RESOLUTION ELECTING TO CONTINUE TO BE ELIGIBLE TO PARTICIPATE IN TAX ABATEMENT AND ADOPTING GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT AGREEMENTS IN REINVESMENT ZONES DESIGNATED WITHIN THE BOUNDARIES OF THE COUNTY OF GALVESTON, TEXAS

State of Texas	§
	§
County of Galveston	§

On this, the 18th day of August, 2015, the Commissioners Court of Galveston County, Texas convened in a **Regularly Scheduled Meeting** with the following members present:

Mark Henry, County Judge;
Ryan L. Dennard, Commissioner, Precinct. No. 1;
Joe Giusti, Commissioner, Precinct No. 2;
Stephen D. Holmes, Commissioner, Precinct No. 3;
Kenneth Clark, Commissioner, Precinct No. 4; and
Dwight D. Sullivan, County Clerk

when the following proceedings, among others, were had, to-wit:

Whereas, Galveston County strives to be an attractive location for economic development and enrichment for current and future residents;

Whereas, new jobs and investment will benefit the area economy, provide needed opportunities, strengthen the real estate market, and generate tax revenue to support local services;

Whereas, the creation and retention of job opportunities that brings new wealth is of the highest civic priority;

Whereas, the County of Galveston must compete with other localities across the nation currently offering tax inducements to attract new businesses, industries, and modernization projects;

Whereas, any tax incentives offered in Galveston County would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community;

Whereas, the abatement of property taxes, when offered to attract new jobs created by additional industrial and business investments, will enhance the local economy and provide a base to encourage improved diversification in the County of Galveston;

Whereas, in accordance with Tex. Tax Code § 312.002, Galveston County may not enter into tax abatement agreements under the Property Redevelopment and Tax Abatement Act (Act), codified as Chapter 312 of the Texas Tax Code, unless the Commissioners Court has established guidelines and criteria governing tax abatement agreements by Galveston County and has stated, by resolution, that Galveston County elects to become eligible to participate in tax abatement;

Whereas, in accordance with the Act, guidelines and criteria governing tax abatement agreements by Galveston County shall be effective for two years from the date adopted and may only be amended or repealed thereafter by a vote of three-fourths of the members of the Commissioners' Court;

Whereas, the adoption of guidelines and criteria governing tax abatement agreements does not limit the discretion of the Commissioners Court to decide whether to enter into a specific tax abatement agreement;

Whereas, the adoption of guidelines and criteria governing tax abatement agreements does not limit the discretion of the Commissioners Court to delegate to Galveston County employees the authority to determine whether or not the Commissioners Court should consider a particular application for tax abatement;

Whereas, the adoption of guidelines and criteria governing tax abatement agreements does not create any property, contract, or other legal right in any person to have the Commissioners Court consider or grant a specific application or request for tax abatement;

Whereas, the "2015-2017 Guidelines and Criteria Governing Tax Abatement Agreements by Galveston County, Texas," has been prepared and is attached hereto as **Exhibit No. 1**; and

Whereas, Galveston County has been and wishes to continue to be eligible to participate in tax abatement.

Now Therefore, be it RESOLVED, by the Commissioners Court of Galveston County, Texas, that the Galveston County Commissioners Court hereby **ELECTS** to become and continue to be eligible to participate in tax abatement;

Be it FURTHER RESOLVED, that the Commissioners Court of Galveston County, Texas hereby **APPROVES** and **ADOPTS** the "2015-2017 Guidelines and Criteria Governing Tax Abatement Agreements by Galveston County, Texas" attached hereto as **Exhibit No. 1**, and said **Exhibit No. 1** is incorporated herein for all purposes; and

Be it FURTHER RESOLVED, that the Commissioners Court of Galveston County, Texas hereby **DELEGATES** authority to the Director of Economic Development for Galveston County, Texas to determine whether or not the Commissioners Court should

consider a particular application for tax abatement and thus bring the application to the Commissioners Court.

Upon Motion Duly Made and Seconded, the above Resolution is hereby **ADOPTED**, on this, the 18th day of August, 2015.

COUNTY OF GALVESTON, TEXAS, By:

Mark Henry, County Judge

Ryan L. Dennard,
Commissioner, Precinct No. 1

Joe Giusti,
Commissioner, Precinct No. 2

Stephen D. Holmes,
Commissioner, Precinct No. 3

Kenneth Clark,
Commissioner, Precinct No. 4

ATTEST:

Dwight D. Sullivan,
County Clerk of Galveston County, Texas

By Mae Ross **Deputy**
Mae Ross

2015-2017
Guidelines and Criteria Governing Tax Abatement Agreements by Galveston County, Texas

Adopted by Resolution of the Commissioners Court of Galveston County, Texas
on August 18, 2015

2015-2017
Galveston County Tax Abatement Guidelines and Criteria
(Guidelines and Criteria)

1. **Introduction**. These 2015-2017 Guidelines and Criteria Governing Tax Abatement Agreements by Galveston County, Texas, support Galveston County's priority of utilizing planning and implementing policies and incentives to attract, retain, and expand industries, increase employment and wages, expand the tax base, and create new wealth opportunities in the community. Planning and implementing policies and incentives are critical goals towards achieving the growth, sustainability, and diversity of a regional economy. The abatement of property taxes takes into consideration various project criteria when determining whether to grant abatement and the amount to be abated. Galveston County is authorized to abate property taxes in accordance with the Property Redevelopment and Tax Abatement Act. This same statute requires Galveston County to develop and review its guidelines at least every two years for the eligibility and award of tax abatement. These guidelines have been reviewed to help ensure that any abatement of property taxes achieves the County's economic development goals. The Galveston County Commissioners Court remains committed to fully evaluating the merits and benefits of each application for tax abatement and retains full discretion on whether or not and to what extent to grant the abatement of ad valorem taxes for any given project.

