

RESOLUTION - VICTORIA ECONOMIC DEVELOPMENT CORPORATION – SOUTH TEXAS ELECTRIC COOPERATIVE, INC. – REINVESTMENT ZONE:
(675-419)

9. March 11, 2002. Motion by Chris Rivera and seconded by John J. Hammack, the Commissioners' Court approved the Resolution designating a 50-acre tract of land to be known as the South Texas Electric Cooperative Reinvestment Zone for a period of eight years. Motion adopted. All per Resolution as filed in the minutes of this Court.

WHEREAS, on this the 11th day of March, 2002, at 10:00 a.m. in the Victoria County Commissioners' Courtroom, 115 N. Bridge, second floor, Victoria County, Texas, the Commissioners' Court of Victoria County met to consider designating

Being a 50 acre tract comprised of 2.55 acre portion of the P. Dimmitt Two League Grant, Abstract 20 and a 47.45 acre portion of the Jose Miguel L'Hermit Survey, Abstract 77 and being a tract out of the North West end of that 1661.7 acre tract a portion of that same land described as Tract "A" Fourth Share awarded to J. Irving Kyle in a Decree of District Court of Victoria County, Texas, No. 4387, styled J.Allen Kyle vs. Mrs. Mattie J. West, et al, rendered December 17, 1912 and recorded in Volume 16, page 267 of the Minutes of said Court, also recorded in Volume 72, Page 63 of the Deed Records of Victoria County, Texas and being more fully described my metes and bounds on Exhibit "A" attached hereto, containing 0.76 acres, more or less, for commercial/industrial tax abatement, as authorized by the Property Redevelopment and Tax Abatement Act, codified in Chapter 312, Vernon's Texas Tax Code, as amended, (the "Act"), to be known as SOUTH TEXAS ELECTRIC COOPERATIVE REINVESTMENT ZONE and

Having examined the record, the Court finds that Notice of the hearing was duly published and delivered as required by Section 312.201 of the Act.

The Court further 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.

The Court further finds, subject to the execution of a Tax Abatement Agreement entered into pursuant to Chapter 312.402 of the Act, that improvements to the property are feasible and practical and would be a benefit to the property to be included in the zone and to the County.

NOW, BE IT RESOLVED that the real property located in Victoria County, Texas, and described as: a 50 acre tract comprised of 2.55 acre portion of the P. Dimmitt Two League Grant, Abstract 20 and a 47.45 acre portion of the Jose Miguel L'Hermit Survey, Abstract 77 and being a tract out of the North West end of that 1661.7 acre tract a portion of that same land described as Tract "A" Fourth Share awarded to J. Irving Kyle in a Decree of District Court of Victoria County, Texas, No. 4387, styled J.Allen Kyle vs. Mrs. Mattie J. West, et al, rendered December 17, 1912 and recorded in Volume 16, page 267 of the Minutes of said Court, also recorded in Volume 72, Page 63 of the Deed Records of Victoria County, Texas and being more fully described my metes and bounds on Exhibit "A" attached hereto be, and the same is, hereby designated for commercial/industrial tax abatement, as authorized by the Act, to be known as SOUTH TEXAS ELECTRIC COOPERATIVE REINVESTMENT ZONE.

RESOLVED FURTHER, that the designation of SOUTH TEXAS ELECTRIC COOPERATIVE REINVESTMENT ZONE expires eight (8) years from the date hereof.

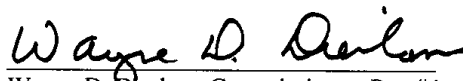
Adopted this the 11th day of March, 2002.


