

ORDINANCE NO. 2010- 1

An ordinance determining that the Application for Designation of a Reinvestment Zone and Tax Abatement of Vistar d/b/a Performance Foodservice-Victoria meets the criteria for designating a reinvestment zone, designating as a reinvestment zone real property and associated structures at Tract I: 0.8906 acre tract of land situated in Farm Block "B", East of Town in the original Four League Grant to the Town of Victoria, Victoria County, Texas and Tract II: Lot 1, Block 1 of the Groce Wearden Company Subdivision, an addition to the City of Victoria, Victoria County, Texas, also known as 204 N. Brownson, establishing the boundaries thereof and other matters relating thereto, determining that the City of Victoria intends to enter into an agreement for Tax Abatement with said entities, establishing requirements for said agreement, providing for severability; and declaring an effective date.

The City Council of the City of Victoria ("City"), wishes to promote the development and redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a reinvestment zone for commercial-industrial tax abatement, as authorized by Chapter 312 of the Texas Tax Code, the Property Redevelopment and Tax Abatement Act ("Act");

After publishing a Notice of Public Hearing and providing written notice to all taxing units, including within their boundaries the real property that is to be included in the proposed reinvestment zone, a hearing before the City Council was held at 5:00 p.m. on January 5, 2010 such date being at least 7 days after the date of publication and provision of the notice of such public hearing.

The City at such hearing invited any interested person, or its attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the resolution calling such hearing should be included in such proposed reinvestment zone, the concept of tax abatement, and whether the City should enter into a tax abatement agreement with Vistar d/b/a Performance Foodservice-Victoria;

The proponents of the reinvestment zone offered evidence in favor of all of the foregoing matters relating to the creation of the reinvestment zone and the City's declaration of intent to enter into a tax abatement agreement with Vistar d/b/a Performance Foodservice-Victoria, and no opponents of the reinvestment zone appeared to contest creation of the reinvestment zone; and

Pursuant to Section 312.2041 of the Texas Tax Code, the City must 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 that the municipality intends to enter in to the agreement.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

The facts and recitations contained in the preamble of this ordinance are found and declared to be true and correct.

2.

The City, after conducting a hearing and having heard evidence and testimony concerning the aforementioned facts, has made the following findings and determinations based on the testimony presented to it:

a. A public hearing on the adoption of the reinvestment zone was properly called, held and conducted and notices of such hearing have been published as required by law and delivered to all taxing units including within their boundaries the real property that is to be included in the proposed reinvestment zone;

b. The boundaries of the reinvestment zone should encompass Tract I: 0.8906 acre tract of land situated in Farm Block "B", East of Town in the original Four League Grant to the Town of Victoria, Victoria County, Texas and Tract II: Lot 1, Block 1 of the Groce Wearden Company Subdivision, an addition to the City of Victoria, Victoria County, which Legal Description is attached hereto;

c. The creation of the reinvestment zone for commercial-industrial tax abatement with boundaries as described herein and the improvements sought therein are feasible and practical and would be a benefit to the land to be included in the zone and to the municipality after the expiration of an agreement entered into pursuant to Section 312.204;

d. The proposed reinvestment zone meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Act in that it is "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 would contribute to the economic development of the municipality”; and

e. The proposed reinvestment zone meets the criteria for the creation of a reinvestment zone and tax abatement therein as set forth in the Guidelines and Criteria for Tax Abatement in the City of Victoria, as adopted by the City Council by Resolution No. 2009-59R.

3.

Pursuant to Section 312.201 of the Act, the City hereby designates a reinvestment zone for commercial-industrial tax abatement encompassing the area depicted as Tract I: 0.8906 acre tract of land situated in Farm Block “B”, East of Town in the original Four League Grant to the Town of Victoria, Victoria County, Texas and Tract II: Lot 1, Block 1 of the Groce Wearden Company Subdivision, an addition to the City of Victoria, Victoria County, which Legal Description is attached hereto; This reinvestment zone is designated as the Vistar d/b/a Performance Foodservice – Victoria.

4.

The City Council finds and determines:

- a. The granting of tax abatement in the proposed reinvestment zone will not have substantial adverse effect on the City’s bonds, tax revenue, service capacity, or the provision of government service or the tax base;
- b. The applicant has sufficient financial capacity to perform the proposed agreement; and
- c. The planned or potential use of the property in the proposed reinvestment zone would not constitute a hazard to public safety, health or morals, or violation of other codes or law.

5.

The City Council finds and determines that the City of Victoria intends to enter into a tax abatement agreement with Vistar d/b/a Performance Foodservice - Victoria, pursuant to all applicable state, federal, and local laws and the Guidelines and Criteria established by the City of Victoria in Resolution No. 2009-59R.

6.

