytown Municipal Development District, Revitalization Incentive Zone** (i.e. a Neighborhood Empowerment Zone), a **Chapter 380 Program, Tax Abatement**, and a **Downtown Façade Improvement Program** to foster both economic development and redevelopment.

In 2004, the citizens of Baytown approved the use of a ¼ cent sales tax to create the **Baytown Municipal Development District** and use the sales tax proceeds for "Street and Maintenance Repair" ([www.window.state.tx.us/taxinfo/addit.html](http://www.window.state.tx.us/taxinfo/addit.html)). More specifically, Baytown uses the funds for:

" . . . the purpose of financing economic development projects that provide economic benefit and diversify the economic base of the community. The MDD will fund additional economic and public improvements in the amount of \$27 million dollars over the next 10 years. Phase one projects, which are planned for the first five years, include the areas of economic development initiatives; streets, drainage, sidewalks and signalization improvements; utilities improvements; and parks improvements. Projects planned for the sixth year total approximately \$3 million." (Baytown's Business Incentives)

### **Revitalization Incentive Zone**

The goal of the Baytown Revitalization Incentive Zone (RIZ) program, which is structured as a Neighborhood Empowerment Zone (i.e. Chapter 378), is to promote economic development, encourage the rehabilitation of affordable housing and stimulate an increase in property values. There are two programs providing various incentives to eligible participants: Program 1, the Basic Incentives Program will grant a waiver of certain permit fees and impact fees; and Program 2, the Tax Incentive Program will grant a refund of the incremental increase of municipal ad valorem taxes for up to 5 years.

Qualifying structures include all commercial and residential improvements within the Revitalization Incentive Zone. New residential construction must have a minimum investment of \$65,000 and new commercial construction must have an initial investment of \$100,000. In order to qualify for the Basic Incentives on an existing structure, improvements must equal or exceed 20% of the appraised value of the existing improvements based upon the most recently certified value by the chief appraiser of HCAD. In order to qualify for the Tax Incentives, the previously stated minimum investment applies and the eligible improvement must increase the appraised value of the existing improvements by at least \$20,000 for residential and \$75,000 for commercial. For the purpose of this program, improvement does not include: personal property (property that is not

permanently fixed to one location), pipelines, deferred maintenance, property with an economic life less than 15 years and deferred maintenance.

### **Chapter 380**

The City of Baytown does not usually offer economic development incentives for retail “backfill” or “redevelopment”. In the few situations which they do consider offering such incentives to redevelop a particular retail store or area, they use a Chapter 380 Inter-Local Agreement with the Municipal Development District to offer sales tax funds for economic development on a case-by-case basis.

## La Porte Development Corporation Project Score Card

<u>Project Name</u>	<u>Added Taxable Value</u>	<u>10 Year PILOT or Tax Revenue</u>	<u># of Full Time Jobs</u>	<u># of Coop Positions</u>	<u>Grant Award</u>	<u>Raw Payback Period (Years)</u> <sup>6</sup>	<u>Adj. Payback Period for # of Jobs (Years)</u> <sup>7</sup>
Project Nebula, Unit #1	\$250 million	\$6,603,000	24	0	\$300,000	0.85	-2.75 <sup>7</sup>
Project Nebula, Unit #2	\$500 million	\$13,206,000	60	0	\$700,000	0.99	-8.01 <sup>7</sup>
InterGulf Corporation	\$2.1 million	\$149,100	30	0	\$500,000	33.53	29.03 <sup>7</sup>
Rob Johnson	\$6 million	\$843,750 <sup>2</sup>	10	0	\$106,000	1.26	1.26 <sup>8</sup>
Pipeline Grill	\$656,728	\$846,628 <sup>10</sup>	100	0	\$300,000	3.54	3.54
Fischer's Hardware	\$1,500,000 <sup>11</sup>	\$210,500 <sup>12</sup>	8	4	\$350,000	16.63	
El Toro	\$2,000,000 <sup>11</sup>	\$342,000 <sup>12</sup>	8	4	\$300,000	8.77	
Former Kroger	\$1,000,000 <sup>11</sup>	\$471,000 <sup>12</sup>	8	4	\$500,000	10.62	
Brewery (Lease)	\$500,000	\$585,500	12	12	\$300,000	5.12	
Brewery (Purchase)	\$500,000	\$105,500	12	12	\$300,000	28.44	
NEC	\$500,000	\$75,500	X	X	\$150,000	19.87	
Southern Komfort	\$500,000	\$135,500	X	X	\$125,000	9.23	
Richard Industrial Group	\$500,000	\$10,650 <sup>3</sup>	75	0	\$15,000	4.23	-7.02 <sup>7</sup>
Sector 23	\$8 million <sup>1</sup>	\$497,000	35 <sup>4</sup>	0	\$175,000	3.52	0.02 <sup>9</sup>
ACT Independent Turbo	\$6 million	\$426,000	60	5 <sup>5</sup>	\$426,000	10.00	0.25 <sup>7</sup>

**Notes:**

1. Based upon estimated from information provided, so far, by Alton Ogden.
2. Estimated sales of \$2 million results in estimated sales tax of \$2 million x 2%, or \$40,000. Annual sales tax of \$40,000 is included in the figure.
3. The term for this project is three (3) years as opposed to ten (10) years.
4. This assumption is based upon **15** buildings, **3** employees per building, minus **10** employees for a development agreement estimate.
5. Staff's estimate of the number of "Career Preparation" (i.e. Coop) positions to be offered by ACT to LPISD students.
6. Grant Award/Annual PILOT or Tax Revenue.
7. Grant Award/Annual PILOT or Tax Revenue - (# of Full Time Positions x 0.15) - (# of Coop Positions x 0.15); the arbitrary assigned value for each full time job is "0.15".
8. Grant Award/Annual PILOT or Tax Revenue - (# of Full Time Positions x 0) - (# of Coop Positions x 0); the arbitrary assigned value for each full time job is "0".
9. Grant Award/Annual PILOT or Tax Revenue - (# of Full Time Positions x 0.1) - (# of Coop Positions x 0.1); the arbitrary assigned value for each full time job is "0.1".
10.  $((\$4 \text{ million} \times 2\%) + \$4,662.77) \times 10$
11. Even though the project principals estimated that the increase in the taxable value would only increase by 20%, for the purposes of this analysis, staff assumed that the taxable value of the property would increase by \$800,000, the full amount of the proposed project costs.
12.  $((\text{Fischers NEW, Projected Taxable Retail Sales} - \text{Fischers CURRENT Taxable Retail Sales}) \times 2\%) + (\text{Additional taxable value of } \$800,000 \text{ at the city's tax rate}) \times 10$

LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE C1. ADDITIONAL PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 501. PROVISIONS GOVERNING DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 501.001. SHORT TITLE. This subtitle may be cited as the Development Corporation Act.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.002. DEFINITIONS. In this subtitle:

(1) "Authorizing unit" means the unit that authorizes the creation of a corporation under this subtitle.

(2) "Board of directors" means the board of directors of a corporation.

(3) "Bonds" includes evidences of indebtedness, including bonds and notes.

(4) "Corporate headquarters facilities" means buildings proposed for construction or occupancy as the principal office for a business enterprise's administrative and management services.

(5) "Corporation" means a corporation organized under this subtitle.

(6) "Cost," with respect to a project, has the meaning assigned by Section 501.152.

(7) "County alliance" means two or more counties that jointly authorize the creation of a corporation under this subtitle.

(8) "District" means a conservation and reclamation district established under Section 59, Article XVI, Texas Constitution.

(9) "Economic development office" means the Texas Economic Development and Tourism Office within the office of the governor.

(10) "Governing body" means the commissioners court of a county or the governing body of a municipality or district.

(11) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(12) "Primary job" means:

(A) a job that is:

(i) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and

(ii) included in one of the following sectors of the North American Industry Classification System (NAICS):

NAICS Sector #	Description
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51 (excluding 512131 and 512132)	Information (excluding motion picture theaters and drive-in motion picture theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, and 5419	Architectural, Engineering, and Related Services; Computer System Design and Related Services; Management, Scientific, and Technical Consulting Services; Scientific Research and Development Services; Other Professional, Scientific, and Technical Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions; or

(B) a job that is included in North American Industry Classification System (NAICS) sector number 928110, National Security, for the corresponding index entries for Armed Forces, Army, Navy, Air Force, Marine Corps, and Military Bases.

(13) "Project" means a project specified as such under Subchapter C.

(14) "Resolution" means a resolution, order, ordinance, or other official action by the governing body of a unit.

(15) "Type A corporation" means a corporation governed by Chapter 504.

(16) "Type B corporation" means a corporation governed by Chapter 505.

(17) "Unit" means a municipality, county, or district that may create and use a corporation under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.003. WHO MAY BE USER. The following may be a user under this subtitle:

(1) an individual, a partnership, a corporation, or any other private entity organized for profit or not for profit; or

(2) a municipality, county, district, other political subdivision, public entity, or agency of this state or the federal government.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April

1, 2009.

Sec. 501.004. LEGISLATIVE FINDINGS; CONSTRUCTION OF SUBTITLE. (a) The legislature finds that:

(1) the present and prospective right to gainful employment and the general welfare of the people of this state require as a public purpose the promotion and development of new and expanded business enterprises and of job training;

(2) the existence, development, and expansion of business, commerce, industry, higher education, and job training are essential to the economic growth of this state and to the full employment, welfare, and prosperity of residents of this state;

(3) the assistance provided by corporations in promoting higher education opportunities encourages and fosters the development and diversification of the economy of this state and the elimination of unemployment and underemployment in this state;

(4) the means authorized by this subtitle and the assistance provided by this subtitle, especially with respect to financing, are in the public interest and serve a public purpose of this state in promoting the welfare of the residents of this state economically by securing and retaining business enterprises and as a result maintaining a higher level of employment, economic activity, and stability;

(5) community industrial development corporations in this state have invested substantial money in successful industrial development projects and have experienced difficulty in undertaking additional industrial development projects because of the partial inadequacy of the community industrial development corporations' money or money potentially available from local subscription sources and the limitations of local financial institutions in providing additional and sufficiently large first mortgage loans; and

(6) communities in this state have been at a critical disadvantage in competing with communities in other states for the location or expansion of business enterprises because of the availability and prevalent use in all other states of financing and other special incentives, and, for that reason, the issuance of revenue bonds under this subtitle by a corporation on behalf of political subdivisions of this state for the promotion and development of new and expanded business enterprises to provide and encourage employment and the public welfare is in the public interest and is a public purpose.

(b) This subtitle shall be construed in conformity with the intention of the legislature expressed in this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April

1, 2009.

Sec. 501.005. ADOPTION OF ALTERNATE PROCEDURE. If a court holds that a procedure under this subtitle violates the federal or state constitution, a corporation by resolution may provide an alternate procedure that conforms to the constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.006. USE OF CORPORATION TO FINANCE PROJECT. A unit may use a corporation to issue bonds on the unit's behalf to finance the cost of a project, including a project in a federally designated empowerment zone or enterprise community or in an enterprise zone designated under Chapter 2303, Government Code, to promote and develop new and expanded business enterprises for the promotion and encouragement of employment and the public welfare.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.007. LENDING CREDIT OR GRANTING PUBLIC MONEY. (a) Except as provided by Subsection (b), a unit may not lend its credit or grant public money or another thing of value in aid of a corporation.

(b) A municipality may grant public money to a corporation under a contract authorized by Section 380.002.

(c) The grants, loans, expenditures, and tax exemptions authorized by this subtitle in connection with a project and authorized by a corporation in accordance with this subtitle constitute the making of loans or grants of public money or constitute other actions authorized by Section 52-a, Article III, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.011(a), eff. September 1, 2009.