Helen R. Walker, County Judge


Chris F. Rivera, Commissioner, Pct. #1


Jerry Nobles, Commissioner, Pct. #2


John J. Hammack, Commissioner, Pct. #3


Wayne D. Dierlam, Commissioner, Pct. #4

BEING a 2.55-acre portion of the P. Dimmitt Two League Grant, Abstract 20 and a 47.45-acre portion of the Jose Miguel L'Hermit Survey, Abstract 77 and being a tract out of the North West end of that 1661.7-acre tract a portion of that same land described as Tract "A" Fourth Share awarded to J. Irving Kyle in a Decree of District Court of Victoria County, Texas, No. 4387, styled J. Allen Kyle vs Mrs. Mattie J. West, et al, rendered December 17, 1912 and recorded in Volume 16, Page 267 of the Minutes of said Court, also recorded in Volume 72, Page 63 of the Deed Records of Victoria County, Texas and this 50.00-acre tract being described by metes and bounds as follows:

393

BEGINNING at a concrete monument at the P. T. of a 19° curve same being opposite Station 148/92.85 and 40 feet left of centerline of Farm to Market Highway No. 447, said monument being the following calls and distances from the original North corner of the Edith M. Carpenter 920.34-acre tract, S 44° 44' 08" W a distance of 6187.87 feet, N 77° 55' 47" W a distance of 163.45 feet and S 12° 04' 13" W a distance of 20.0 feet;

THENCE with said 19° curve as follows, S 86° 45' 47" E a distance of 105.17 feet and N 83° 45' 13" E a distance of 16.0 feet to a concrete monument for corner;

THENCE S 40° 03' E a distance of 966.0 feet to a concrete monument for the East corner of this tract;

THENCE S 49° 57' W at 1400 feet a concrete monument on line and at 1512.0 feet the South corner of this tract on the East bank of the Guadalupe River;

THENCE up the meanders of the East bank of the Guadalupe River as follows:

N 18° 35' 25" W	a distance of 65.0 feet
N 24° 00' 34" W	a distance of 200.20 feet
N 33° 09' 46" W	a distance of 165.50 feet
N 37° 33' 37" W	a distance of 204.79 feet
N 51° 50' 47" W	a distance of 224.04 feet
N 16° 43' 11" W	a distance of 252.94 feet
N 17° 35' 05" W	a distance of 151.10 feet
N 55° 07' 12" W	a distance of 194.17 feet
N 4° 21' 30" W	a distance of 427.92 feet
N 15° 24' 55" E	a distance of 378.0 feet

to the South right-of-way of Farm to Market Highway No. 447;

THENCE S 74° 08' 47" E a distance of 237.52 feet with right-of-way to a concrete monument opposite centerline Station 158/04.16 the P. C. of an 8° 16' curve, said monument being 40 feet from centerline;

THENCE S 77° 55' 47" E a distance of 911.31 feet with right-of-way to place of beginning, CONTAINING 50.00 acres of land.

EXHIBIT A

AGREEMENT – TAX ABATEMENT – SOUTH TEXAS ELECTRIC COOPERATIVE, INC. - VICTORIA ECONOMIC DEVELOPMENT CORPORATION – REINVESTMENT ZONE:
(675-437)

10. March 11, 2002. Motion by John J. Hammack and seconded by Wayne D. Dierlam, the Commissioners' Court adopted the Agreement between Victoria County and South Texas Electric Cooperative, Inc. for tax abatement on a 50 acre tract of land to be known as the South Texas Electric Cooperative Reinvestment Zone as designated in Order No. 9. Motion adopted. All per Agreement as filed in the minutes of this Court.

This Agreement is entered into by and between **VICTORIA COUNTY, TEXAS**, hereinafter referred to as COUNTY; and **SOUTH TEXAS ELECTRIC COOPERATIVE, INC.**, acting by and through its duly authorized Assistant General Manager, **MICHAEL PACKARD**, hereinafter referred to as OWNER.