2. **Resolution/Authority**. These 2015-2017 Guidelines and Criteria Governing Tax Abatement Agreements by Galveston County, Texas (Guidelines and Criteria) are attached to and made a part of the Resolution of the Galveston County Commissioners' Court on August 18, 2015, adopting the Guidelines and Criteria. The Commissioners' Court is authorized to adopt and amend guidelines and criteria governing tax abatement agreements in accordance with the Property Redevelopment and Tax Abatement Act, which is codified as Chapter 312 of the Texas Tax Code. In accordance with requirements of the Property Redevelopment and Tax Abatement Act, the Commissioners' Court, by resolution, has elected to become eligible to participate in tax abatement and to that end has adopted guidelines and criteria governing tax abatement agreements and amended the guidelines and criteria.

3. **Effective Period – Sunset Provision**. These Guidelines and Criteria are and shall be effective on August 18, 2015 through August 17, 2017, unless repealed or further amended during the interim period by action of the Commissioners Court of Galveston County, Texas.

4. **Amendment or Repeal (super-majority required)**. Pursuant to Tex. Tax Code § 312.002(c), these Guidelines and Criteria may be amended or repealed only by a vote of, at minimum, three-fourths of the members of the governing body of Galveston County. Thus,

any repeal or amendment to these Guidelines and Criteria shall require a vote of no less than four (4) members of the Commissioners Court (a "super-majority").

5. **No property right created/discretion retained.** The adoption of these Guidelines and Criteria does not limit the discretion of the County to decide whether to enter into a specific tax abatement agreement; does not limit the discretion of the County to delegate to its employee(s) the authority to determine whether or not the County should consider a particular application or request for tax abatement; does not limit the discretion of the County to determine the proportion of value to be abated; and does not create any property, contract, or other legal rights in any person to have the County consider or grant a specific application or request for tax abatement.

6. **Definitions**. The following words and terms, when used in these Guidelines and Criteria shall have the meanings set forth below unless the context *clearly* indicates otherwise:

   a. **Abatement** means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated for economic development purposes.

   b. **Abatement period** means the period during which all or a portion of the value of real property or tangible personal property that is the subject of an Agreement is exempt from taxation.

   c. **Affected jurisdiction** means Galveston County, Texas, and every other taxing unit within Galveston County, Texas that includes within its boundaries real property that is to be included in a proposed or existing reinvestment zone.

   d. **Agreement** means a contractual agreement between a property owner and Galveston County acting by and through its Commissioners Court, or between a property owner and a taxing unit in Galveston County, for the purposes of tax abatement.

   e. **Applicant** means a current or potential owner or taxable real property, or current or potential owner of a leasehold interest in taxable real property, applying for abatement pursuant to these Guidelines and Criteria and the Property Redevelopment and Tax Abatement Act.

   f. **Base year value** means the assessed value of eligible property on January 1 preceding the effective date of the Agreement plus the agreed upon value of eligible property improvements made after January 1 but before the full execution of the Agreement, or the sales price if the property was conveyed subsequent to January 1, whichever is greater.

   g. **Commissioners Court** means the Commissioners Court of Galveston County, Texas.

h. **Convergent Technologies Facility** means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or development of computer and other electronic systems and hardware design or testing, software development, testing, or publishing, wireless telecommunications, or related product manufacturing.

i. **County** means Galveston County, Texas.

j. **Deferred maintenance** means improvements necessary for continued operations which do not improve productivity or alter the process technology.

k. **Employee** means a person whose employment is both permanent and full-time, who is employed by the applicant for abatement for a minimum of 1,750 hours per year exclusively within the reinvestment zone, and whose employment is reflected in the tax abatement applicant's quarterly report filed with the Texas Workforce Commission.

l. **Expansion** means the addition of buildings, structures, fixed machinery, or equipment for purposes of increasing production capacity.

m. **Facility** means property improvements completed or in the process of construction which together comprise an integral whole.

n. **Local Economic Zone** means the County and immediately adjacent counties; provided however, that the Local Economic Zone shall not extend greater than 100 miles from any part of the County.

o. **Manufacturing Facility** means buildings and structures, including fixed 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.

p. **Modernization** means a complete or partial demolition of facilities and the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, or equipment. Modernization shall include improvements for the purpose of increasing productivity or updating the technology of machinery and equipment, or both, but not for the purpose of reconditioning, refurbishing, or repairing.

q. **New Facility** means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

r. **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 outside the Local Economic Zone. Corporate home office is included in this definition.

s. **Productive Life** means the number of years a property improvement is expected to be in service in a facility.

t. **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 at least 100 miles from any part of Galveston County.

u. **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 at least 100 miles from any part of the County.

v. **Regional Office Facility** means a building of at least 100,000 square feet in construction excluding related parking facilities, constructed specifically for use by private companies whose scope of business is in the State of Texas and beyond and not limited to the Local Economic Zone.

w. **Regional Service Facility** means buildings and structures, including machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate outside the Local Economic Zone.

x. **Research Facility** means buildings and structures, including machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

y. **Research & Development Facility** means buildings and structures, included fixed-in-place machinery and equipment, used or to be used entirely for research or experimentation to improve or develop current technology in biomedicine, electronics, or pre-commercial emerging industries.

z. **Taxing unit** has the meaning ascribed in Sections 1.04 and 312.002(g) of the Texas Tax Code.

