

ORDINANCE NO. 2010- 20

An ordinance determining that the Application for Designation of a Reinvestment Zone and Tax Abatement of Caterpillar, Inc. meets the criteria for designating a reinvestment zone, designating as a reinvestment zone real property and associated structures, approximately 320 acres located at Loop 463 and Lone Tree Road N. (also known as Lone Tree Business Center), 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 entity, 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 August 24, 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 Caterpillar, Inc.;

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 Caterpillar, Inc., 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 approximately 320 acres located at Loop 463 and Lone Tree Road N (also known as Lone Tree Business Center), 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 approximately 320 acres located at Loop 463 and Lone Tree Road N (also known as Lone Tree Business Center), which Legal Description is attached hereto; This reinvestment zone is designated as Caterpillar, Inc.

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 Caterpillar, Inc., 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 Caterpillar, Inc. for equipment, real property and associated structures to be placed on approximately 320 acres located at Loop 463 and Lone Tree Road N (also known as Lone Tree Business Center), 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 **\$102,725,000.00** to be made and at least 500 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 10 consecutive tax years beginning with and including the January 1, 2011 assessment date or a different date to be established in the tax abatement agreement; and
- e. 100% of taxes to be abated for 10 years 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	---	---	---
4.0 to 7.99	90	90	80	70	60	50	---	---
8.0 to 15.99	90	90	85	75	65	55	45	---
16.0 or more	90	90	85	80	75	65	55	45

* Affected jurisdictions reserve the right to grant abatements less than the maximums stated above.

** For eligible investments in excess of \$100 million, the affected jurisdictions reserve the right to grant abatements up to the state maximum of 100% for 10 years.

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 24th day of August, 2010.

AYES: 7
NAYS: 0
ABSTENTIONS: 0

PASSED SECOND READING, this the 31ST day of AUGUST, 2010.

AYES: 6
NAYS: 0
ABSTENTIONS: 0

PASSED THIRD READING, this the 31ST day of AUGUST, 2010.

AYES: 6
NAYS: 0
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 31ST day of AUGUST, 2010.



WILL ARMSTRONG, Mayor of the City of Victoria, Texas

ATTEST:

SCARLET SWOBODA, City Secretary

APPROVED AS TO FORM:

THOMAS A. GWOSDZ, City Attorney

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

Copies Sent: SEPTEMBER 1, 2010

220.00 ACRES

**THE STATE OF TEXAS)
THE COUNTY OF VICTORIA)**

BEING a 220.00 acre tract of land situated in James Reese Survey, Abstract 248, Victoria, County, Texas, and being a portion of that certain 876.53 acre tract of land as conveyed to Sisters of the Incarnate Word and Blessed Sacrament of Victoria, a Texas non-profit corporation, by Sisters of the Incarnate Word and Blessed Sacrament, a religious congregation, according to instrument recorded in Volume 874, Page 151 of the Deed Records of Victoria County, Texas, said 220.00 acre tract of land being more fully described by metes and bounds as follows:

BEGINNING at a concrete monument found marking the intersection of the southeast right-of-way line of The Texas Mexican Railway Company (100' R.O.W.) and the southwest right-of-way line of Loop 463 (R.O.W. width varies), said monument being the north corner of the herein described tract;

THENCE, South 48 deg. 52' 59" East, a distance of 2693.74 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap stamped "USI RPLS 4943") to mark an angle point in the right-of-way line of said Loop 463;

THENCE, South 47 deg. 46' 54" East, a distance of 824.94 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) to mark an angle point in the right-of-way line of said Loop 463;

THENCE, South 02 deg. 19' 41" East, a distance of 140.30 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) to mark the intersection of said Loop 463 and the northwest right-of-way line of Lone Tree Road;

THENCE, South 43 deg. 07' 33" West, a distance of 100.48 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) to mark an angle point in the right-of-way line of said Lone Tree Road;

THENCE, South 37 deg. 08' 25" West, a distance of 201.97 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) to mark an angle point in the right-of-way line of said Lone Tree Road;

THENCE, South 43 deg. 17' 32" West, a distance of 2065.72 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) for the south corner of the herein described tract;

THENCE, North 48 deg. 52' 59" West, crossing said Sisters of the Incarnate Word property, a distance of 3635.60 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) in the southeast line of Lot 1, Block 1 of Rhino-X Industries, an addition to the City of Victoria, Victoria County, Texas, according to the established map and plat of said addition recorded in Volume 7, Page 96-D of the Plat Records of said County;

THENCE, North 58 deg. 13' 00" East, a distance of 323.60 feet to a 5/8 inch diameter steel rod set (with yellow plastic cap) to mark the east corner of said Lot 1, Block 1, Rhino-X Industries and an interior corner of the herein described tract;

THENCE, North 31 deg. 47' 00" West, a distance of 645.67 feet to a 5/8 inch diameter steel rod found marking the north corner of said Lot 1, Block 1, Rhino-X Industries, same being the southeast right-of-way line of said railroad and the northwest corner of the herein described tract;

THENCE, North 58 deg. 12' 54" E, with the common line of said railroad right-of-way, a distance of 2076.48 feet to the POINT OF BEGINNING, CONTAINING within these metes and bounds a 220.00 acre tract of land, more or less.