WITNESSETH:

WHEREAS, on October 22, 2001, the Commissioners' Court of Victoria County, Texas, re-adopted by resolution, certain Guidelines and Criteria of Victoria County for Creation of Reinvestment Zones and for Granting Tax Abatement in Reinvestment Zones created in Victoria County, Texas, a copy of which is attached hereto and incorporated herein as Exhibit "A", herein referred to as the "POLICY STATEMENT"; and

WHEREAS, on March 11, 2002, the Commissioners' Court of Victoria County, Texas passed Order No. 10 establishing **SOUTH TEXAS ELECTRIC COOPERATIVE REINVESTMENT ZONE** (the "Reinvestment Zone") in Victoria County, Texas, for commercial/industrial tax abatement, as authorized by the Property Redevelopment and Tax Abatement Act codified in Chapter 312, Vernon's Texas Tax Code, as amended, hereinafter referred to as the STATUTE; and

WHEREAS, the POLICY STATEMENT constitutes appropriate guidelines and criteria governing tax abatements to be entered into by the COUNTY as contemplated by the STATUTE; and

WHEREAS, the POLICY STATEMENT declared the COUNTY'S intent to participate in the tax abatement program and that it elected to be eligible to participate in tax abatement; and

WHEREAS, in order to maintain and/or enhance the commercial/industrial economic and employment base of the Victoria area to the long term interest and benefit of the COUNTY, in accordance with said POLICY STATEMENT and STATUTE; and

WHEREAS, the Commissioners' Court has found that the terms of this Agreement meets the guidelines and criteria of the POLICY STATEMENT and that there are no substantial adverse affects on the provisions of the COUNTY'S service or tax base and the planned use of the property will not constitute a hazard to public safety, health or morals; and

WHEREAS, OWNER acknowledges, represents and warrants that it holds all right, title and interest in and to the PREMISES as hereinafter defined and the contemplated improvements to the PREMISES as set forth in this Agreement; and

WHEREAS, OWNER acknowledges, represents and warrants that the IMPROVEMENTS herein described are reasonably expected to increase the appraised value of the PREMISES, as hereinafter defined, in the amount of **SEVENTY-THREE MILLION THREE HUNDRED SIXTY-THREE THOUSAND and No/100 (\$73,363,000)** Dollars or more after the construction has been completed; retain employment for at least ONE HUNDRED THIRTY-TWO (132) persons on a full-time basis in Victoria County; and create new employment on a full-time basis for at least six (6) persons by the end of the first year after

start-up, two (2) persons by the end of the second year after start-up; and at least two (2) additional persons in support positions such as sales, marketing, and bookkeeping.

WHEREAS, the contemplated use of the PREMISES, as hereinafter defined, the contemplated Improvements to the PREMISES in the amount as set forth in this Agreement, and the other terms hereof are consistent with encouraging development of the Reinvestment Zone in accordance with the purpose for its creation and are in compliance with the POLICY STATEMENT and all applicable law.

NOW THEREFORE the parties hereto do mutually agree as follows:

1. The property to be the subject of this Agreement shall be that property located in Victoria County, Texas, described as:

Being a 50.00 acre tract comprised of 2.55 acre portion of the P. Dimmitt Two League Grant, Abstract 20 and a 47.45 acre portion of the Jose Miguel L'Hermit Survey, Abstract 77, and being a tract out of the North West end of that 1661.7 acre tract a portion of that same land described as Tract "A" Fourth Share awarded to J. Irving Kyle in a Decree of District Court of Victoria County, Texas, No. 4387, styled J. Allen Kyle vs Mrs. Mattie J. West, et al, rendered December 17, 1912 and recorded in Volume 16, Page 267 of the Minutes of said Court, also recorded in Volume 72, Page 63 of the Deed Records of Victoria County, Texas, more particularly described by metes and bounds attached hereto on Exhibit "A" and depicted on survey plat attached hereto as Exhibit "B" ,

hereinafter referred to as the PREMISES.