A written tax abatement agreement with Vistar d/b/a Performance Foodservice - Victoria for equipment and real property to be placed on Tract I: 0.8906 acre tract of land situated in Farm Block “B”, East of Town in the original Four League Grant to the Town of Victoria, Victoria County, Texas and Tract II: Lot 1, Block 1 of the Groce Wearden Company Subdivision, an addition to the City of Victoria, Victoria County, which Legal Description is attached hereto, shall be negotiated by City Staff; shall be entered pursuant to Section 312.204 of the Act, shall include provisions that meet the mandatory requirements of Section 312.205 of the Act and Section 5(b) of the Guidelines and Criteria for Tax Abatement in the City of Victoria, and shall, among other provisions, provide the following:

- a. A minimum expenditure on improvements equal to or greater than **\$1,000,000** to be made and at least 10 new jobs to be created;
- b. Compliance with the requirements of the City’s Subdivision & Development Ordinance and all other applicable laws and regulations;
- c. All land located within the designated zone will be appraised at market value for tax purposes;
- d. A duration of approximately 4 consecutive tax years beginning with and including the **January 1, 2010** assessment date or a different date to be established in the tax abatement agreement; and
- e. A share of taxes to be abated as per the following table:

Taxable Investment (Millions)	Year							
	1	2	3	4	5	6	7	8
Up to .50	---	---	---	---	---	---	---	---
.50 to 1.99	90	80	60	40	---	---	---	---
2.0 to 3.99	90	90	75	60	45	---	---	---

7.

Neither this ordinance nor any associated resolution, ordinance, agreement or document shall constitute an act of abandonment of any City-owned property within or adjacent to the reinvestment zone created by this ordinance.

8.

If any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

9.

This ordinance shall take effect upon final approval and adoption by the City Council of the City of Victoria.

PASSED FIRST READING, this the 5th day of January, 2010.

AYES: 5
NAYS: 1
ABSTENTIONS: 0

PASSED SECOND READING, this the 19TH day of JANUARY, 2010.

AYES: 5
NAYS: 1
ABSTENTIONS: 0

PASSED THIRD READING, this the 19TH day of JANUARY, 2010.


AYES: 5
NAYS: 1
ABSTENTIONS: 0

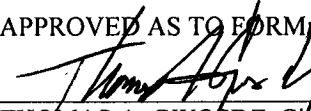
APPROVED AND ADOPTED, this the 19TH day of JANUARY, 2010.



ATTEST:


SCARLET SWOBODA, City Secretary


WILL ARMSTRONG, Mayor of the
City of Victoria, Texas

APPROVED AS TO FORM

THOMAS A. GWOSDZ, City Attorney

Distribution: Legal Department
Finance Department
County of Victoria
Victoria Economic Development Corporation

Copies Sent: JANUARY 20, 2010

EXHIBIT A

Tract I

Being a 0.8906 acre (by survey) tract of land situated in Farm Block "B", East of town in the original Four League Grant to the Town of Victoria, Victoria County, Texas being that same tract of land described as a 0.889 acre tract of land conveyed to Groce-Western Company from Southern Wholesale Grocery Company by instrument dated July 23, 1986 and recorded in volume 1387, page 889 of the deed records of Victoria County, Texas.

Beginning at 5/8 inch diameter iron rod found in the Northeast right-of-way line of Brownson Street (60' R.O.W.). Said iron rod marking the west corner of lot 1, block 8 of Akers Subdivision as recorded in volume 1, page 6 of the plat records of said County and also being the North corner of said 0.8906 acre tract;

THENCE South 69°39'00" East, with the South line of said Akers Subdivision. A distance of 258.30 feet to a 5/8 inch diameter iron rod found marking the East corner of said 0.8895 acre tract and also marking the most Northerly corner of Lot 1, Block 1 of Groce Wearden Company Subdivision as recorded in volume 7, page 93 of the plat records of said county;

THENCE South 19°16'00" West, with the line of said Groce Wearden Company Subdivision, a distance of 150.00 feet to a 5/8 inch diameter iron rod found marking the South corner of said 0.8906 acre tract;

THENCE North 69°39'00" West, with the line of said Groce Wearden Company Subdivision, a distance of 258.30 feet to a 5/8 inch diameter iron rod set in the aforementioned Northeast right-of-way line of Brownson street, said iron rod marking the West corner of said 0.8906 acre tract and also marking the most Westerly North corner of said Groce Wearden Company Subdivision;

THENCE North 19°16'00" East, along said right-of-way line, a distance of 150.00 feet to the point of beginning, containing within these meters and bounds 0.8906 acres of land, more or less.

Tract II

Being Lot No. One (1), in Block No. One (1) of GROCE WEARDEN COMPANY SUBDIVISION, an addition to the City of Victoria, Victoria County, Texas, according to the established map and plat of said addition of record in Volume 7, Page 93C of the Plat Records of Victoria County, Texas, to which reference is here made for descriptive purposes.