7. **Eligibility.**

a. **Reinvestment Zone**. To be eligible for tax abatement the owner must own taxable real property which is the subject of the tax abatement which is located within a reinvestment zone designated by the governing body of a municipality or the County in accordance with the Property Redevelopment and Tax Abatement Act and must enter into a written agreement with the County wherein the owner agrees to make specified improvements or repairs to the property and, if applicable, that such specified improvements or repairs to the property are being made in conformity with the municipality's comprehensive plan.

b. **Authorized Facility**. A Facility may be eligible for abatement if it is a Convergent Technologies Facility, Manufacturing Facility, Regional Distribution Center Facility, Regional Entertainment Facility, Regional Office Facility, Regional Service Facility, Research Facility, Research & Development Facility, or Other Basic Industry and meets the other requirements of these Guidelines and Criteria.

c. **Creation of new value**. Abatement may only be granted for the increase in appraised value of eligible property located in the reinvestment zone made subsequent to and specified in the Agreement between the County and the property owner and lessee (if applicable), subject to such limitations as the Commissioners Court and the Texas Tax Code may require.

d. **New and existing facilities**. Abatement may be granted for both new facilities and structures and for the expansion or modernization of existing facilities and structures, unless the property is property described by Section 312.211(a) of the Texas Tax Code (in which event requirements must conform with Section 312.211).

e. **Leased facility**. If a leased facility is granted tax abatement, then the Agreement shall be executed with both the lessor (owner) and the lessee and the term of Abatement that may be granted shall be no greater than seven (7) years or the term of the lease between lessor and lessee, whichever is less.

f. **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 at the discretion of the Commissioners Court. The value of all property shall be the certified

appraised value for each year, as finally determined by the Galveston Central Appraisal District.

g. **Ineligible Property**. The following types of property shall be fully taxable and are ineligible for tax abatement: land; inventories; supplies; tools; furnishings and other forms of movable personal property; vehicles; vessels; aircraft; housing; hotel accommodations; furniture; deferred maintenance investments; property to be rented or leased (except as provided in Leased Facilities above); property which has a productive life of less than 15 years; any improvements, including those to produce, store, or distribute natural gas, fluids or gases, which are not integral to the operation of the facility; 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.

h. **Forego Protest. Applicant agrees to forego any protest, application, negotiations, or other procedures available to taxpayers that would challenge or dispute the assessed value annually determined by the Galveston Central Appraisal District.**

i. **Basic Qualifications**. To be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:

1.) Must be shown to directly create employment for at least 15 additional permanent full-time Employees or prevent the loss of at least 15 permanent full-time Employees, wherein the worksite for the Employees is within the reinvestment zone;

2.) Must be shown to not solely or primarily have the effect of transferring employment from one part of the County to another part of the County;

3.) The total expenditure for the construction and addition of eligible, taxable property must exceed $3,000,000 upon completion of the contractually defined construction period; and

4.) Notwithstanding the immediately preceding subsection, if the Commissioners Court finds, by way of the application for tax abatement, that the project is within a concentration of tourist related business activities and that the project would substantially enhance neighboring tourist related businesses, including increasing average occupancy of existing hotel rooms by a minimum of twenty-percent (20%), the Commissioners Court may consider granting tax abatement for a base total expenditure for construction of eligible taxable property of $2,000,000 upon completion of the contractually defined construction period.

8. **Term/Maximum Term of Tax Abatement**.

a. **Effective date**. Abatement shall be effective with the January 1 valuation date immediately following the date of execution of the Agreement.

b. **Term limit**. Tax abatement may be granted for an abatement period of up to seven (7) years, inclusive of construction. The Commissioners Court reserves the right to set the proportion and length of the abatement, but will first consider granting the proportion and term of tax abatement adopted by the municipality, if applicable. In no event shall the abatement period, inclusive of construction and completion, exceed seven (7) years.

c. **Earlier term limit for Regional Office Facility**. Notwithstanding the foregoing, abatement for a Regional Office Facility is terminated at the end of the abatement period or sixty (60) days following the date that the respective municipality in which the facility is located has issued certificates of occupancy for at least eighty percent (80%) of the total leasable space in the building, whichever occurs first. Applicant shall provide, at minimum, yearly reports to the County showing the percentage of certificates of occupancy issued relative to total leasable space with such yearly reports being provided to the County no later than the end of February in each year, and shall provide notification of reaching the eighty-percent (80%) threshold no later than thirty (30) calendar days after reaching the eighty percent threshold.

9. **Abatement in taxing jurisdiction of a municipality (joining municipal tax abatement)**.

a. **Term**. Galveston County may consider joining in approved municipal abatements for an abatement period of up to seven (7) years, inclusive of construction, upon application by the municipality to the Commissioners Court.

b. **Application by municipality**. In making such application to the Commissioners Court, the municipality must include a certified copy of the tax abatement application that the applicant submitted to the municipality and a certified copy of the tax abatement agreement entered into between the municipality and the Applicant.

c. **Eligibility**. To be eligible for abatement by the County, the requested tax abatement must be eligible and conform to the requirements of these Guidelines and Criteria, including without limitation, Sections 6, 7, 8 and 17 of these Guidelines and Criteria.

d. **Agreement (amendment to municipal agreement or separate agreement)**.