The Victoria County Appraisal District has included the PREMISES in a 72.45 acre tract assessed for purposes of property tax assessment effective January 1, 2001, in the following account:

Account #R31335 covering 72.45 acres out of and a part of the
 Filipe Dimmitt 1.25 League, Abstract 20, Victoria County, Texas:

Improved Value	\$ 272,070
Land Value	<u>\$ 78,150</u>
Total Value	\$ 350,220

2. The IMPROVEMENTS are described as a 191 megawatt (MW) dual-fuel fired electric facility, including three GE LM6000 dual-fuel fired turbines and associated equipment.

3. The OWNER shall commence construction of the Improvements, with total construction costs estimated at **ONE HUNDRED TWENTY-SIX MILLION and No/100 (\$126,000,000)** Dollars, to be substantially completed by June 1, 2003.

4. The OWNER shall have such additional time to complete the IMPROVEMENTS as may be required in the event of "force majeure" if OWNER is diligently and faithfully pursuing completion of the IMPROVEMENTS. For this purpose, "force majeure" shall mean any contingency or cause beyond the reasonable control of OWNER including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or de facto governmental action (unless caused by acts of omissions of OWNER), fires, explosions or floods, and strikes.

5. The OWNER agrees and covenants that it will diligently and faithfully in a good and workmanlike manner pursue the completion of the IMPROVEMENTS as a good and valuable consideration of this Agreement. OWNER further covenants and agrees that all construction of the IMPROVEMENTS will be in

accordance with all applicable state and local laws and regulations or valid waiver thereof. In further consideration, OWNER agrees that from the date of completion until the expiration of this Agreement, it will continuously operate and maintain the PREMISES as a 191 megawatt (MW) dual-fuel fired electric facility, and the use of the PREMISES will be limited to the general purpose of encouraging development of the Reinvestment Zone.

6. In the event that the IMPROVEMENTS for which an abatement has been granted are not completed in accordance with this Agreement or there is a violation of Section ("Recapture") of the POLICY STATEMENT as defined therein or a violation of Section 6 ("Recapture") of the POLICY STATEMENT as defined therein or a violation of any other provisions in the POLICY STATEMENT, then this Agreement shall be in default and the POLICY STATEMENT will govern and control. Notice shall be in writing and shall be delivered by personal delivery or certified mail to **SOUTH TEXAS ELECTRIC COOPERATIVE, INC.**, Victoria, Texas at the address recited herein. Subject to any notice and cure periods which may be required under the POLICY STATEMENT, as liquidated damages in the event of default, all taxes which otherwise would have been paid to the COUNTY without benefit of abatement (but without the addition of penalty; interest will be charged at the statutory rate for delinquent taxes as determined by Section 33.01 of the Property Tax Code of the State of Texas) will become a debt to the COUNTY and shall be due, owing and paid to the COUNTY within sixty (60) days of the expiration of the above mentioned applicable cure

period subject to any and all lawful offsets, settlements, deductions, or credits to which OWNER may be entitled. The parties acknowledge that actual damages in the event of default and termination would be speculative and difficult to determine.

7. It is understood and agreed among the parties that the provisions, terms and conditions of the POLICY STATEMENT which is made a part of this Agreement shall govern and prevail should a conflict arise between the text of this Agreement and POLICY STATEMENT. Furthermore, the laws of the State of Texas shall govern this Agreement.

8. The COUNTY represents and warrants that the PREMISES does not include any property that is owned by a member of their respective councils or boards, agencies, commissions, or other governmental bodies approving, or having responsibility for the approval of this Agreement.

9. This Agreement cannot be assigned by OWNER unless written permission is first granted by the COUNTY, which permission shall be at the sole discretion of the COUNTY. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto.

10. It is understood and agreed between the parties that the OWNER, in performing its obligations hereunder, is acting independently, and the COUNTY assumes no responsibilities or liabilities in accordance therewith to third parties and OWNER agrees to indemnify and hold the COUNTY harmless therefrom.