98.89 ACRES

**THE STATE OF TEXAS)
THE COUNTY OF VICTORIA)**

BEING a 98.89 acre tract of land situated in James Reese Survey, Abstract 288, Victoria, County, Texas, and being a portion of that certain 876.53 acre tract of land as conveyed to Sisters of the Incarnate Word and Blessed Sacrament of Victoria, a Texas non-profit corporation, by Sisters of the Incarnate Word and Blessed Sacrament, a religious congregation, according to instrument recorded in Volume 874, Page 151 of the Deed Records of Victoria County, Texas, said 98.89 acre tract of land being more fully described by metes and bounds as follows:

BEGINNING at a 5/8 inch diameter steel rebar found in the curving northeast right-of-way line of John Stockbauer Drive, said rebar marking the south corner of Lot 1, Block 1 of Rhino-X Industries an addition to the City of Victoria, Victoria County, Texas according to the established map or plat of said addition recorded in Volume 7, Page 96D of the Plat Records of Victoria County, Texas, and said rebar marking the west corner of the herein described tract;

THENCE, North 58 deg. 13' 00" East, along the south east line of said Rhino-X Industries, a distance of 1052.08 feet to a 5/8 inch diameter steel rebar found (with yellow plastic cap stamped "USI RPLS 4943") marking the north corner of the herein described tract, same being the most westerly corner of that certain 220.00 acre tract of land as conveyed from Sisters of the Incarnate Word and Blessed Sacrament of Victoria to Victoria Sales Tax Development Corporation according to Instrument 200211157 of the Official Records of said County;

THENCE, South 48 deg. 52' 59" East, along the southwest line of said 220.00 acre tract, a distance of 3575.56 feet to a 5/8 inch diameter steel rebar found (with yellow plastic cap) marking the east corner of the herein described tract and interior corner of Lone Tree Road right-of-way (140' R.O.W.);

THENCE, South 43 deg. 17' 32" West, with the northwest right-of-way line of said Lone Tree Road, a distance of 1508.29 feet to a 5/8 inch diameter steel rebar found (with yellow plastic cap) for the south corner of the herein described tract, same marking the intersection with the northwest right-of-way line of John Stockbauer Drive;

THENCE, North 81 deg. 06' 13" West, a distance of 57.15 feet to a 5/8 inch diameter steel rebar found (with yellow plastic cap) marking an angle point in the right-of-way line of John Stockbauer Drive (80' R.O.W.);

THENCE, North 25 deg. 31' 06" West, continuing with said right-of-way line, a distance of 545.07 feet to a 5/8 inch diameter steel rebar set (with yellow plastic cap stamped "URBAN SURVEYING INC.") to mark the beginning of a tangent curve to the left;

THENCE, with said curve to the left, radius = 2336.83 feet, interior angle = 20 deg. 46' 40", chord bears N 35 deg. 54' 26" W, 842.79 feet, for an arc length of 847.43 feet to a 5/8 inch diameter steel rebar set (with yellow plastic cap) for its point of tangency;

THENCE, North 46 deg. 17' 46" West, a distance of 2219.84 feet to a 5/8 inch diameter steel rebar set (with yellow plastic cap) to mark the beginning of another tangent curve to the left;

THENCE, continuing with said right-of-way line and curve to the left, radius = 1864.86 feet, interior angle = 07 deg. 25' 35", chord bears N 42 deg. 34' 58" W, 241.72 feet, for an arc length of 241.72 feet to the **POINT OF BEGINNING, CONTAINING** within these metes and bounds a 98.89 acre tract of land, more or less.




PUBLIC HEARING NOTICE

The City of Victoria, Texas will conduct a public hearing Tuesday August 24, 2010, at 5:00 p.m. at the Victoria City Hall located at 105 W. Juan Linn, Victoria, Texas to discuss local and state tax incentives available to Caterpillar, Inc., for development of a manufacturing and distribution facility. All interested parties are welcome to attend to present their views.

Persons with disabilities that wish to attend this meeting should contact the City Secretary's office, phone number 361-485-3040 to arrange for assistance. Individuals who require auxiliary aids or services for this meeting should contact City Hall at least two days before the meeting so that appropriate arrangements can be made.

This notice was posted at the Victoria City Hall on August 17, 2010.



City Secretary

Posting must occur at least seven days prior to the public hearing (Tax Code) and must contain the following items: date, time and location of the hearing; the name and address of the proposed project being nominated; the designation being sought (single, double jumbo or triple jumbo enterprise project) and notice that tax incentives will be discussed if applicable (Enterprise Zone Programs Rules, 10 TAC 176 (Rules))."