1.) The County may participate in the abatement through the vehicle of an amendment to the municipal tax abatement agreement, or through a separate agreement entered into between the County and the Applicant. The terms of the County's participation in the abatement are not required to contain terms identical to those contained in the agreement with the municipality.

2.) In the event of an amendment to the municipal tax abatement agreement, the amendment shall, at minimum, include specifying the term of the County's participation, the proportion of value to be abated, the date upon which abatement commences (for the municipality and for the County), the date upon which the abatement ends (for the municipality and the County), and the date that taxes shall be due and payable. The amendment shall also, at minimum, include provisions addressing Sections 11 through 17 of these Guidelines and Criteria. The County's participation in abatement on property within the taxing jurisdiction of a municipality remains subject to these Guidelines and Criteria.

10. <u>Tax Abatement in County Reinvestment Zone</u>.

a. **Unincorporated areas**. The Commissioners Court, by order, may designate as a reinvestment zone an area of the County that does not include area in the taxing jurisdiction of a municipality.

b. **Public Hearing/Designation of area as a reinvestment zone**.

1.) The Commissioners Court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would contribute to the retention or expansion of primary employment or would attract major investment in the zone that would be a benefit to the property to be included in the zone and would contribute to the economic development of the County.

2.) At the hearing, interested persons are entitled to speak and present evidence for or against the designation.

3.) Advance notice of the public hearing must be given in compliance with the requirements of Sections 312.201 and 312.401 of the Texas Tax Code. Accordingly, not later than the seventh (7th) day before the date of the hearing, notice of the hearing must be:

a.) Published in a newspaper having general circulation in the County; and

b.) Delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone. For purposes of this requirement, the County shall mail the notice of the public hearing to the respective presiding officer(s) by certified mail, return receipt requested, with proper postage affixed.

4.) Notice is presumed delivered when placed in the mail postage-paid and property addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the County is considered to have been delivered to the addressee.

c. **Expiration of reinvestment zone under this section**. The designation of a reinvestment zone under this section expires five years after the date of the designation and may be renewed for periods not to exceed five years. Provided however, that the expiration of the designation does not affect existing agreements made under this Section.

d. **Enterprise Zone**. Designation of an area as an enterprise zone under Chapter 2303 of the Government Code constitutes a designation of the area as a reinvestment zone under these Guidelines and Criteria without further hearing or other procedural requirements other than those provided by Chapter 2303 of the Government Code.

e. **Location**. Property may be located both in a reinvestment zone designated by the County under this section and in a reinvestment zone designated by a municipality.

f. **Prohibition**. The County shall not establish a reinvestment zone for the purpose of tax abatement 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.

11. Proportion of tax to be abated.

a. The total proportion of value to be abated shall be provided on the following schedule based on percent of Galveston County hires:

Percent of Galveston County Hires	Maximum percent of value that may be abated
0 - 05%	20%
06 - 15%	30%
16 - 25%	40%
26 - 35%	50%

36 - 45%	60%
46-55%	70%
56-66%	80%
66-75%	90%
76+%	100%

b. Notwithstanding the foregoing, in the event the Applicant plans the removal in whole or in part of existing improvements in connection with the construction of new eligible properties, tax abatement shall be reduced from the percentage level provided for herein. The percentage to be abated shall be calculated as follows:

1.) Ascertain the appraised value of the improvements to be removed as of January 1 immediately preceding the date of the application;

2.) Subtract the above appraised value from the amount of the eligible properties to be constructed; and then

3.) Divide the remainder by the said amount of eligible properties to be constructed to find the percentage of abatement of the value of such eligible properties and multiply that result by the total of allowed percentage abatement.

12. Taxability. Subsequent to full execution of the Agreement and for the duration of the abatement period specified within the Agreement, taxes shall be payable as follows:

a. The value of ineligible property shall be fully taxable;

b. The base year value of existing eligible property as determined each year shall be fully taxable;

c. The additional value of new eligible property shall be taxable in the manner described in Subsection (11) above; and

d. If the base year value decreases during the term of a tax abatement or if an additional exemption is granted by the State or Federal government, then the maximum amount of abatable value to be used in abatement calculation (the Cap) will be reduced each year at the same rate.

13. Galveston County Employment. Applicant and Applicant's contractors may employ in the construction phase and afterwards in facility operations, supervisory and administrative personnel as deemed most suitable, wherever located. Preferential treatment shall be given

to hiring operations and construction workers residing in Galveston County, not only in the construction phase of the facility, but also during operations thereafter.

14. **Galveston County Vendors**. The Applicant and Applicant's contractors shall make every effort to utilize the services of Galveston County vendors where applicable during construction and operations.

15. **Application for Abatement**.

a. **Written application**. Any current or potential owner or lessee of taxable property in the County may request tax abatement by filing a written application with the Director of Economic Development for Galveston County, Texas, prior to any public expression of a siting decision. The Commissioners Court has developed an application for this purpose and a completed application must be submitted (along with required supporting documentation and fee payment). A copy of the application is attached to these Guidelines and Criteria. The physical location and mailing instructions for the submission of application, are as follows:

Attn: Director of Economic Development
for Galveston County, Texas,
722 Moody, 5th Floor
Galveston, Texas 77550

b. **Contents.** The application shall be signed by the owner or lessee, as applicable, and accompanied by:

1.) A general description of the proposed use and the general nature and extent of the modernization, expansion, or new improvements to be undertaken;

2.) An application fee of $1,000, payable to Galveston County (fee is non-refundable);