Sec. 501.008. LIMITATION ON FINANCIAL OBLIGATION. A corporation may not incur a financial obligation that cannot be paid from:

- (1) bond proceeds;
- (2) revenue realized from the lease or sale of a project;
- (3) revenue realized from a loan made by the corporation to wholly or

partly finance or refinance a project; or

(4) money granted under a contract with a municipality under Section 380.002.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.009. POLICE POWERS NOT AFFECTED. This subtitle does not deprive this state or a governmental subdivision of this state of its police powers over a corporation's property and does not impair any police power over the property that is otherwise provided by law to any official or agency of this state or its governmental subdivisions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.010. DELEGATION OF UNIT'S SOVEREIGN POWERS PROHIBITED. A unit may not delegate to a corporation any of the unit's attributes of sovereignty, including the power to tax, the power of eminent domain, and the police power.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.011. REFERENCE TO ARTICLES OF INCORPORATION OR CERTIFICATE OF FORMATION. (a) With respect to a corporation created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) before January 1, 2006, a reference in any law of this state or in the corporation's governing documents to "articles of incorporation" means, for purposes of this subtitle, the corporation's certificate of formation.

(b) With respect to a corporation that is created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) before January 1, 2006, and continues to operate under articles of incorporation, a reference in this subtitle or any other law of this state or in the corporation's governing documents to "certificate of formation" means the corporation's articles of incorporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER B. CREATION AND OPERATION OF CORPORATION

Sec. 501.051. AUTHORITY TO CREATE. (a) Three or more individuals who are qualified voters of a unit may file with the unit's governing body a written

application requesting the unit to authorize creation of a corporation to act on behalf of the unit. The governing body may not charge a filing fee for the application.

(b) A corporation may be created only if the governing body of the unit by resolution:

(1) determines that the creation of the corporation is advisable; and

(2) approves the certificate of formation proposed to be used in organizing the corporation.

(c) A unit may authorize the creation of one or more corporations if the resolution authorizing the creation of each corporation specifies the public purpose of the unit to be furthered by the corporation. The specified public purpose must be limited to the promotion and development under this subtitle of enterprises to promote and encourage employment and the public welfare.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.052. NONMEMBER, NONSTOCK FORM OF CORPORATION. A corporation is a nonmember, nonstock corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.053. CORPORATION NONPROFIT; NET EARNINGS. (a) A corporation is nonprofit, and the corporation's net earnings remaining after payment of its expenses may not benefit an individual, firm, or corporation, except as provided by Subsection (b).

(b) If the board of directors determines that sufficient provision has been made for the full payment of the corporation's expenses, bonds, and other obligations, any net earnings of the corporation subsequently accruing shall be paid to the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.054. GENERAL POWERS, PRIVILEGES, AND FUNCTIONS. (a) A corporation has the powers, privileges, and functions of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or formed under the Texas Nonprofit Corporation Law, as described by Section [1.008](#), Business Organizations Code. To the extent that the provisions governing powers, privileges, and functions of a nonprofit corporation under those laws are in conflict with or inconsistent

with provisions of this subtitle governing powers, privileges, and functions of a nonprofit corporation, the provisions of this subtitle prevail.

(b) A corporation:

(1) has all powers incidental to or necessary for the performance of the powers provided by Sections [501.059](#), [501.060](#), [501.064](#), 501.153-501.155, [501.159](#), [501.201\(a\)](#), [501.208](#), [501.209](#), [501.214](#), and [501.402](#); and

(2) with respect to a project, may exercise all powers necessary or appropriate to effect a purpose for which the corporation is organized, subject to the control of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.055. CONSTITUTED AUTHORITY OR INSTRUMENTALITY. (a) A corporation is a constituted authority and an instrumentality, within the meaning of the United States Department of the Treasury regulations and the Internal Revenue Service rulings adopted under Section 103, Internal Revenue Code of 1986, as amended, including regulations and rulings adopted under Section 103, Internal Revenue Code of 1954, and may act on behalf of the corporation's authorizing unit for the specific public purpose authorized by the unit.

(b) A corporation is not a political subdivision or a political corporation for purposes of the laws of this state, including Section [52](#), Article III, Texas Constitution.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.056. CONTENTS OF CERTIFICATE OF FORMATION. The certificate of formation of a corporation must state:

(1) the name of the corporation;

(2) that the corporation is a nonprofit corporation;

(3) the duration of the corporation, which may be perpetual;

(4) the specific purpose for which the corporation is organized and may issue bonds on behalf of the unit;

(5) that the corporation has no members and is a nonstock corporation;

(6) any provision consistent with law for the regulation of the corporation's internal affairs, including any provision required or permitted by this subtitle to be stated in the bylaws;

(7) the street address of the corporation's initial registered office and the name of the corporation's initial registered agent at that address;

(8) the number of directors of the initial board of directors and the name and address of each initial director;

(9) the name and street address of each organizer; and

(10) that the unit has:

(A) by resolution specifically authorized the corporation to act on the unit's behalf to further the public purpose stated in the resolution and the certificate of formation; and

(B) approved the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.057. FILING OF CERTIFICATE OF FORMATION AND DELIVERY OF CERTIFICATE EVIDENCING FILING. (a) If the unit's governing body adopts a resolution under Section 501.051, the certificate of formation may be filed as provided by this section.

(b) Three originals of the certificate of formation shall be delivered to the secretary of state. If the secretary of state determines that the certificate of formation conforms to this subchapter, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original certificate of formation;

(2) file one of the original certificates of formation in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of formation;

(4) attach to each certificate evidencing the filing of the certificate of formation an original of the certificate of formation; and

(5) deliver a certificate evidencing the filing of the certificate of formation and the attached certificate of formation to:

(A) the organizers or the organizers' representatives; and

(B) the governing body of:

(i) the corporation's authorizing unit; or

(ii) any county in the county alliance that authorized the creation of the corporation, for a county alliance corporation.

(c) The governing body of a county to which a certificate evidencing the filing of the certificate of formation and the attached certificate of formation are delivered under Subsection (b)(5)(B)(ii) shall provide photocopies of the certificate evidencing the filing of the certificate of formation and the attached certificate of formation to each other member of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.058. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING. (a) A corporation's existence begins when the certificate evidencing the filing of its certificate of formation is issued.

(b) After the issuance of the certificate evidencing the filing of the certificate of formation, the formation of the corporation may not be contested for any reason.

(c) A certificate evidencing the filing of the certificate of formation is conclusive evidence that:

- (1) the organizers and the unit have performed all conditions precedent for the formation of the corporation; and
- (2) the corporation is formed under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.059. CORPORATE SEAL. A corporation may have a corporate seal and with respect to a project may impress, affix, or otherwise reproduce the seal or a facsimile of the seal on an instrument required to be executed by the corporation's appropriate officers.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.060. MAY SUE AND BE SUED. With respect to a project, a corporation may sue, be sued, complain, and defend in the corporation's name.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.061. CORPORATION'S ORGANIZATION NOT RESTRICTED. Except as provided by this subtitle, no proceeding, notice, or approval is required for the organization of a corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.062. BOARD OF DIRECTORS. (a) All of the powers of a corporation are vested in a board of directors consisting of three or more directors appointed by the governing body of the corporation's authorizing unit.

(b) A director serves for a term of not more than six years.

(c) The governing body of the corporation's authorizing unit may remove a director for cause or at will.

(d) A director serves without compensation, but is entitled to reimbursement for actual expenses incurred in the performance of the director's duties under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.063. ORGANIZATIONAL MEETING. (a) After issuance of the certificate evidencing the filing of the certificate of formation, the board of directors named in the certificate of formation shall hold an organizational meeting in this state to adopt bylaws and elect officers and for other purposes.

(b) Not later than the third day before the date of the meeting, the organizers who call the meeting shall give notice by mail of the time and place of the meeting to each director named in the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.064. BYLAWS. (a) A corporation may adopt and amend bylaws for the administration and regulation of the corporation's affairs.

(b) The board of directors shall adopt a corporation's initial bylaws.

(c) The bylaws and each amendment of the bylaws must:

(1) be consistent with state law and with the certificate of formation of the corporation; and

(2) be approved by resolution of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.065. OFFICERS. (a) A corporation has the following officers:

(1) a president;

(2) at least one vice president;

(3) a secretary;

(4) a treasurer; and

(5) other officers or assistant officers considered necessary.

(b) An officer of the corporation is elected or appointed at the time, in the manner, and for the term prescribed by the certificate of formation or bylaws, except that an officer's term may not exceed three years. In the

absence of provisions in the certificate of formation or the bylaws prescribing the selection or terms of officers, the board of directors shall annually elect or appoint officers.

(c) A person may hold more than one office, except that the same person may not hold the offices of president and secretary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.066. INDEMNIFICATION. (a) In this section, "director or officer" includes a former director or officer.

(b) Except as provided by Subsection (d), a corporation may indemnify a director or officer of the corporation for necessary expenses and costs, including attorney's fees, actually incurred by the director or officer in connection with a claim asserted against the director or officer, by action in court or another forum, by reason of the director's or officer's being or having been a director or officer of the corporation.

(c) Except as provided by Subsection (d), if a corporation has not fully indemnified a director or officer under Subsection (b), the court in a proceeding in which a claim is asserted against the director or officer or a court having jurisdiction over an action brought by the director or officer on a claim for indemnity may assess indemnity against the corporation or the corporation's receiver or trustee. The assessment must equal the amount that the director or officer paid to satisfy the judgment or compromise the claim, including attorney's fees and not including any amount paid to the corporation, to the extent that:

- (1) the amount paid was actually and necessarily incurred; and
- (2) the court considers the amount paid reasonable and equitable.

(d) A corporation may not indemnify a director or officer for a matter in which the director or officer is guilty of negligence or misconduct. A court may assess indemnity against the corporation only if the court finds that the director or officer was not guilty of negligence or misconduct in the matter for which indemnity is sought.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.067. INSURANCE AND BENEFITS. (a) Notwithstanding any law to the contrary and with the consent of the corporation's authorizing unit, a corporation may obtain:

- (1) health benefits coverage, liability coverage, workers'

compensation coverage, and property coverage under the authorizing unit's insurance policies, through self-funded coverage, or under coverage provided under an interlocal agreement with a political subdivision; or

(2) retirement benefits under a retirement program the authorizing unit participates in or operates.

(b) Health benefits coverage may be extended to the corporation's directors and employees, and to the dependents of the directors and employees.

(c) Workers' compensation benefits may be extended to the corporation's directors, employees, and volunteers.

(d) Liability coverage may be extended to protect the corporation and the corporation's directors and employees.

(e) Retirement benefits may be extended to the corporation's employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.068. BOARD MEETINGS; NOTICE OF MEETING. (a) A board of directors may hold a regular meeting in this state with or without notice as prescribed by the corporation's bylaws.

(b) A board of directors may hold a special meeting with notice as prescribed by the corporation's bylaws.

(c) A director's attendance at a board meeting constitutes a waiver of notice of the meeting, unless the director attends the meeting for the express purpose of objecting to the transaction of any business at the meeting because the meeting has not been lawfully called or convened.

(d) Unless required by the corporation's bylaws, notice or waiver of notice of a board meeting is not required to specify the business to be transacted at the meeting or the purpose of the meeting.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.069. WAIVER OF NOTICE. If a notice is required to be given to a director of a corporation under this subtitle or the corporation's certificate of formation or bylaws, a written waiver of the notice signed by the person entitled to the notice is equivalent to giving the required notice. The waiver may be given before or after the time that would have been stated in the notice.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.070. ACTION OF BOARD; QUORUM. (a) A quorum of a board of

directors is the lesser of:

(1) a majority of the number of directors:

(A) established by the corporation's bylaws; or

(B) stated in the corporation's certificate of formation, if the

bylaws do not establish the number of directors; or

(2) the number of directors, not less than three, established as a quorum by the certificate of formation or bylaws.