11. The OWNER further agrees that the COUNTY, their agents

and employees, shall have reasonable right of access to the PREMISES to inspect the IMPROVEMENTS in order to insure that the construction of the IMPROVEMENTS are in accordance with the Agreement and all applicable state and local laws and regulations or valid waiver thereof. After completion of the IMPROVEMENTS, the COUNTY shall have the continuing right to inspect the PREMISES to insure that the PREMISES are thereafter maintained and operated in accordance with this Agreement during the abatement period.

12. Subject to the terms and conditions of this Agreement and the Policy Statement, the COUNTY agrees, for a term of eight consecutive years beginning January 1, 2003, and ending December 31, 2010, to abate for Victoria County and Road and Bridge Taxes, a percentage of the values of those Improvements which qualify as new Eligible Property for Abatement pursuant to the terms of the terms of the Policy Statements and applicable law, equal to the following:

2003	90%	2007	75%
2004	90%	2008	65%
2005	85%	2009	55%
2006	80%	2010	45%

13. Any notice required under this Agreement must be given in writing sent by certified United States mail, postage prepaid, or by personal delivery.

Notice shall be addressed to the COUNTY as follows:

VICTORIA COUNTY COMMISSIONERS' COURT
101 N. BRIDGE, ROOM 102
VICTORIA, TEXAS 77901

Notice shall be addressed to SOUTH TEXAS ELECTRIC COOPERATIVE, INC. as follows:

SOUTH TEXAS ELECTRIC COOPERATIVE, INC.
P. O. BOX 119
NURSERY, TEXAS 77967
ATTENTION: MICHAEL PACKARD

Each party may change its designated address by written notice to all parties as set forth above in this Agreement. Notices shall be deemed to have been received as of three (3) days after mailing unless actual receipt is earlier.

14. This Agreement was entered into by SOUTH TEXAS ELECTRIC COOPERATIVE, INC. pursuant to authority granted by its Corporate Management to MICHAEL PACKARD, its Assistant General Manager. MICHAEL PACKARD acknowledges and represents his authority to enter into this Agreement on behalf SOUTH TEXAS ELECTRIC COOPERATIVE, INC.

15. This shall constitute a valid and binding Agreement between the COUNTY and OWNER, and their successors and assigns when allowed, when executed in accordance herewith.

16. This Agreement constitutes the entire agreement between the parties and no verbal or written representatives have been made a part of this Agreement unless specifically set out herein.

This Agreement is performable in Victoria County, Texas.

WITNESS our hands this 11th day of March, 2002.

VICTORIA COUNTY, TEXAS

SOUTH TEXAS ELECTRIC COOPERATIVE, INC

By: *Helen R. Walker*
HELEN R. WALKER
County Judge

By: *Michael Packard*
MICHAEL PACKARD
Its Assistant Manager

GUIDELINES AND CRITERIA
Tax Abatement in
City of Victoria and/or Victoria County, Texas

313

DEFINITIONS - Section 1

- a.) **"Abatement"** means the full or partial exemption from ad valorem taxes of certain real property in a Reinvestment Zone designated by an affected jurisdiction for economic development purposes.
- b.) **"Affected Jurisdiction"** means Victoria County and any municipality or school district, the majority of which is located in Victoria County, that levies ad valorem taxes upon and provides services to property located within the proposed or existing Reinvesting zone designated by Victoria County.
- c.) **"Agreement"** means written contractual agreement between a property owner and/or lessee and an affected jurisdiction for the purposes of tax abatement.
- d.) **"Base Year Value"** means the assessed value of eligible property January 1 preceding the execution of the agreement plus (if applicable) the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- e.) **"Deferred Maintenance"** means improvements necessary for continued operations, which do not improve productivity or alter the process technology.
- f.) **"Distribution Center Facility"** means buildings and structures, including 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 25 miles from its location in Victoria County.
- g.) **"Expansion"** means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.
- h.) **"Facility"** means property improvements completed or in the process of construction which together compromise an integral whole.
- i.) **"Initiating Governing Body"** shall be either the Victoria City Council or the Victoria County Commissioner's Court depending on whether Applicant's project is located in the City of Victoria or within Victoria County but outside the City of Victoria.
-
-