3.) A descriptive list of the improvements which will be a part of the facility;

4.) An estimate of the cost of the improvements;

5.) An estimate of the number of employees during construction and thereafter to operate the facility;

6.) A map and metes and bounds of the property;

7.) A legal description of the property;

8.) A time schedule for undertaking and completing the proposed improvements;

9.) A proposed program for the recruitment of local employees in the construction and operation of the facility together with a statement affirming the Applicant's commitment to equal employment opportunity and hiring, at all levels, including a plan to implement and ensure such equal employment opportunity;

10.) A certification prepared by the County Tax Assessor-Collector stating that all of Applicant's tax accounts within the County are paid on a current basis;

11.) Financial and other information the County deems necessary for evaluating the financial capacity of the Applicant;

12.) Information pertaining to the reasons that the requested tax abatement is necessary to ensure the proposed project is built in the County (i.e., documentation supporting assertion that ***"but for"*** a tax abatement, the stated project could not be constructed in the County);

13.) 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 to contract. In the event a lease or option contract has already been executed with the owner of the site, the document must include a provision whereby the abatement applicant may terminate such contract without penalty or loss of earnest money in the event the County does not grant a tax abatement;

14.) A narrative addressing the points raised in the description of narrative accompanying the Application for Tax Abatement form;

15.) Applicant shall include its history of environmental compliance;

16.) Confirmation on whether the property is located within a reinvestment zone established under the Tax Increment Financing Act (TIFA), and if so, then Applicant shall also provide a list of the members of the board of directors for the TIFA reinvestment zone, detailing their positions on the board, and, at minimum, contact information for the chair of the board and the secretary of the board; and

17.) For abatement of property located within a municipality, Applicant shall provide a true and complete copy of the respective city ordinance or ordinances designating the reinvestment zone, including any amendments to the city ordinance or ordinances

designating the reinvestment zone. For abatement of property located within a municipality and located within an enterprise zone, the Applicant shall provide a true and complete copy of the ordinance or ordinances designating the enterprise zone, including any amendments to the respective designation ordinance or ordinances, or when applicable, documentation from the Governor's Office showing the enterprise zone is active. Such ordinances or ordinances or documentation shall show that the reinvestment zone or enterprise zone remain active at the time of the submission of Applicant's application. Applicant further acknowledges and agrees that the respective zone must also still be active at the time of full execution of the Agreement on the date of the last Party executing thereto.

c. **Modernization**. In the case of modernization, Applicant shall include a statement of the assessed value of the facility separately stated for real and personal property for the tax year immediately preceding the application.

d. **Job Retention**. In the case of an application based on job retention, Applicant shall include a statement and sufficient information to verify the potential of job loss that would occur without the abatement.

e. **Review by CSD**. Upon receipt of a complete application, the Director of the CSD shall make an initial determination of whether the project qualifies for tax abatement under these Guidelines and Criteria, and issue his or her recommendation as to whether the proposed project qualifies under these Guidelines and Criteria to the Commissioners Court, including requesting authorization from the Commissioners Court regarding scheduling the public hearing, creating the reinvestment zone, and negotiating the tax abatement agreement. If an Agreement is subsequently approved by the Commissioners Court, then the Director of the CSD shall provide a fully executed copy of the Agreement to the Galveston County Auditor and to the Galveston County Tax Assessor-Collector.

f. **Prohibition**. The County shall not establish a reinvestment zone or enter into a tax abatement agreement if the County finds that an application was received after a project commenced construction or installation of improvements.

g. **Increase in value**. If the County intends to act favorably on the application and enter into an agreement with the Applicant, the County shall do so in writing with the owner of the taxable real property located in an area designated as a reinvestment zone to exempt from taxation all or a portion of the increase in the value of the property over its value in the year in which the agreement is executed, subject to the provisions of these Guidelines and Criteria. Property eligible for abatement includes only new improvements commencing after approval of a tax abatement agreement with the County. The County

may not enter into a tax abatement agreement unless it finds that the terms of the agreement and the property subject to the agreement meet the requirements of these Guidelines and Criteria.

16. <u>Agreement</u>.

a. **Prior written notice of tax abatement agreement to other taxing units**. Not later than the seventh (7th) day before the date on which the County enters into an Agreement, the Director of the CSD serving as the County's designee shall deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located a written notice stating that the County intends to enter into the agreement. The notice must include a copy of the proposed agreement. The notice is presumed delivered when placed in the mail postage paid and properly addressed to the presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the County is considered to have been delivered to the addressee.

b. **Approval by Commissioners Court/Resolution required**. To be effective, an agreement must be approved by the affirmative vote of a majority of the members of the Commissioners Court at a regularly scheduled meeting of the Commissioners Court. After the public hearing, the Commissioners Court shall adopt a resolution finding that the proposed agreement filed with the resolution, a copy of which must be attached thereto, meets the applicable provisions of these Guidelines and Criteria. The resolution shall also authorize the execution of the agreement with the owner of the facility or, if applicable, the lessee.

c. **Specific terms of tax abatement agreement – statutory mandatory requirements.** The execution, duration, and other terms of the Agreement are governed by the provisions of Sections 312.204, 312.2041, 312.205, and 312.211 of the Tax Code applicable to a municipality. Accordingly, the Agreement shall:

1.) List the kind, number, and location of all proposed improvements of the property;

2.) Provide access to and authorize inspection of the property by County employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;

3.) 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;

4.) Provide for recapturing property tax revenue lost as a result of the Agreement if the owner of the property fails to make the improvements or repairs as provided by the Agreement;