(b) The act of a majority of the directors present at a meeting at which a quorum is present is an act of the board of directors, unless the act of a larger number is required by the certificate of formation or bylaws of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.071. ACTION WITHOUT MEETING. (a) An action that may be taken at a meeting of a board of directors, including an action required by this subtitle to be taken at a meeting, may be taken without a meeting if each director signs a written consent providing the action to be taken.

(b) The consent has the same effect as a unanimous vote and may be stated as such in a document filed with the secretary of state under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.072. OPEN MEETINGS AND PUBLIC INFORMATION. A board of directors is subject to the open meetings law, Chapter 551, Government Code, and the public information law, Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.073. SUPERVISION BY AUTHORIZING UNIT. (a) The corporation's authorizing unit will approve all programs and expenditures of a corporation and annually review any financial statements of the corporation.

(b) A corporation's authorizing unit is entitled to access to the corporation's books and records at all times.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.074. PURCHASING. A corporation may use the reverse auction

procedure defined by Section 2155.062(d), Government Code, for purchasing.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.075. EXEMPTION FROM TAXATION. (a) The activities of a corporation affect all the residents of the corporation's authorizing unit by the corporation's assuming to a material extent what otherwise might be an obligation or duty of the authorizing unit, and therefore the corporation is an institution of purely public charity within the tax exemption of Section 2, Article VIII, Texas Constitution.

(b) A corporation is exempt from the tax imposed by Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER C. AUTHORIZED PROJECTS

Sec. 501.101. PROJECTS RELATED TO CREATION OR RETENTION OF PRIMARY JOBS. In this subtitle, "project" includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are:

- (1) for the creation or retention of primary jobs; and
- (2) found by the board of directors to be required or suitable for the development, retention, or expansion of:

- (A) manufacturing and industrial facilities;
- (B) research and development facilities;
- (C) military facilities, including closed or realigned military

bases;

(D) transportation facilities, including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, related infrastructure located on or adjacent to an airport or railport facility, marine ports, inland ports, mass commuting facilities, and parking facilities;

- (E) sewage or solid waste disposal facilities;
- (F) recycling facilities;
- (G) air or water pollution control facilities;
- (H) facilities for furnishing water to the public;
- (I) distribution centers;
- (J) small warehouse facilities capable of serving as decentralized storage and distribution centers;
- (K) primary job training facilities for use by institutions of

higher education; or

(L) regional or national corporate headquarters facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.012(a), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 150 (S.B. 2052), Sec. 1, eff. September 1, 2009.

Sec. 501.102. PROJECTS RELATED TO CERTAIN JOB TRAINING. In this subtitle, "project" includes job training required or suitable for the promotion of development and expansion of business enterprises and other enterprises described by this subtitle, as provided by Section 501.162.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.103. CERTAIN INFRASTRUCTURE IMPROVEMENT PROJECTS. In this subtitle, "project" includes expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to:

(1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements;

(2) telecommunications and Internet improvements; or

(3) beach remediation along the Gulf of Mexico.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.104. PROJECTS RELATED TO CERTAIN MILITARY BASES OR MISSIONS. In this subtitle, "project" includes the infrastructure, improvements, land acquisition, buildings, or expenditures that:

(1) are for the creation or retention of primary jobs or jobs that are included in North American Industry Classification System (NAICS) sector number 926120, Regulation and Administration of Transportation Programs, for the corresponding index entry for Coast Guard (except the Coast Guard Academy); and

(2) are found by the board of directors to be required or suitable for:

(A) promoting or supporting a military base in active use to

prevent the possible future closure or realignment of the base;

(B) attracting new military missions to a military base in active use; or

(C) redeveloping a military base that has been closed or realigned, including a military base closed or realigned according to the recommendation of the Defense Base Closure and Realignment Commission under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.105. CAREER CENTER PROJECTS OUTSIDE OF JUNIOR COLLEGE DISTRICT. In this subtitle, "project" includes the land, buildings, equipment, facilities, improvements, and expenditures found by the board of directors to be required or suitable for use for a career center, if the area to be benefited by the career center is not located in the taxing jurisdiction of a junior college district.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.106. AIRPORT FACILITIES OR OTHER PROJECTS BY CORPORATIONS AUTHORIZED BY CERTAIN BORDER MUNICIPALITIES. (a) This section applies only to a corporation authorized to be created by a municipality, any part of which is located within 25 miles of an international border.

(b) For a corporation to which this section applies, in this subtitle, "project" includes the land, buildings, facilities, infrastructure, and improvements that:

(1) the corporation's board of directors finds are required or suitable for the development or expansion of airport facilities; or

(2) are undertaken by the corporation if the municipality that authorized the creation of the corporation has, at the time the corporation approves the project as provided by this subtitle:

(A) a population of less than 50,000; or

(B) an average rate of unemployment that is greater than the state average rate of unemployment during the most recent 12-month period for which data is available that precedes the date the project is approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.107. INFRASTRUCTURE PROJECTS BY CORPORATIONS AUTHORIZED BY

MUNICIPALITIES IN CERTAIN BORDER COUNTIES. (a) This section applies only to a corporation that:

(1) is authorized to be created by a municipality wholly or partly located in a county that:

(A) is bordered by the Rio Grande;

(B) has a population of at least 500,000; and

(C) has wholly or partly within its boundaries at least four municipalities each of which has a population of at least 25,000; and

(2) does not support a project, as defined by this subchapter, with sales and use tax revenue collected under Chapter 504 or 505.

(b) For a corporation to which this section applies, in this subtitle, "project" includes expenditures found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, including airports, ports, and sewer or solid waste disposal facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

For expiration of this section, see Subsection (c).

Sec. 501.108. INFRASTRUCTURE IMPROVEMENT PROJECTS BY CORPORATIONS AUTHORIZED BY CERTAIN COASTAL MUNICIPALITIES. (a) This section applies only to a corporation the creation of which was authorized by a municipality that:

(1) has a population of 10,000 or more;

(2) is located in a county bordering the Gulf of Mexico or the Gulf Intracoastal Waterway; and

(3) has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent above the state average for the most recent two consecutive years for which statistics are available.

(b) For a corporation to which this section applies, "project" includes expenditures found by the board of directors to be required or suitable for infrastructure improvements necessary to develop and revitalize areas in the corporation's authorizing municipality, including:

(1) streets and roads, rail spurs, water and sewer utilities, electric utilities, gas utilities, drainage, site improvements, and related improvements;

(2) telecommunications, data, or Internet improvements; or

(3) facilities designed to remediate, mitigate, or control erosion, including coastal erosion along the Gulf of Mexico or the Gulf Intracoastal

Waterway.

(c) This section expires September 1, 2017.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1281 (H.B. 1966), Sec. 1, eff. June 14, 2013.

#### SUBCHAPTER D. CORPORATE POWERS AND LIMITATIONS RELATING TO PROJECTS

Sec. 501.151. AUTHORITY TO FINANCE PROJECT. A corporation is a constituted authority for the purpose of financing one or more projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.152. DEFINITION OF COST WITH RESPECT TO PROJECT. In this subtitle, "cost," with respect to a project, means the cost of the acquisition, cleanup, construction, reconstruction, improvement, or expansion of a project, including:

- (1) the cost of acquiring all land, rights-of-way, property rights, easements, and interests;
- (2) the cost of all machinery and equipment;
- (3) financing charges;
- (4) the cost of inventory, raw materials, and other supplies;
- (5) research and development costs;
- (6) interest accruing before and during construction and until the first anniversary of the date the construction is completed, regardless of whether capitalized;
- (7) necessary reserve funds;
- (8) the cost of estimates, including estimates of cost and revenue;
- (9) the cost of engineering or legal services;
- (10) the cost of plans, specifications, or surveys;
- (11) other expenses necessary or incident to determining the feasibility and practicability of acquiring, cleaning, constructing, reconstructing, improving, and expanding the project;
- (12) administrative expenses; and
- (13) other expenditures necessary or incident to:
  - (A) acquiring, cleaning, constructing, reconstructing, improving, and expanding the project;
  - (B) placing the project in operation; and
  - (C) financing or refinancing the project, including refunding any outstanding obligations, mortgages, or advances issued, made, or given by a person for a cost described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.153. LEASE OR SALE OF PROJECT. (a) A corporation may:

(1) lease all or any part of a project to a user, for the rental and on the terms that the corporation's board of directors considers advisable and not in conflict with this subtitle; or

(2) sell, by installment payments or otherwise, and convey all or any part of a project to a user for the purchase price and on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

(b) A corporation may grant a lessee an option to purchase all or any part of a project when all bonds of the corporation delivered to provide those facilities have been paid or provision has been made for the bonds' final payment. This subsection is procedurally exclusive for authority to convey or grant an option to purchase all or part of a project, and reference to another law is not required.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.154. CONVEYANCE OF PROPERTY TO INSTITUTION OF HIGHER EDUCATION.

With respect to a project, a corporation may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property, fixtures, furnishings, equipment, or personal property to an institution of higher education for a legal purpose of the institution, on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.155. LOAN TO FINANCE PROJECT. (a) A corporation may make a secured or unsecured loan to a user for the purpose of providing temporary or permanent financing or refinancing of all or part of the cost of a project, including the refunding of an outstanding obligation, mortgage, or advance issued, made, or given by a person for the cost of a project.

(b) For a loan made under this section, a corporation may charge and collect interest on the terms the corporation's board of directors considers advisable and not in conflict with this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April

1, 2009.

Sec. 501.156. AGREEMENT MUST BENEFIT CORPORATION. An agreement relating to a project must be for the benefit of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.157. DEFAULT ON AGREEMENT; ENFORCEMENT. An agreement relating to a project must provide that if a default occurs in the payment of the principal of or the interest or premium on the bonds or in the performance of any agreement contained in a proceeding, mortgage, or instrument, the payment or performance may be enforced by:

(1) mandamus; or

(2) the appointment of a receiver in equity with the power to:

(A) charge and collect rents, purchase price payments, and loan payments; and

(B) apply the revenue from the project in accordance with the resolution, mortgage, or instrument.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.158. PERFORMANCE AGREEMENTS. (a) A corporation may not provide a direct incentive to or make an expenditure on behalf of a business enterprise under a project as defined by Subchapter C of this chapter or by Subchapter D, Chapter 505, unless the corporation enters into a performance agreement with the business enterprise.

(b) A performance agreement between a corporation and business enterprise must:

(1) provide, at a minimum, for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement; and

(2) specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.159. POWERS CONCERNING PROJECTS; JURISDICTION. (a) A

corporation may acquire, by construction, devise, purchase, gift, lease, or otherwise, or any one or more of those methods and may construct, improve, maintain, equip, and furnish one or more projects undertaken by another corporation or located within this state, including within the coastal waters of this state, and within or partially within the limits of the authorizing unit of the corporation or within the limits of another unit, if the governing body of the other corporation or the unit requests the corporation to exercise its powers within that unit.

(b) A corporation may recover the costs of an investment under Subsection (a) from a unit or another corporation under a contract with a limited or unlimited duration.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.160. OWNING OR OPERATING PROJECT AS BUSINESS. (a) Except as provided by Subsection (d), a corporation may not own or operate a project as a business other than:

(1) as a lessor, seller, or lender; or

(2) according to the requirements of any trust agreement securing the credit transaction.

(b) The user under a lease, sale, or loan agreement relating to a project is considered the owner of the project for purposes of ad valorem taxes, sales and use taxes, or any other taxes imposed by this state or a political subdivision of this state.

(c) Purchasing and holding a mortgage, deed of trust, or other security interest or contracting for the servicing of a mortgage, deed of trust, or other security interest is not considered the operation of a project.