5.) Contain each term agreed to by the owner of the property;

6.) 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; and

7.) Provide that the Commissioners Court may cancel or modify the Agreement if the property owner fails to comply with the Agreement.

d. **Specific terms of tax abatement agreements – additional mandatory requirements**. The Agreement shall also:

1.) Include a map showing existing uses and conditions of real property in the reinvestment zone;

2.) Include a map showing proposed improvements and uses in the reinvestment zone;

3.) List the commencement date and termination date of abatement;

4.) Include a provision that the Agreement shall be effective when executed by all parties and, if the reinvestment zone is being designated by a municipality, upon the final passage of an ordinance designating the reinvestment zone;

5.) Include provisions that the owner or lessee will: obtain and maintain all required permits and other authorizations from the Federal and State agencies with authority regarding the property, including without limitation and if applicable, the United States Environmental Protection Agency and the Texas Commission on Environmental Quality (TCEQ) for the construction and operation of its facility and for the storage, transport, and disposal of solid waste; and 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;

6.) List the proposed use of the facility, the nature of construction, time schedule, property description, and improvement list;

7.) Include a requirement that the Applicant annually file a report with the County describing the Applicant's efforts towards local hires and using local vendors and subsequent to completion, progress on construction. This annual report to the County shall also include a January employee count for the abated facility that corresponds to

employee counts reported in the facility Employer's Quarterly Report to the Texas Workforce Commission for the quarter most recently ended at calendar year-end; and

8.) List whether the property subject to abatement is located within a reinvestment zone established under the Tax Increment Financing Act, and if no, then the Owner shall be required to represent and warrant that the property is not located within a reinvestment zone established under the Tax Increment Financing Act.

e. **Mandatory terms in these Guidelines are not limitations on requiring additional terms for tax abatement**. The Commissioners' Court retains the right to require additional terms and conditions for abatement and the listing of mandatory provisions specified in this Section 12 is not a limitation on the terms and conditions that may be required by the Commissioners' Court.

17. <u>Recapture</u>.

a. **Discontinuation/Significant Reduction of production**. In the event the facility is completed and begins producing product or service, but subsequently discontinues or significantly reduces producing product or service for any reason for a period of 180 days while the Agreement is active, or one year in the event of a declared disaster under the Texas Disaster Act of 1975 in which the disaster is the cause for the discontinuation, then the Agreement shall terminate and so shall the abatement of the taxes for the calendar year during which the facility no longer produces or significantly reduces production. The taxes otherwise abated for that calendar year shall be paid to the County within sixty (60) calendar days from the date of termination. Any reduction of 50% or more from the estimated production/service in the application shall constitute a significant reduction in the production of product or service. The company or individual shall notify the County in writing at the address stated within the Agreement within ten (10) business days from any discontinuation or significant reduction, stating the reason for the discontinuation or significant reduction and the projected length of the discontinuation or significant reduction. If the County determines that this requirement for notification has not been complied with, the Agreement may be terminated immediately and all taxes previously abated by virtue of the Agreement shall be recaptured and must be paid within sixty (60) calendar days.

b. **Default under terms and conditions of Agreement**. Should the County determine that the company or individual is in default according to the terms and conditions of its Agreement, the County shall notify the company or individual in writing at the address stated within the Agreement or at such other address that the individual or company has subsequently provided to the County for notice, and if the default is not cured within sixty (60) calendar days from the date of such notice (Cure Period), the Agreement may be terminated immediately and all taxes previously abated by the Agreement shall be

recaptured and must be paid within sixty (60) calendar days. If the County does not receive full payment within said sixty (60) days, a penalty equal to fifteen percent (15%) of the total amount abated may be added.

c. **Delinquent ad valorem taxes cause for termination**. If the company or individual allows any ad valorem taxes owed to the County or other taxing unit within the County to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest, then the Agreement may be terminated and all taxes previously abated by the Agreement shall be recaptured and must be paid within sixty (60) calendar days of the termination. If the County does not receive full payment within said sixty (60) days, a penalty equal to fifteen percent (15%) of the total amount abated may be added

18. Administration.

a. **Appraisal by GCAD**. The Galveston Central Appraisal District (GCAD) annually determines the assessment of the real and personal property comprising the reinvestment zone. Accordingly, each year the company or individual receiving abatement shall furnish the Chief Appraiser of the GCAD with such information as may be necessary for the abatement. After the value has been established by the GCAD, the GCAD shall notify the affected taxing jurisdictions of the certified appraised value of the property.

b. **Completion of construction**. Upon completion of construction, the CSD shall annually evaluate each facility receiving abatement to ensure compliance with its Agreement and report violations to the Commissioners Court.

19. Assignment. An Agreement may be assigned to a new owner or lessee of a facility only with the prior written consent of the Commissioners' Court. Assignment is subject to the financial capacity of the proposed assignee and other factors at the discretion of the Commissioners' Court. No assignment shall be approved if the assignor or the assignee is indebted to the County or to other affected taxing jurisdictions for past due ad valorem taxes or other obligations. 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 set forth in the Agreement. Any assignment shall be to an owner that continues the same improvements or repairs to the property (except to the extent that such improvements or repairs have been completed, in which event the assignor and assignee shall each certify as to such completion) and continues the same use of the facility as stated in the Agreement with the Applicant (now proposed assignor). Approval of assignment shall not be unreasonably withheld.

20. **Confidentiality of Proprietary Information/Public Information Act**. Applicant acknowledges that the County is a governmental body subject to the Public Information Act and thus is required to release information in accordance with the Public Information Act. Applicant may be required to provide information in connection with its application or ongoing monitoring requirements that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which abatement is being sought. Section 312.003 of the Tax Code provides for the confidentiality of such information provided to a taxing unit in connection with an application or request for tax abatement until the tax abatement agreement is executed. Applicant acknowledges that Section 312.003 affords confidentiality for such information only until the tax abatement agreement is executed. Applicant further agrees to and shall clearly and conspicuously mark any information that it considers to be proprietary, trade secret, or otherwise confidential in its application or other information furnished to the County to facilitate the procedures for notice to third party under the Public Information Act, which are contained at Section 552.305 of the Government Code.

21. **Immigration Compliance/Use of E-Verify required**.

    a. **Compliance with U.S. Immigration Reform and Control Act of 1986**. To the best of Applicant's knowledge, having undertaken reasonable diligence, none of the Applicant's personnel is an unauthorized alien and Applicant at all times shall comply with the U.S. Immigration Reform and Control Act of 1986, as amended. Applicant further agrees that it shall not subcontract services to any subcontractor who utilizes persons not eligible for employment within the United States.

    b. **Use of E-Verify required**. The United States Department of Homeland Security's Employment Eligibility Program is known as E-Verify. The E-Verify Program is used to electronically confirm an employee's eligibility to work in the United States; however it is not a substitute for complying with I-9 requirements. To be eligible for abatement, an Applicant shall comply with I-9 requirements and shall utilize E-Verify to confirm the eligibility of its employees to work in the United States.

22. **Abatement on properties within a TIFA reinvestment zone**. In the event of real property located within a reinvestment zone established under the Tax Increment Financing Act (TIFA) (codified at Chapter 311 of the Tax Code), the County may enter into an Agreement with an owner of real property in the TIFA reinvestment zone regardless of whether the County deposits or agrees to deposit tax increment into the tax increment fund. However, to be effective, the agreement to abate taxes on real property in a TIFA reinvestment zone must also be approved by the board of directors of the respective TIFA reinvestment zone and the governing body of each taxing unit that imposes taxes on real property in the TIFA

reinvestment zone and deposits or agrees to deposit any of its tax increment into the tax increment fund for the TIFA reinvestment zone. If the County participates in the TIFA reinvestment zone and enters into an abatement agreement with an owner of real property in the TIFA reinvestment zone, then the taxes that are abated under the abatement agreement are not considered taxes to be imposed or produced by the County in calculating the amount of the tax increment of the County of the County's deposit to the tax increment fund for the TIFA reinvestment zone.

23. **Severability**. If any provision of these Guidelines and Criteria is held invalid by a court of competent jurisdiction, the invalidity shall not effect the other provisions of these Guidelines and Criteria as Amended that can be given effect without the invalid provision, and to this end the provisions of these Guidelines and Criteria are severable. Additionally, for purposes of clarification, Section 312.209 of the Tax Code, titled "Application of Nonseverability Provision," pertains to the regulation and removal of outdoor signs and compensation thereof by municipalities, and the provisions amending the Property Redevelopment and Tax Abatement Act in Chapter 221, Acts of the 69th Legislature, Regular Session (1985) and currently codified within Chapter 216 of the Local Government Code, pertain to pertain to signage and the method of compensation when a sign is required to be relocated, reconstructed, or removed and do not prohibit or even pertain to the allowability of severability in construing these Guidelines and Criteria.

Application for Tax Abatement by Galveston County, Texas
2015-2017 Guidelines

This application, required supporting documentation, and a $1,000 application fee made payable to Galveston County (non-refundable) must be submitted to the Director for Economic Development for Galveston County to be eligible for consideration for tax abatement by the Commissioners' Court of Galveston County. The mailing address and location for the Director of Economic Development for Galveston County is 722 Moody, 5th Floor, Galveston, Texas 77550. ***This application will become part of the tax abatement agreement and any knowing false representations will be grounds for terminating the application and/or voiding the tax abatement agreement.*** Galveston County will forward copies of this application to other taxing jurisdictions if required by the Property Redevelopment and Tax Abatement Act.

Part I. Applicant Information **Application Date** ___/___/_____

Company name* (complete corporate name must be listed):_____

_____

Company address:_____

Local address (if different than above):_____

Local Phone Number:_____ E-Mail:_____

Local Fax Number:_____ Annual Sales:_____

State of Incorporation:_____ Years in Galveston County:_____

Foreign-owned entities, country where ownership resides:_____

Total number of employees worldwide:_____

Total number of employees in Texas:_____

Total number of employees in Galveston County:_____

Name and Address of Registered Agent:_____

_____

*Attach a description of Applicant Company, including brief history, corporate structure, financial statement and annual report, and legal documents showing incorporation information and authority to conduct business in the State of Texas. If Applicant conducts business under an assumed name, then Application must include legal documents showing authority to conduct business under assumed name. Additionally, see narrative requirements.

Part II. Project Information

Project site location address:_____

Legal description*:_____

_____

Taxing units at project site

School District:_____College District:_____

Municipality:_____

Tax Account Number(s):_____

*Attach plat survey, with a metes and bunds description, for project site.

Project description** (check applicable): ☐ New Construction ☐ Expansion

**Attach statement fully explaining project and describing existing site and all proposed improvements, and provide complete detailed (line item) Investment Schedule/Budget detailing improvements for which abatement is requested.