(d) A corporation has all the powers necessary to own and operate a project as a business if the project is a military installation or military facility that has been closed or realigned, including a military installation or facility closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note), as amended.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.161. CERTAIN ECONOMIC INCENTIVES PROHIBITED. (a) In this section, "related party" means a person who owns at least 80 percent of the business enterprise to which the sales and use tax would be rebated as part of an economic incentive.

(b) Notwithstanding any other provision of this subtitle, a corporation may not offer to provide an economic incentive for a business enterprise whose business consists primarily of purchasing taxable items using a resale certificate and then reselling those items to a related party.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.162. USE OF TAX REVENUE FOR JOB TRAINING. A corporation may spend tax revenue received under this subtitle for job training offered through a business enterprise only if the business enterprise has committed in writing to:

- (1) create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area; or
- (2) increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 1283 (H.B. [1967](#)),  
Sec. 1

For text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 1295 (H.B. [2473](#)), Sec. 1, see other Sec. 501.163.

Sec. 501.163. USE OF TAX REVENUE FOR JOB-RELATED SKILLS TRAINING BY CERTAIN CORPORATIONS. (a) This section applies only to a corporation the creation of which was authorized by a municipality that:

- (1) has a population of 10,000 or more;
- (2) is located in a county bordering the Gulf of Mexico or the Gulf Intracoastal Waterway; and
- (3) has, or is included in a metropolitan statistical area of this state that has, an unemployment rate that averaged at least two percent above the state average for the most recent two consecutive years for which statistics are available.

(b) A corporation may spend tax revenue received under this subtitle for job training that consists of:

- (1) providing job-related life skills sufficient to enable an unemployed individual to obtain employment; and
- (2) providing job training skills sufficient to enable an unemployed individual to obtain employment.

(c) A corporation to which this section applies may contract with any person to provide the job training authorized under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1283 (H.B. 1967), Sec. 1, eff. June 14, 2013.

Text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 1295 (H.B. 2473),  
Sec. 1

For text of section as added by Acts 2013, 83rd Leg., R.S., Ch. 1283 (H.B. 1967), Sec. 1, see other Sec. 501.163.

For expiration of this section, see Subsection (c).

Sec. 501.163. USE OF TAX REVENUE FOR HOUSING FACILITIES FOR PUBLIC STATE COLLEGES. (a) In this section:

(1) "Housing facility" has the meaning assigned by Section 53.02, Education Code.

(2) "Public state college" has the meaning assigned by Section 61.003, Education Code.

(b) A corporation may spend tax revenue received under this subtitle for expenditures that are for the development or construction of housing facilities on or adjacent to the campus of a public state college.

(c) This section expires September 1, 2017.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1295 (H.B. 2473), Sec. 1, eff. June 14, 2013.

#### SUBCHAPTER E. CORPORATE POWERS AND LIMITATIONS RELATING TO BONDS

Sec. 501.201. AUTHORITY TO ISSUE BONDS. (a) A corporation may issue bonds to defray all or part of the cost of a project, regardless of whether the bonds are wholly or partly exempt from federal income taxation.

(b) Except as limited by this subtitle or rules and guidelines of the economic development office, a corporation has full authority with respect to bonds.

(c) Except as otherwise provided by this subtitle, a corporation may issue bonds under this subtitle without obtaining the consent or approval of any department, division, or agency of this state, other than the attorney general under Chapter 1202, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.202. TERMS. Bonds issued by a corporation must be dated and must mature in not more than 40 years.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.203. SECURITIES COMMISSIONER PERMIT TO SELL SECURITIES REQUIRED. A corporation may not sell or offer for sale bonds or other securities until the securities commissioner grants a permit authorizing the corporation to offer and sell the bonds or other securities under the registration provisions of The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), except as exempted from registration by rule or order of the State Securities Board. Appeal from an adverse decision of the securities commissioner or the State Securities Board is under the administrative procedure law, Chapter 2001, Government Code. The substantial evidence rule applies in an appeal under this subsection.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.204. AUTHORIZING UNIT'S APPROVAL OF BONDS. (a) A corporation may not deliver bonds, including refunding bonds, unless the governing body of the corporation's authorizing unit adopts a resolution, not earlier than the 60th day before the date the bonds are delivered, specifically approving the corporation's resolution providing for the issuance of the bonds.

(b) If the corporation is authorized to be created by a county alliance, the resolution required by Subsection (a) must be adopted by the commissioners courts of at least three-fifths of the members of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.205. BOND COUNSEL AND FINANCIAL ADVISORS. Bond counsel and financial advisors participating in a bond issue must be mutually acceptable to the corporation and the user.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.206. MONEY USED TO PAY BONDS. The principal of and interest on bonds issued by a corporation are payable only from the money provided for that payment and from the revenue of the project or projects for which the bonds were

authorized.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.207. BONDS NOT DEBT OF STATE OR AUTHORIZING UNIT. (a) Bonds issued under this subtitle are not a debt or pledge of the faith and credit of this state, the authorizing unit of the corporation issuing the bonds, or any other political corporation, subdivision, or agency of this state.

(b) The revenue bonds issued under this subtitle must contain on their face a statement to the effect that:

(1) neither this state, the authorizing unit of the corporation issuing the bonds, nor any other political corporation, subdivision, or agency of this state is obligated to pay the principal of or the interest on the bonds; and

(2) neither the faith and credit nor the taxing power of this state, the authorizing unit of the corporation issuing the bonds, or any other political corporation, subdivision, or agency of this state is pledged to the payment of the principal of or the interest on the bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.208. BOND SECURITY; DEFAULT. (a) The principal of and interest on any bonds issued by a corporation shall be secured by a pledge of the revenues and receipts derived by the corporation from the lease or sale of the project financed by the bonds or from the loan made by the corporation with respect to the project financed or refinanced by the bonds.

(b) As security for the payment of the principal of and interest on any bonds issued by a corporation and any agreements made in connection with the issuance of bonds, the corporation may:

(1) mortgage and pledge any or all of the corporation's projects or any part of a project, including the project financed or refinanced and any enlargements of and additions to the project, owned before or acquired after the time of the mortgage or pledge; and

(2) assign any mortgage and repledge any security conveyed to the corporation to secure any loan made by the corporation, and pledge the revenues and receipts from the assigned mortgage or security.

(c) The resolution authorizing the issuance of bonds and any mortgage covering all or part of the project financed may include any agreement or provision that the board of directors considers advisable and not in conflict

with this subtitle and that relates to:

- (1) the maintenance of the project covered by the bonds or mortgage;
- (2) the fixing and collection of rents;
- (3) purchase price payments;
- (4) loan payments;
- (5) the creation and maintenance of special funds from those revenues;

or

- (6) the rights and remedies available in the event of a default.

(d) A mortgage to secure bonds may also provide that, in the event of a default in the payment of the bonds or a violation of another agreement contained in the mortgage, the mortgage may be foreclosed and the mortgaged property may be sold in any manner permitted by law. The mortgage may provide that a trustee under the mortgage or the holder of any of the bonds secured by the mortgage may purchase property at a foreclosure sale if the trustee or holder is the highest bidder.

(e) A pledge, agreement, or mortgage made for the benefit or security of any of the corporation's bonds continues in effect until the principal of and interest on the bonds benefited or secured by the pledge, agreement, or mortgage have been fully paid.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.209. TRUST AGREEMENT. (a) Bonds issued under this subtitle may be secured by a trust agreement between the corporation and a trust company or bank having the powers of a trust company. The trust company or bank may be located in or outside of this state.

(b) The trust agreement may:

- (1) pledge or assign the lease, sale, or loan revenues to be received with respect to a project from a lessee, purchaser, or borrower for the payment of the principal of and interest and any premium on the bonds as the bonds become due and payable;
- (2) provide for the creation and maintenance of reserves for a purpose described by Subdivision (1);
- (3) state the rights and remedies of the bondholders and the trustee;
- (4) restrict the individual right of action by bondholders in a manner that is customary in trust agreements or trust indentures securing bonds and debentures of private corporations; and
- (5) include any additional provision that the corporation considers reasonable and proper for the security of the bondholders.

(c) The trust agreement or a resolution approving the issuance of the

bonds may provide for the protection and enforcement of the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants providing the duties relating to:

(1) the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project in connection with which the bonds are authorized; and

(2) the custody, protection, and application of all money.

(d) A bank or trust company incorporated under the laws of this state that acts as depository of the bond proceeds or of revenues may furnish indemnifying bonds or pledge securities as required by the corporation.

(e) All expenses incurred in carrying out the trust agreement may be treated as a part of the cost of operating the project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.210. FINANCIAL ASSURANCE OR RESPONSIBILITY REQUIREMENTS FOR CERTAIN PROJECTS. (a) The resolution or mortgage described by Section 501.208(c) may contain any agreement or provision for satisfying the financial assurance or responsibility requirements applicable to a project for which a permit is required under Chapter 361, Health and Safety Code, or Chapter 27, Water Code, including a requirement relating to construction, proper operation, liability coverage, emergency response capability, well plugging, closure, and post-closure care.

(b) Evidence of the passage of a resolution by a governing body approving or agreeing to approve the issuance of bonds for the purpose of satisfying the financial assurance or responsibility requirements applicable to the project is an adequate demonstration that sufficient financial resources will be available to comply with all existing financial assurance or responsibility requirements.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.211. USE OF BOND PROCEEDS. (a) The proceeds of the bonds of each issue shall be:

(1) used to pay or make a loan in the amount of all or part of the cost of the project or projects for which the bonds were authorized; and

(2) disbursed in the manner and under any restrictions provided in the resolution authorizing the issuance of the bonds or in any trust agreement securing the bonds.

(b) Bond proceeds may be used to:

(1) pay all costs incurred in issuing the bonds;

(2) pay interest on the bonds for any time determined by the board of directors of the corporation issuing the bonds; and

(3) establish reserve funds and sinking funds for the bonds.

(c) If the proceeds of the bonds of any series issued for a project exceed the cost of the project for which the bonds were issued, the surplus shall be:

(1) deposited to the credit of the sinking fund for the bonds; or

(2) used to purchase bonds in the open market.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.212. INTERIM BONDS. (a) Before the preparation of definitive bonds, the corporation may, under like restrictions, issue interim bonds that may be exchanged for definitive bonds when the definitive bonds are executed and available for delivery.

(b) The corporation may issue interim bonds with or without coupons.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.213. REFUNDING BONDS. (a) A corporation may provide by resolution for the issuance of refunding bonds:

(1) to refund outstanding bonds issued under this subtitle for a project, including the payment of any redemption premium on the bonds and the interest accrued or to accrue to the date of redemption; and

(2) if considered advisable by the corporation, additionally to finance improvements, extensions, or enlargements to the project for which the bonds being refunded were issued or for another project.

(b) The provisions of this subtitle relating to other bonds govern the issuance, maturities, and other details of the refunding bonds, the rights of the holders of the refunding bonds, and the rights, duties, and obligations of the corporation with respect to the same to the extent those provisions may be applicable.

(c) The corporation may issue the refunding bonds in exchange for outstanding bonds or may sell the refunding bonds and use the proceeds to redeem outstanding bonds.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.214. SALE OR EXCHANGE OF BONDS. With respect to a project, a

corporation may:

- (1) sell bonds; or
- (2) exchange bonds for property, labor, services, material, or equipment comprising a project or incidental to the acquisition of a project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER F. ADMINISTRATION BY ECONOMIC DEVELOPMENT OFFICE

Sec. 501.251. STATE STANDARDS FOR PROJECT ELIGIBILITY. The economic development office shall adopt rules providing minimum standards for project eligibility.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.252. STATE STANDARDS AND GUIDELINES FOR LEASE, SALE, OR LOAN AGREEMENTS. (a) The economic development office shall adopt rules:

- (1) providing minimum standards for lease, sale, and loan agreements entered into under this subtitle; and
- (2) providing guidelines with respect to the business experience, financial resources, and responsibilities of the lessee, purchaser, or borrower under a lease, sale, or loan agreement entered into under this subtitle.

(b) The economic development office may adopt rules governing the terms of a loan made by a corporation to a bank or other lending institution the proceeds of which are reloaned as permanent or temporary financing of a project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.253. RULES FOR SMALL BUSINESS PROGRAMS. The economic development office shall adopt rules governing programs for small businesses receiving loans guaranteed wholly or partly by the United States Small Business Administration or another federal agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.254. FILING OF RULES AND GUIDELINES WITH SECRETARY OF STATE. Rules and guidelines adopted by the economic development office and amendments to the rules and guidelines take effect only after the filing of the rules and guidelines or amendments with the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.255. APPROVAL OF LEASE, SALE, OR LOAN AGREEMENT. (a) A lease, sale, or loan agreement entered into under this subtitle must be approved by the economic development office. The economic development office may not approve an agreement unless the office affirmatively finds that the project sought to be financed furthers the public purposes of this subtitle.

(b) The corporation may appeal an adverse ruling or decision of the economic development office under Subsection (a) to a district court of Travis County. The substantial evidence rule applies in an appeal under this subsection.

(c) A corporation:

(1) may enter into a lease, sale, or loan agreement under this subtitle without obtaining the consent or approval of any department, division, or agency of this state except as otherwise provided by this subtitle; and

(2) has full authority with respect to a lease, sale, or loan agreement, except as limited by this subtitle or by rules and guidelines of the economic development office.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.256. APPROVAL OF BONDS BY ECONOMIC DEVELOPMENT OFFICE. (a) A corporation may submit a transcript of proceedings in connection with the issuance of bonds to the economic development office and request that the office approve the bonds. A corporation shall include a nonrefundable filing fee with the request. The office shall set the amount of the fee at a reasonable amount that is not less than \$500 or more than \$25,000.

(b) If the economic development office refuses to approve the bond issue solely on the basis of law, the corporation may seek a writ of mandamus from the Texas Supreme Court, and for this purpose the executive director of the economic development office is considered a state officer under Section [22.002](#), Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.257. FILING OF FEE SCHEDULE AND BOND PROCEDURES. The economic development office by rule shall require a corporation to file fee schedules and bond procedures.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.258. DELEGATION OF AUTHORITY. The economic development office may delegate to the executive director of the office the authority to approve a lease, sale, or loan agreement made under this subtitle or bonds issued by a corporation or any documents submitted as provided in this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

SUBCHAPTER G. AMENDMENT OR RESTATEMENT OF  
CERTIFICATE OF FORMATION

Sec. 501.301. AMENDMENT BY BOARD OF DIRECTORS. (a) The board of directors of a corporation at any time may file with the governing body of the corporation's authorizing unit a written application requesting that the authorizing unit approve an amendment to the certificate of formation.

(b) The application must specify the proposed amendment. The board of directors shall amend the certificate of formation in accordance with this subchapter if the governing body of the authorizing unit by resolution:

- (1) determines that it is advisable to adopt the amendment;
- (2) authorizes the adoption of the amendment; and
- (3) approves the form of the amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.302. AMENDMENT BY UNIT. The governing body of the authorizing unit of a corporation, at the unit's sole discretion, may in accordance with this subchapter amend the corporation's certificate of formation at any time by:

- (1) adopting the amendment by resolution; and
- (2) delivering the certificate of amendment to the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.303. AMENDMENT TO COUNTY ALLIANCE CORPORATION'S CERTIFICATE OF FORMATION. An amendment to the certificate of formation of a county alliance corporation may not be adopted unless approved by the governing body of each member of the county alliance that authorized the creation of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.304. CONTENTS OF CERTIFICATE OF AMENDMENT. The certificate of amendment must:

(1) state the name of the corporation;

(2) if the amendment alters a provision of the certificate of formation, identify by reference or describe the altered provision and include the provision's text as amended;

(3) if the amendment is an addition to the certificate of formation, state that fact and include the text of each provision added; and

(4) state that the amendment was adopted or approved by the governing body of the authorizing unit and give the date the governing body adopted or approved the amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.305. EXECUTION AND VERIFICATION OF CERTIFICATE OF AMENDMENT. (a)

A certificate of amendment shall be executed:

(1) on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation; or

(2) by the presiding officer of the governing body of the corporation's authorizing unit and by the secretary or clerk of the governing body.

(b) One of the officers who signs the certificate of amendment shall verify the certificate of amendment.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.306. DELIVERY AND FILING OF CERTIFICATE OF AMENDMENT. (a) Three originals of the certificate of amendment shall be delivered to the secretary of state.

(b) If the secretary of state determines that the certificate of amendment conforms to this subchapter and on receipt of a \$25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the certificate of amendment;

(2) file one of the original certificates of amendment in the

secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of amendment;

(4) attach to each certificate evidencing the filing of the certificate of amendment; and

(5) deliver a certificate evidencing the filing of the certificate of amendment and the attached certificate of amendment to:

(A) the corporation or the corporation's representative; and

(B) the governing body of the corporation's authorizing unit.

(c) On the issuance of the certificate evidencing the filing of the certificate of amendment, the amendment becomes effective and the certificate of formation is amended accordingly.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.307. SUITS OR RIGHTS NOT AFFECTED. (a) An amendment to a corporation's certificate of formation does not affect:

(1) any existing cause of action in favor of or against the corporation;

(2) any pending suit to which the corporation is a party; or

(3) the existing rights of any person.

(b) If a corporation's name is changed by amendment to the certificate of formation, a suit brought by or against the corporation under its former name does not abate for that reason.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.308. RESTATED CERTIFICATE OF FORMATION. A corporation may authorize, execute, and file a restated certificate of formation by following the procedure to amend the certificate of formation provided by this subchapter, including obtaining the approval of the governing body of the corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.309. RESTATEMENT WITHOUT ADDITIONAL AMENDMENT. (a) A corporation may, without making any additional amendment, restate the entire text of the certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously

issued by the secretary of state.

(b) The introductory paragraph of a restatement under this section must contain a statement that the restatement:

(1) accurately copies the certificate of formation and all amendments to the certificate of formation that are in effect; and

(2) does not contain any change to the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.310. RESTATEMENT WITH ADDITIONAL AMENDMENT. (a) A corporation may:

(1) restate the entire text of the certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state; and

(2) as part of the restatement, make additional amendments to the certificate of formation.

(b) A restatement under this section must:

(1) state that each additional amendment to the certificate of formation conforms to this subtitle;

(2) contain any statement required by this subtitle for the certificate of amendment, except that the full text of an additional amendment is not required to be set out other than in the restatement itself;

(3) contain a statement that:

(A) the restatement is an accurate copy of the certificate of formation and all amendments to the certificate of formation that are in effect and all additional amendments made to the certificate of formation; and

(B) the restatement does not contain any other change to the certificate of formation; and

(4) restate the text of the entire certificate of formation as amended or supplemented by all certificates evidencing the filing of a certificate of amendment previously issued by the secretary of state and as additionally amended by the restated certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.311. CHANGE IN CERTAIN INFORMATION NOT AMENDMENT. For purposes of restating the certificate of formation under Sections 501.309 and 501.310, substituting the current number, names, and addresses of the directors for similar information of the initial board of directors or omitting the name and

address of each organizer is not an amendment to or change in the certificate of formation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.312. EXECUTION AND VERIFICATION OF RESTATED CERTIFICATE OF FORMATION. (a) Originals of the restated certificate of formation shall be executed on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation.

(b) One of the officers who signs the restated certificate of formation shall verify the restated certificate.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.313. DELIVERY AND FILING OF RESTATED CERTIFICATE OF FORMATION. (a) Three originals of the restated certificate of formation shall be delivered to the secretary of state.

(b) If the secretary of state determines that the restated certificate of formation conforms to law and on receipt of a \$25 fee, the secretary of state shall:

- (1) endorse the word "Filed" and the date of the filing on each original of the restated certificate of formation;
- (2) file one of the original restated certificates of formation in the secretary of state's office;
- (3) issue two certificates evidencing the filing of the restated certificate of formation;
- (4) attach to each certificate evidencing the filing of the restated certificate of formation an original of the restated certificate of formation; and
- (5) deliver a certificate evidencing the filing of the restated certificate of formation and the attached restated certificate of formation to:
  - (A) the corporation or the corporation's representative; and
  - (B) the governing body of:
    - (i) the corporation's authorizing unit; or
    - (ii) any county in the county alliance that authorized the creation of the corporation, for a county alliance corporation.

(c) The governing body of a county to which a certificate evidencing the filing of the restated certificate of formation and the attached restated

certificate of formation are delivered under Subsection (b)(5)(B)(ii) shall provide photocopies of the certificate evidencing the filing of the restated certificate of formation and the attached restated certificate of formation to each other member of the county alliance.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.314. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING OF RESTATED CERTIFICATE OF FORMATION. On the issuance of the certificate evidencing the filing of the restated certificate of formation by the secretary of state:

- (1) the original certificate of formation and all amendments to the original certificate of formation are superseded; and
- (2) the restated certificate of formation becomes the certificate of formation of the corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER H. REGISTERED OFFICE AND AGENT; SERVICE OF PROCESS

Sec. 501.351. REGISTERED OFFICE AND AGENT. (a) A corporation shall continuously maintain in this state a registered office and registered agent.

(b) A corporation's registered office may, but is not required to be, the same as the corporation's principal office.

(c) A corporation's registered agent may be:

- (1) an individual who is a resident of this state and whose business office is the same as the corporation's registered office; or
- (2) a domestic or foreign for-profit or nonprofit corporation that:
  - (A) is authorized to transact business or to conduct affairs in this state; and
  - (B) has a principal or business office that is the same as the corporation's registered office.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.352. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A corporation may change its registered office or registered agent by filing in the office of the secretary of state a statement declaring:

- (1) the name of the corporation;

- (2) the postal mailing address of the corporation's registered office at the time of filing;
  - (3) the postal address to which the registered office is to be changed, if the postal mailing address of the corporation's registered office is to be changed;
  - (4) the name of the corporation's registered agent at the time of filing;
  - (5) the name of the corporation's successor registered agent, if the corporation's registered agent is to be changed;
  - (6) that the postal mailing address of the corporation's registered office and the postal mailing address of the business office of the corporation's registered agent as changed will be the same; and
  - (7) that the change was authorized by:
    - (A) the corporation's board of directors; or
    - (B) an officer of the corporation authorized by the corporation's board of directors to make the change.
- (b) Two originals of the statement shall be:
- (1) executed on behalf of the corporation by the president or a vice president of the corporation;
  - (2) verified by the executing officer; and
  - (3) delivered to the secretary of state.
- (c) If the secretary of state determines that the statement conforms to this section and on receipt of a \$25 fee, the secretary of state shall:
- (1) endorse the word "Filed" and the date of the filing on each original of the statement;
  - (2) file one of the original statements in the secretary of state's office; and
  - (3) return the other original statement to the corporation or the corporation's representative.
- (d) A change made by the statement becomes effective on the filing of the statement by the secretary of state.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 501.353. RESIGNATION OF REGISTERED AGENT. (a) A corporation's registered agent may resign by:

- (1) giving written notice to the corporation at the corporation's last known address; and
- (2) giving three originals of the written notice to the secretary of state not later than the 10th day after the date the notice is mailed or

delivered to the corporation.

(b) The notice of resignation must include:

(1) the corporation's last known address;

(2) a statement that written notice of the resignation was given to the corporation; and

(3) the date on which the written notice of resignation was given to the corporation.

(c) If the secretary of state determines that the notice of resignation conforms to this section, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the notice of resignation;

(2) file one of the original notices of resignation in the secretary of state's office;

(3) return one original notice of resignation to the resigning registered agent; and

(4) return one original notice of resignation to the corporation at the corporation's last known address shown in the notice.