Type of Facility*:

- ☐ Convergent Technologies
- ☐ Manufacturing
- ☐ Regional Distribution Center
- ☐ Regional Entertainment
- ☐ Regional Office
- ☐ Regional Service
- ☐ Research
- ☐ Research & Development
- ☐ Other Basic Industry

Describe product or service to be provided and to what purpose:_____

_____

_____

_____

*For regional facilities, provide market studies, business plans, or other materials demonstrating that the facility is intended to serve a primary market that lies at least one hundred (100) miles outside of Galveston County.

Variance

Is Applicant seeking a variance from the Galveston County Tax Abatement Guidelines and Criteria as Amended?

☐ Yes ☐ No

If yes, attach a letter requesting and justifying the variance and include documentation to support the requested variance.

Part III. Economic Information

Construction Estimate:

Start Date _____ Contract Amount $_____

Completion Date _____ Peak Construction Jobs _____

Construction Man-Years _____

If Modernization:

Estimated current economic life of structure _____ years

Added economic life of structure _____ years

Permanent Job Creation/Retention of existing permanent jobs in Galveston County:

Current employment _____

Jobs to be retained _____

Jobs to be created _____

Estimated Appraised Value On Site	**Land**	**Improvements**	**Total**
Value on January 1 preceding abatement (per GCAD records and account number)			
Estimated value of new abatable investment: Building			
Estimated value of new abatable investment: Fixed and in place machinery and equipment			
Estimated value not subject to abatement (e.g., inventory)			
Estimated value of property subject to ad valorem tax at end of abatement			

Part IV. Copies of ordinances required

Applicant represents and warrants that the property for which abatement is sought is located within a reinvestment zone for purposes of Chapter 312 of the Texas Tax Code. Applicant must include a copy of the municipal order or ordinance designating the reinvestment zone, as well as any order or ordinance subsequently amending the designation, with their Application submission. If the property for which abatement is sought is located in an enterprise zone that qualifies as a reinvestment zone for

purposes of Chapter 312 of the Texas Tax Code, then Applicant must include documentation from the Governor's Office showing affirmatively that the property is located within a current enterprise zone.

Part V. Designated Contact; Individual Tendering Application

Company Representative Authorized for Contact:		**Applicant's Authorized Company Official:**	
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Telephone:	_____	Telephone:	_____
E-mail	_____	E-mail:	_____

Signature of Applicant's Authorized Company Official tendering this Application for Tax Abatement: _____ (Application **must** be signed)

Date Signature signed above:_____

Description of Narrative

(Narrative information must be included with Application)

Introduction to the Company. Applicant shall describe the company's business activities, locations, primary markets, history (when and where incorporated), headquarters location, parent or subsidiary company information to include a complete diagram showing names, ownership percentages, and which companies will be active and in what capacity on the project. Applicant shall also include the names of chief officers, and provide a copy of the annual report or financial statements. Applicant shall identify whether its' ownership resides outside of the United States and whether this will be a foreign direct investment project.

Reasons for seeking abatement. Applicant shall state its reasons for seeking tax abatement and should include any special considerations. Applicant should state how the project will benefit the community where it will be located. If the Applicant is requesting any variances, it shall provide justification for the variance requested.

Describe the project. Applicant should provide facts about the proposed site (acreage, cost, location, ownership), and describe the type and value of proposed improvements. Applicant shall include a construction budget in line item format, and list fixed in place equipment to be included in the project. Applicant shall include a project timeline (running from start date through end date). Applicant shall provide environmental impact information and note any anticipated impacts of the project on the environment, including but not limited to, water quality, storm water and runoff, floodplain and wetlands,

solid waste disposal, noise levels, and air quality. Applicant shall include its history of environmental compliance.

Jobs. Applicant must provide information on its current level of employment including current payroll and the breakdown of current employment by zip code. Applicant must provide a copy of the company's most recent filing with the Texas Workforce Commission or other supporting documentation that can be used to determine actual employment at time of application. Applicant must provide information on the projected job creation associated with the project, including: new employee needs (for example, skilled versus non-skilled, level of education, experience, etc.); its proposed pay scale; any training that the company will provide to its new employees; upward mobility opportunities, career tacks, etc., available to less educated and experienced workers; if this is a consolidation, then information on the number of new hires versus the number of transfers; and information on construction jobs to be created by the project.

Competition with local business. Applicant shall list any competition or similar businesses in the area and describe how abatement will impact competition with other similar businesses in the area.

Alternative site considerations. If applicable, Applicant shall provide information on alternative site considerations and/or incentives being offered to the company. Applicant shall state who the company has visited with outside of Galveston County concerning tax abatement in another county, state, or country, and provide copies of any letters of intent from the entities offering abatement/incentive(s).

Lease Agreement. If Applicant will be leasing property, it must attach a copy of the lease. If the company owns or is purchasing land, Applicant must attach a copy of deed or executed contract-option to purchase and there must be an "out clause" listed in the special provisions stating that if tax abatement is not granted, then Applicant will not be held to the terms of the contract with the lessor/owner.

Documentation showing property is located within a reinvestment zone. Applicant must submit a copy of the requirement documentation showing that the property is located within a current reinvestment zone for purposes of Chapter 312 of the Texas Tax Code.

Completeness of Submission. Applicant's application for tax abatement shall not be considered complete until all required information and payment has been provided to Galveston County. For questions, Applicant should contact the Director of Economic Development for Galveston County, at 722 Moody, 5th Floor, Galveston, Texas 77550, phone number (409) 766-2541.