(d) The appointment of a registered agent terminates on the 31st day after the date the secretary of state receives the notice of resignation that complies with this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.354. AGENTS FOR SERVICE. (a) The president, each vice president, and the registered agent of a corporation are the corporation's agents on whom a process, notice, or demand required or permitted by law to be served on the corporation may be served.

(b) If a corporation does not appoint or maintain a registered agent in this state or if the corporation's registered agent cannot with reasonable diligence be found at the registered office, the secretary of state is an agent of the corporation on whom a process, notice, or demand described by Subsection (a) may be served.

(c) Service of a process, notice, or demand on the secretary of state is made by delivering two copies of the process, notice, or demand to the secretary of state, the deputy secretary of state, or a clerk in charge of the corporation department of the secretary of state's office. The secretary of state shall immediately forward by registered mail one copy of the process, notice, or demand to the corporation at the corporation's registered office.

(d) Service made on the secretary of state under this section is returnable not earlier than the 30th day after the date of service.

(e) The secretary of state shall keep a record of each process, notice, and demand served on the secretary of state under this subtitle and shall include in the record the time of the service and the secretary of state's action in response to the service.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER I. ALTERATION OR TERMINATION OF CORPORATION

Sec. 501.401. ALTERATION OR TERMINATION BY AUTHORIZING UNIT. (a) At any time a corporation's authorizing unit, in its sole discretion, may in accordance with this subtitle:

(1) alter the corporation's structure, organization, programs, or activities; or

(2) terminate the existence of the corporation.

(b) The authority of an authorizing unit under this section is limited only by the law of this state on the impairment of contracts entered into by the corporation.

(c) An authorizing unit may make an alteration or may terminate the corporation's existence only by a written resolution of the authorizing unit's governing body.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.402. TERMINATION OF CORPORATION ON COMPLETION OF PURPOSE. The board of directors of a corporation, with the approval by written resolution of the corporation's authorizing unit, shall terminate the corporation's existence as provided by this subtitle if the board by resolution determines that:

(1) the purposes for which the corporation was formed have been substantially fulfilled; and

(2) all bonds issued by the corporation have been fully paid.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.403. EXECUTION OF CERTIFICATE OF TERMINATION. A certificate of termination shall be executed:

(1) on behalf of the corporation by the president or a vice president of the corporation and by the secretary or an assistant secretary of the corporation; or

(2) by the presiding officer of the governing body of the corporation's authorizing unit and the secretary or clerk of the governing body.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.404. DELIVERY AND FILING OF CERTIFICATE OF TERMINATION. (a) Three originals of the certificate of termination shall be delivered to the secretary of state.

(b) If the secretary of state determines that the certificate of termination conforms to this subtitle and on receipt of a \$25 fee, the secretary of state shall:

(1) endorse the word "Filed" and the date of the filing on each original of the certificate of termination;

(2) file one of the original certificates of termination in the secretary of state's office;

(3) issue two certificates evidencing the filing of the certificate of termination;

(4) attach to each certificate evidencing the filing of the certificate of termination an original of the certificate of termination; and

(5) deliver a certificate evidencing the filing of the certificate of termination and the attached certificate of termination to:

(A) the representative of the terminated corporation; and

(B) the governing body of the terminated corporation's authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.405. EFFECT OF ISSUANCE OF CERTIFICATE EVIDENCING FILING OF CERTIFICATE OF TERMINATION. The corporate existence ends on the issuance of the certificate evidencing the filing of the certificate of termination except for the purpose of:

(1) any suit or other proceeding; and

(2) appropriate corporate action by a director or officer under this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.406. ASSETS ON TERMINATION. On termination the title to all funds and property owned by the corporation is transferred to the corporation's

authorizing unit.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 501.407. TERMINATION WITH TRANSFER OF ASSETS TO TYPE A CORPORATION. On approval of the governing bodies of each unit and corporation involved, a corporation that is not a Type A corporation may transfer all of the corporation's assets to a Type A corporation and terminate its existence as provided by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER J. HURRICANE IKE DISASTER RELIEF

Sec. 501.451. APPLICABILITY. This subchapter applies only to a corporation the creation of which was authorized by a unit wholly or partly located in the Hurricane Ike disaster area, as defined by Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343).

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. 3854), Sec. 1, eff. June 19, 2009.

Sec. 501.452. PROJECTS RELATED TO HURRICANE IKE DISASTER AREA. For a corporation to which this subchapter applies, in this subtitle, "project":

(1) includes an undertaking the costs of which are eligible to be paid from the proceeds of qualified Hurricane Ike disaster area bonds under Section 704, Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343); and

(2) does not include:

(A) a qualified residential rental project, as defined by Section 142(d), Internal Revenue Code of 1986; or

(B) a project the costs of which are payable from qualified mortgage bonds, as defined by Section 143, Internal Revenue Code of 1986.

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. 3854), Sec. 1, eff. June 19, 2009.

Sec. 501.453. PROJECTS NOT ADMINISTERED BY ECONOMIC DEVELOPMENT OFFICE. A project authorized under this subchapter and bonds issued to pay all or part of the cost of a project under this subchapter are not subject to the requirements of Subchapter F.

Added by Acts 2009, 81st Leg., R.S., Ch. 991 (H.B. 3854), Sec. 1, eff. June 19, 2009.

## LOCAL GOVERNMENT CODE

## TITLE 12. PLANNING AND DEVELOPMENT

## SUBTITLE C1. ADDITIONAL PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

## CHAPTER 505. TYPE B CORPORATIONS

## SUBCHAPTER A. GENERAL PROVISIONS

Sec. 505.001. DEFINITION. In this chapter, "authorizing municipality" means the municipality that authorizes the creation of a Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.002. APPLICABILITY OF CHAPTER. This chapter applies only to:

(1) a municipality:

(A) that is located in a county with a population of 500,000 or more; and

(B) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality does not exceed 8.25 percent on the date of any election held under or made applicable to this chapter;

(2) a municipality:

(A) that has a population of 400,000 or more;

(B) that is located in more than one county; and

(C) in which the combined rate of all sales and use taxes imposed by the municipality, this state, and other political subdivisions of this state having territory in the municipality, including taxes imposed under this chapter, does not exceed 8.25 percent; or

(3) a municipality to which Chapter 504 applies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.003. AUTHORITY TO CREATE CORPORATION. (a) A municipality may authorize the creation under this subtitle of a Type B corporation.

(b) A municipality may not authorize the creation of more than one Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April

1, 2009.

Sec. 505.004. CONTENTS OF CERTIFICATE OF FORMATION. The certificate of formation of a Type B corporation:

- (1) must state that the corporation is governed by this chapter; and
- (2) may include in the corporation's name any word or phrase the authorizing municipality specifies.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.005. CORPORATION NOT SUBJECT TO CERTAIN PROVISIONS. Sections 501.203, 501.205, 501.251-501.254, 501.255(a) and (b), 501.256, and 501.257 do not apply to a corporation under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER B. GOVERNANCE OF CORPORATION

Sec. 505.051. BOARD OF DIRECTORS. (a) The board of directors of a Type B corporation consists of seven directors.

(b) A director is appointed by the governing body of the authorizing municipality for a two-year term.

(c) A director may be removed by the governing body of the authorizing municipality at any time without cause.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.052. RESTRICTION ON BOARD MEMBERSHIP. (a) Each director of a Type B corporation authorized to be created by a municipality with a population of 20,000 or more must be a resident of the municipality.

(b) Each director of a Type B corporation authorized to be created by a municipality with a population of less than 20,000 must:

- (1) be a resident of the municipality;
- (2) be a resident of the county in which the major part of the area of the municipality is located; or
- (3) reside:
  - (A) within 10 miles of the municipality's boundaries; and
  - (B) in a county bordering the county in which most of the area of the municipality is located.

(c) Three directors of a Type B corporation must be persons who are not employees, officers, or members of the governing body of the authorizing municipality.

(d) Notwithstanding Subsections (a)-(c), if a municipality terminates a Type A corporation's existence and authorizes the creation of a Type B corporation, a person serving as a director of the Type A corporation at the time of termination may serve on the board of directors of the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.053. OFFICERS. The board of directors of a Type B corporation shall appoint:

- (1) a president;
- (2) a secretary; and
- (3) other officers of the corporation the governing body of the authorizing municipality considers necessary.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.054. QUORUM. A majority of the entire membership of the board of directors of a Type B corporation is a quorum.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.055. LOCATION OF BOARD MEETINGS. (a) Except as provided by Subsection (b), the board of directors of a Type B corporation shall conduct all meetings within the boundaries of the authorizing municipality.

(b) If the authorizing municipality is located in a county with a population of less than 30,000, the board of directors of a Type B corporation may conduct a board meeting within the boundaries of the county.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 473 (H.B. 479), Sec. 2, eff. June 17, 2011.

Sec. 505.056. RESTRICTIONS ON REGISTERED AGENT AND OFFICE. (a) The registered agent of a Type B corporation must be an individual who is a resident

of this state.

(b) The registered office of a Type B corporation must be located within the boundaries of the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 505.101. APPLICABILITY OF OTHER LAW; CONFLICTS. A Type B corporation has the powers granted by this chapter and by other chapters of this subtitle and is subject to the limitations of a corporation created under another provision of this subtitle. To the extent of a conflict between this chapter and another provision of this subtitle, this chapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.102. CONTRACT WITH OTHER PRIVATE CORPORATION. A Type B corporation may contract with another private corporation to:

- (1) carry out an industrial development program or objective; or
- (2) assist with the development or operation of an economic development program or objective consistent with the purposes and duties specified by this subtitle.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.103. LIMITATION ON USE OF REVENUES FOR PROMOTIONAL PURPOSES. A Type B corporation may spend not more than 10 percent of the corporate revenues for promotional purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.104. BOND REPAYMENT. (a) Bonds or other obligations that mature in 30 years or less and that are issued to pay the costs of projects of a type added to the definition of "project" by Subchapter D may be made payable from any source of funds available to the Type B corporation, including the proceeds of a sales and use tax imposed under this chapter.

(b) Bonds or other obligations that by their terms are payable from the tax proceeds:

- (1) may not be paid wholly or partly from any property taxes imposed

or to be imposed by the authorizing municipality; and

(2) are not a debt of and do not give rise to a claim for payment against the authorizing municipality, except as to sales and use tax revenue held by the municipality and required under this chapter to be delivered to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.1041. APPRAISAL REQUIRED BEFORE PURCHASE OF PROPERTY WITH BOND PROCEEDS. A Type B corporation may not purchase property for a project wholly or partly with bond proceeds until the corporation obtains an independent appraisal of the property's market value.

Added by Acts 2011, 82nd Leg., R.S., Ch. 719 (H.B. 782), Sec. 2, eff. September 1, 2011.

Sec. 505.105. EMINENT DOMAIN. A Type B corporation may exercise the power of eminent domain only:

(1) on approval of the action by the governing body of the authorizing municipality; and

(2) in accordance with and subject to the laws applicable to the authorizing municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.106. LIABILITY. (a) The following are not liable for damages arising from the performance of a governmental function of a Type B corporation or the authorizing municipality:

(1) the corporation;

(2) a director of the corporation;

(3) the municipality;

(4) a member of the governing body of the municipality; or

(5) an employee of the corporation or municipality.

(b) For purposes of Chapter 101, Civil Practice and Remedies Code, a Type B corporation is a governmental unit and the corporation's actions are governmental functions.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

## SUBCHAPTER D. AUTHORIZED PROJECTS

Sec. 505.151. AUTHORIZED PROJECTS. In this chapter, "project" means land, buildings, equipment, facilities, expenditures, and improvements included in the definition of "project" under Chapter 501, including:

- (1) job training as provided by Section 501.162; and
- (2) recycling facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.152. PROJECTS RELATED TO RECREATIONAL OR COMMUNITY FACILITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.153. PROJECTS RELATED TO AFFORDABLE HOUSING. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of affordable housing, as described by 42 U.S.C. Section 12745.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.154. PROJECTS RELATED TO WATER SUPPLY FACILITIES AND WATER CONSERVATION PROGRAMS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for:

- (1) the development or improvement of water supply facilities, including dams, transmission lines, well field developments, and other water supply alternatives; or

(2) the development and institution of water conservation programs, including incentives to install water-saving plumbing fixtures, educational programs, brush control programs, and programs to replace malfunctioning or leaking water lines and other water facilities.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.155. PROJECTS RELATED TO BUSINESS ENTERPRISES THAT CREATE OR RETAIN PRIMARY JOBS. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to promote or develop new or expanded business enterprises that create or retain primary jobs, including:

(1) a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements, and any improvements or facilities related to a project described by this subdivision; and

(2) any other project that the board of directors in the board's discretion determines promotes or develops new or expanded business enterprises that create or retain primary jobs.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.156. PROJECTS RELATED TO BUSINESS ENTERPRISES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development, retention, or expansion of business enterprises if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that has not for each of the preceding two fiscal years received more than \$50,000 in revenues from sales and use taxes imposed under this chapter; and

(2) the governing body of which has authorized the project by adopting a resolution only after giving the resolution at least two separate readings conducted at least one week apart.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.1561. PROJECTS RELATED TO AIRPORT FACILITIES IN CERTAIN MUNICIPALITIES. For purposes of this chapter, "project" includes land,

buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for the development or expansion of airport or railport facilities, including hangars, maintenance and repair facilities, cargo facilities, and related infrastructure located on or adjacent to an airport or railport facility, if the project is undertaken by a Type B corporation authorized to be created by a municipality:

(1) that enters into a development agreement with an entity in which the entity acquires a leasehold or other possessory interest from the corporation and is authorized to sublease the entity's interest for other projects authorized by Sections [505.151](#) through [505.156](#); and

(2) the governing body of which has authorized the development agreement by adopting a resolution at a meeting called as authorized by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 15.014(a), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 150 (S.B. [2052](#)), Sec. 2, eff. September 1, 2009.

Sec. 505.157. PROJECTS RELATED TO BUSINESS ENTERPRISES IN LANDLOCKED COMMUNITIES. (a) In this section, "landlocked community" means a municipality that:

(1) is wholly or partly located in a county with a population of two million or more; and

(2) has within its municipal limits and extraterritorial jurisdiction less than 100 acres that can be used for the development of manufacturing or industrial facilities in accordance with the municipality's zoning laws or land use restrictions.

(b) For a landlocked community that authorizes or has authorized the creation of a Type B corporation, "project" also includes expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises in the landlocked community.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.158. PROJECTS RELATED TO BUSINESS DEVELOPMENT IN CERTAIN SMALL MUNICIPALITIES. (a) For a Type B corporation authorized to be created by a municipality with a population of 20,000 or less, "project" also includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the corporation's board of directors to promote new or

expanded business development.

(b) A Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.159. HEARING REQUIRED TO UNDERTAKE PROJECT. (a) Except as provided by Subsection (b), a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project.

(b) A Type B corporation the creation of which was authorized by a municipality with a population of less than 20,000 is not required to hold a public hearing under this section if the proposed project is defined by Subchapter C, Chapter 501.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 15.015(a), eff. September 1, 2009.

Sec. 505.160. ELECTION REQUIRED FOR PROJECT; PETITION. (a) A Type B corporation may undertake a project under this chapter unless, not later than the 60th day after the date notice of the specific project or general type of project is first published, the governing body of the authorizing municipality receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the specific project or general type of project is undertaken.

(b) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (a) if the voters of the municipality have previously approved the undertaking of the specific project or general type of project:

(1) at an election ordered for that purpose by the governing body of the municipality; or

(2) in conjunction with another election required under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

## Sec. 505.161. PUBLIC PURPOSE DESIGNATION; EXEMPTION FROM TAXATION. (a)

The legislature finds for all constitutional and statutory purposes that:

(1) a project of the type added to the definition of "project" by this subchapter is owned, used, and held for a public purpose for and on behalf of the municipality that authorized the creation of the Type B corporation; and

(2) except as otherwise provided by this section, Section 501.160 of this subtitle and Section 25.07(a), Tax Code, do not apply to a leasehold or other possessory interest granted by a Type B corporation during the period the corporation owns projects on behalf of the authorizing municipality.

(b) A project is exempt from ad valorem taxation under Section 11.11, Tax Code, for the period described by Subsection (a)(2) of this section.

(c) This subsection applies only if the voters of the authorizing municipality of a Type B corporation have not approved the adoption of a sales and use tax for the benefit of the corporation under Section 505.251. An ownership, leasehold, or other possessory interest of a person other than the corporation in real property constituting a project of the corporation described by this section:

(1) is subject to ad valorem taxation under Section 25.07(a), Tax Code; or

(2) if the interest was created under an agreement entered into by the corporation before September 1, 1999, is covered by the provisions of the law codified by this section that govern ad valorem taxation of the ownership, leasehold, or other possessory interest that were in effect on the date the agreement was executed.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

## SUBCHAPTER E. SPORTS VENUE PROJECTS AND RELATED INFRASTRUCTURE

## Sec. 505.201. DEFINITIONS. In this subchapter:

(1) "Related infrastructure" has the meaning assigned by Section 334.001.

(2) "Sports venue" means an arena, coliseum, stadium, or other type of area or facility that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events and for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events. The term does not include an arena, coliseum, stadium, or other type of area or facility that is or will be owned and operated by a state-supported institution of higher education.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.202. ELECTION: USE OF TAX PROCEEDS FOR SPORTS VENUE PROJECTS.

(a) An authorizing municipality may submit to the voters of the municipality a ballot proposition that authorizes the Type B corporation to use the sales and use tax, including any amount previously authorized and collected, for a specific sports venue project, including related infrastructure, or for a specific category of sports venue projects, including related infrastructure.

(b) The project or category of projects described by Subsection (a) must be clearly described on the ballot so that a voter is able to discern the limits of the specific project or category of projects authorized by the proposition. If maintenance and operating costs of an otherwise authorized facility are to be paid from the sales and use tax, the ballot language must clearly state that fact.

(c) The authorizing municipality may submit the ballot proposition at:

(1) an election held under another provision of this subtitle, including the election at which the proposition to initially approve the adoption of a sales and use tax for the benefit of the Type B corporation is submitted; or

(2) a separate election to be held on a uniform election date.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.203. PUBLIC HEARING PRECEDING ELECTION. Before an election may be held under Section 505.202, a public hearing must be held in the authorizing municipality to inform the municipality's residents of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, notice of the date, time, place, and subject of the hearing must be published each week until the date of the hearing in a newspaper with general circulation in the municipality in which the project is located.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.204. LIMITATION ON SUBSEQUENT ELECTION. If a majority of the voters voting on the issue do not approve a specific sports venue project or a specific category of sports venue projects at an election under Section 505.202, another election concerning the same project or category of projects may not be held before the first anniversary of the date of the most recent election

disapproving the project or category of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.205. SUBSEQUENT APPROVAL OF ADDITIONAL PROJECTS. Prior approval of a specific sports venue project at an election or completion of a specific sports venue project approved at an election does not prevent an authorizing municipality from seeking voter approval of an additional project or category of projects under this subchapter to be funded from the same sales and use tax that is used to fund the previously approved sports venue project.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.206. EFFECT OF SUBCHAPTER ON ELECTION AUTHORITY. This subchapter does not affect an authorizing municipality's authority to call an election under this chapter to impose a sales and use tax for any purpose authorized by this chapter after the sales and use tax described by this subchapter is, in accordance with Section 505.258, no longer collected.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER F. SALES AND USE TAX

Sec. 505.251. TAX AUTHORIZED. The governing body of the authorizing municipality by ordinance may adopt a sales and use tax for the benefit of a Type B corporation if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose in accordance with Chapter 321, Tax Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.252. SALES TAX. (a) If the authorizing municipality adopts the tax under Section 505.251, a tax is imposed on the receipts from the sale at retail of taxable items within the municipality at the rate approved at the election.

(b) The rate of a tax adopted under this chapter must be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April

1, 2009.

Sec. 505.253. USE TAX. (a) If the authorizing municipality adopts the tax under Section [505.251](#), an excise tax is imposed on the use, storage, or other consumption within the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality.

(b) The rate of the excise tax is the same as the rate of the sales tax portion of the sales and use tax and is applied to the sale price of the tangible personal property.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.254. SPECIFICATION OF TAX RATE ON BALLOT. In an election held to adopt the sales and use tax under this chapter, the ballot proposition must specify the rate of the tax to be adopted.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.255. ADOPTION OF TAX AT ELECTION TO REDUCE OR ABOLISH TAX FOR TYPE A CORPORATION. A municipality that holds an election to reduce the rate of or abolish a tax imposed under Chapter 504 may in the same proposition or in a separate proposition on the same ballot adopt a tax under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

Sec. 505.256. APPLICABILITY OF TAX CODE. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, collection, and remittance of the sales and use tax, except as inconsistent with this chapter.

(b) Except as provided by this subsection, the tax imposed under this chapter takes effect as provided by Section [321.102\(a\)](#), Tax Code. If an election is held under this chapter at the same time an election is held to impose or change the rate of the additional municipal sales and use tax, the tax under this chapter and the imposition or change in rate of the additional municipal sales and use tax take effect as provided by Section [321.102\(b\)](#), Tax Code.

(c) After the effective date of the taxes imposed under this chapter, the adoption of a sales and use tax or the attempted adoption of a sales and use tax by the authorizing municipality or another taxing jurisdiction having territory

in the municipality does not impair the taxes imposed under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.2565. LIMITATION ON DURATION OF TAX. (a) At an election held under Section 505.251, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the period for imposition of a sales and use tax.

(b) An authorizing municipality that has imposed a tax for a limited time under this section may extend the period of the tax's imposition or reimpose the tax only if the extension or reimposition is approved by a majority of the voters of the municipality voting at an election held for that purpose in the same manner as an election held under Section 504.257.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.016(a), eff. September 1, 2009.

Sec. 505.257. REDUCTION OF TAX WITHIN REGIONAL TRANSPORTATION AUTHORITY. Notwithstanding any other provision of this chapter, a tax imposed under this chapter by an authorizing municipality that is located within the territorial limits of a regional transportation authority and that has been added to the territory of the authority under Section 452.6025, Transportation Code, is subject to reduction in the manner prescribed by Section 452.6025, Transportation Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.2575. LIMITED SALES AND USE TAX FOR SPECIFIC PROJECT. (a) At an election held under Section 505.251, the authorizing municipality may also allow the voters to vote on a ballot proposition to limit the use of the sales and use tax to a specific project.

(b) A Type B corporation created to perform a specific project as provided by this section may retain its corporate existence and perform any other project approved by the voters of the authorizing municipality at an election held for that purpose in the same manner as Section 504.260 provides for an election held under Section 504.251. Before spending money to undertake a project, a Type B corporation shall hold a public hearing as otherwise provided by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 15.016(a), eff.

September 1, 2009.

Sec. 505.258. CESSATION OF COLLECTION OF TAXES. A sales and use tax imposed under this chapter may not be collected after the last day of the first calendar quarter that occurs after the Type B corporation notifies the comptroller that:

- (1) all bonds or other obligations of the corporation, including any refunding bonds, payable wholly or partly from the proceeds of the sales and use tax imposed under this chapter, have been paid in full; or
- (2) the total amount, exclusive of guaranteed interest, necessary to pay in full the bonds and other obligations has been set aside in a trust account dedicated to the payment of the bonds and other obligations.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.259. ELECTION REQUIREMENT FOR CERTAIN MUNICIPALITIES. The election requirement under Section 505.251 is satisfied and another election is not required if the voters of the authorizing municipality approved the imposition of an additional one-half cent sales and use tax at an election held before March 28, 1991, under an ordinance calling the election that:

- (1) was published in a newspaper of general circulation in the municipality at least 14 days before the date of the election; and
- (2) expressly stated that the election was being held in anticipation of the enactment of enabling and implementing legislation without further elections.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER G. USE OF TAX PROCEEDS

Sec. 505.301. DELIVERY OF TAX PROCEEDS. On the authorizing municipality's receipt from the comptroller of the proceeds of the sales and use tax imposed under this chapter, the authorizing municipality shall deliver the proceeds to the Type B corporation.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.302. PAYMENT OF PROJECT COSTS, BONDS, OR OTHER OBLIGATIONS. The proceeds of the sales and use tax imposed under this chapter may be used to:

- (1) pay the costs of projects of the types added to the definition of "project" by Subchapter D; or
- (2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the Type B corporation to:
  - (A) pay the costs of the projects; or
  - (B) refund bonds or other obligations issued to pay the costs of projects.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.303. PAYMENT OF MAINTENANCE AND OPERATING COSTS; ELECTION. (a) The costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project.

(b) The proceeds of taxes may be used to pay the maintenance and operating costs of a project, unless not later than the 60th day after the date notice of the specific use of the tax proceeds is first published, the governing body of the authorizing municipality of the Type B corporation undertaking the project receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the tax proceeds may be used to pay the maintenance and operating costs of a project.

(c) The governing body of the authorizing municipality is not required to hold an election after the submission of a petition under Subsection (b) if the voters of the municipality have previously approved at an election ordered for that purpose by the governing body or in conjunction with another election required under this chapter that:

(1) the costs of a publicly owned and operated project purchased or constructed under this chapter include the maintenance and operating costs of the project; and

(2) the tax proceeds may be used to pay the maintenance and operating costs of a project.

(d) An authorizing municipality is not required to hold an election under this section if the municipality:

(1) is located in a county with a population of more than 1.3 million; and

(2) has held before February 1, 1993, an election under this chapter at which the additional sales tax was approved.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.304. PAYMENT FOR CERTAIN WATER-RELATED PROJECTS: ELECTION REQUIRED. (a) A Type B corporation may not use proceeds from the sales and use tax to undertake a project described by Section 505.154 unless the use of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the municipality for that purpose.

(b) The ballot in an election held under this section shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for infrastructure relating to \_\_\_\_\_ (insert water supply facilities or water conservation programs, as appropriate)."

(c) An election held under this section may be authorized by the governing body of an authorizing municipality subsequent to an earlier election authorized under Section 505.251.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.305. PAYMENT FOR CLEANUP OF CONTAMINATED PROPERTY; ELECTION. (a) The economic development office, with the assistance of the Texas Commission on Environmental Quality, may encourage a Type B corporation to use proceeds from the sales and use tax imposed under this chapter for the cleanup of contaminated property.

(b) Notwithstanding any other provision of this chapter, a Type B corporation may use proceeds from the sales and use tax for the cleanup of contaminated property only if the use of tax proceeds for that purpose is authorized by a majority of the voters voting at an election held in the authorizing municipality for that purpose. The ballot in an election held under this subsection shall be printed to provide for voting for or against the proposition: "The use of sales and use tax proceeds for the cleanup of contaminated property."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

#### SUBCHAPTER H. TERMINATION OF CORPORATION

Sec. 505.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a Type B corporation created on or after September 1, 1999.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.352. ELECTION TO TERMINATE EXISTENCE OF CORPORATION ON PETITION.

(a) The governing body of an authorizing municipality shall order an election on the termination of the existence of the Type B corporation on receipt of a petition requesting the election that is signed by at least 10 percent of the registered voters of the municipality.

(b) The authorizing municipality shall hold the election on the first available uniform election date that occurs after the time required by Section 3.005, Election Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.353. BALLOT. The ballot for an election held under Section 505.352 shall be printed to permit voting for or against the proposition: "Termination of the \_\_\_\_\_ (name of corporation)."

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.354. TERMINATION OF EXISTENCE OF CORPORATION. (a) If a majority of the votes cast at an election held under Section 505.352 approve the termination, the Type B corporation shall:

(1) continue operations only as necessary to meet the obligations the corporation incurred before the date of the election, including paying the principal of and interest on the corporation's bonds; and

(2) liquidate the corporation's assets and apply the proceeds to satisfy the corporation's obligations, to the extent practicable.

(b) After the Type B corporation has satisfied all of the corporation's obligations, any remaining assets of the corporation shall be transferred to the authorizing municipality, and the existence of the corporation is terminated.

(c) The authorizing municipality shall promptly notify the comptroller and the secretary of state of the date the existence of a Type B corporation is terminated under this subchapter.

(d) A tax imposed under this chapter may not be collected after the last day of the first calendar quarter that begins after the authorizing municipality provides notice under Subsection (c).

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.01, eff. April 1, 2009.

Sec. 505.355. ELECTION REJECTING TERMINATION. If less than a majority of the votes cast at an election held under Section 505.352 approve the termination, Section 505.354 has no effect.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 3.01, eff. April 1, 2009.

## LOCAL GOVERNMENT CODE

## TITLE 12. PLANNING AND DEVELOPMENT

## SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

## CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE

Sec. 378.001. DEFINITION. In this chapter, "zone" means a neighborhood empowerment zone created by a municipality under this chapter.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.002. CREATION OF ZONE. A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.003. ADOPTION OF ZONE. (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:

- (1) the determination described by Section 378.002;
- (2) a description of the boundaries of the zone;
- (3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality; and
- (4) a finding by the governing body that the creation of the zone satisfies the requirements of Section 312.202, Tax Code.

(b) A municipality may create more than one zone and may include an area in more than one zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.004. MUNICIPAL POWERS. In addition to other powers that a municipality may exercise, a municipality may:

- (1) waive or adopt fees related to the construction of buildings in

the zone, including fees related to the inspection of buildings and impact fees;

(2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;

(3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section 312.204, Tax Code; and

(4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 5, eff. Sept. 1, 2001.

## LOCAL GOVERNMENT CODE

## TITLE 12. PLANNING AND DEVELOPMENT

## SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

## CHAPTER 380. MISCELLANEOUS PROVISIONS RELATING TO MUNICIPAL PLANNING AND DEVELOPMENT

Sec. 380.001. ECONOMIC DEVELOPMENT PROGRAMS. (a) The governing body of a municipality may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality. For purposes of this subsection, a municipality includes an area that:

- (1) has been annexed by the municipality for limited purposes; or
- (2) is in the extraterritorial jurisdiction of the municipality.

(b) The governing body may:

- (1) administer a program by the use of municipal personnel;
- (2) contract with the federal government, the state, a political subdivision of the state, a nonprofit organization, or any other entity for the administration of a program; and
- (3) accept contributions, gifts, or other resources to develop and administer a program.

(c) Any city along the Texas-Mexico border with a population of more than 500,000 may establish not-for-profit corporations and cooperative associations for the purpose of creating and developing an intermodal transportation hub to stimulate economic development. Such intermodal hub may also function as an international intermodal transportation center and may be colocated with or near local, state, or federal facilities and facilities of Mexico in order to fulfill its purpose.

Added by Acts 1989, 71st Leg., ch. 555, Sec. 1, eff. June 14, 1989. Amended by Acts 1999, 76th Leg., ch. 593, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 57 (H.B. 918), Sec. 1, eff. May 17, 2005.

Sec. 380.002. ECONOMIC DEVELOPMENT GRANTS BY CERTAIN MUNICIPALITIES. (a) A home-rule municipality with a population of more than 100,000 may create programs for the grant of public money to any organization exempt from taxation

under Section 501(a) of the Internal Revenue Code of 1986 as an organization described in Section 501(c)(3) of that code for the public purposes of development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development or expansion of commerce in the state. The grants must be in furtherance of those public purposes and shall be used by the recipient as determined by the recipient's governing board for programs found by the municipality to be in furtherance of this section and under conditions prescribed by the municipality.

(b) A home-rule municipality may, under a contract with a development corporation created by the municipality under the Development Corporation Act (Subtitle C1, Title 12), grant public money to the corporation. The development corporation shall use the grant money for the development and diversification of the economy of the state, elimination of unemployment or underemployment in the state, and development and expansion of commerce in the state.

(c) The funds granted by the municipality under this section shall be derived from any source lawfully available to the municipality under its charter or other law, other than from the proceeds of bonds or other obligations of the municipality payable from ad valorem taxes.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.06(a), eff. Aug. 26, 1991.

Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 4, Sec. 25.02, eff. Aug. 22, 1991; Acts 2001, 77th Leg., ch. 56, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.26, eff. April 1, 2009.

Sec. 380.003. APPLICATION FOR MATCHING FUNDS FROM FEDERAL GOVERNMENT. A municipality may, as an agency of the state, provide matching funds for a federal program that requires local matching funds from a state agency to the extent state agencies that are eligible decline to participate or do not fully participate in the program.

Added by Acts 1995, 74th Leg., ch. 1051, Sec. 1, eff. June 17, 1995.

*This is an Unaudited Statement.*

**City of La Porte  
La Porte Development Corporation (038) Fund Summary  
(Section 4B Sales Tax)**

	Previous Report	FY 2014-15	FY 2013-14
<b>Unaudited Beginning Fund Balance 9/30</b>	\$ 3,322,635	\$ 3,322,635	\$ 2,768,155
<b>Plus Year to Date Revenues:</b>			
1/2 Cent Sales Tax	217,072	649,604	569,498
Interest Income	1,380	1,958	2,007
Total Revenues	<u>218,452</u>	<u>651,562</u>	<u>571,505</u>
<b>Equals Total Resources</b>	3,541,087	3,974,197	3,339,660
<b>Less Year to Date Expenditures:</b>			
Payroll	22,739	38,226	26,704
Supplies	110	441	411
Services & Charges (Memberships, Training, Advertising, Legal, Utilities)	117,326	127,013	78,950
Capital Outlay	-	-	32,083
Debt Service Transfer *	270,954	451,590	395,227
Total Expenditures	<u>411,129</u>	<u>617,271</u>	<u>533,376</u>
<b>Estimated Year to Date Fund Balance as of 2/28/2015</b>	\$ 3,129,958	\$ 3,356,926	\$ 2,806,284
<b>Commitments</b>			
Project Nebula/Ineos**		\$ 700,000	
Richard Industrial Group		10,000	
ACT Independent Turbo Service, Inc.		426,000	
Debt Service Reserve		<u>1,083,817</u>	
		\$ 2,219,817	
<b>Adjusted Year to Date Fund Balance</b>		\$ 1,137,109	

**Projection Through Year End**

Adjusted Year to Date Fund Balance	\$ 1,137,109
Plus: Estimated Sales Tax	1,559,026
Plus: Transfer from CIP for District 23 Street Paving (recinded by 4B)	175,000
Less: Estimated Operational Costs	(269,113)
Less: Debt Service Transfers	<u>(632,227)</u>
Projected Year End Fund Balance	\$ 1,969,795

*Sales tax revenues for Fiscal Year 2015 are estimated to be \$2,208,630. (2.5% growth over FY2014)*

**Previously Funded Projects (Funding in Fund 015 - General CIP Fund)**

	Budget	Expenditures	Balance
Façade Grants	300,000	81,570	218,430
Total	<u>300,000</u>	<u>81,570</u>	<u>218,430</u>

\*Debt Service Payments for Library, Bay Area Boulevard & Canada Road and Ballfields.

\*\*EDC Coordinator awaiting termination letter.