- j.) **"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.
- k.) **"Modernization"** means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed in place machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- 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"** 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 serve a market primarily outside the Victoria Metropolitan Statistical Area (VMSA) and result in the creation of new permanent jobs and create new tax base in the VMSA.
- n.) **"Productive Life"** means the number of years a property improvement is expected to be in service.
- o.) **"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 are domiciled at least 25 miles from the facility's location in Victoria County.
- p.) **"Reinvestment Zone"** is a specific parcel of property designated by the City or the County (as applicable) within which a tax abatement can be granted.
- q.) **"Research Facility"** means buildings and structures, including fixed in-place 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.

314

ABATEMENT AUTHORIZED - Section 2

- a.) **Authorized Facility.** A facility may be eligible for abatement if it is located in a designated Reinvestment Zone and is a: Manufacturing Facility, Research Facility, Distribution Center or Regional Service Facility, or Other Basic Industry.
- b.) **Creation of New Value.** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an abatement
-

agreement between the affected jurisdiction and the property owner or lessee, subject to such limitations as governing body may require.

315

- c.) **Economic Qualification.** In order to be-eligible for designation as a Reinvestment Zone and receive tax abatement, the planned improvement: (1) must be reasonably expected to increase the value of the property and (2) must not be expected to solely or primarily have the effect of transferring employment from one part of Victoria County to another.
- 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.
- 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 accommodation; retail facilities; deferred maintenance investments; property to be rented or leased to third parties except as provided in Section 2 f); 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; and property in a Reinvestment Zone that is owned or leased by a member of the governing body creating the Reinvestment Zone, or a member of the Victoria Planning Commission for a City-created Reinvestment Zone.
- f.) **Lease Facilities.** If a new facility is to be constructed by a third party owner for lease to an Applicant otherwise eligible for abatement, then the building owner may also be eligible for abatements. To calculate the applicable category for abatement, the investment of both entities will be added and each shall be eligible to receive abatement at the same rate as would have been available if the entire project were being accomplished by one owner.
- g.) **Economic Qualifications.** In order to be eligible to receive tax abatement, the planned new facility or planned expansion to modernization of an existing facility must meet the following qualifications:
- 1.) *Be reasonably expected to increase the appraised value of the property in the amount of not less than Five Hundred Thousand (\$500,000) dollars after construction is completed.*
 - 2.) *For new construction projects, be expected to create employment for not less than ten (10) persons associated with the production of goods, and services at the authorized facility on a full-time permanent basis in the City of Victoria or Victoria County.*
 - 3.) *Companies seeking to qualify for tax abatement on the basis of job retention shall document that without the creation of a reinvestment zone and/or tax abatement, the company will either reduce or cease operations.*
-

h.) Maximum Available Abatements Per Year *

316

Investment (Millions)	Year								Total
	1	2	3	4	5	6	7	8	
up to .50	---	---	---	---	---	---	---	---	-----
.50 to 1.99	90	80	60	40	---	---	---	---	270%
2.0 to 3.99	90	90	75	60	45	---	---	---	360%
4.0 to 7.99	90	90	80	70	60	50	---	---	440%
8.0 to 15.99	90	90	85	75	65	55	45	---	505%
16.0 or more	90	90	85	80	75	65	55	45	585%

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

- l.) New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- j.) Non-Transferability.** In the event, property is sold which is under a tax abatement agreement, said agreement shall terminate immediately and the said property shall become taxable for the year in which the sale is consummated and all subsequent years. This provision does not apply to transfers of title between corporate entities that have common ownership.
- k.) Partially Eligible.** Partially eligible for abatements are modernization projects and manufacturing facilities which are intended to replace existing equipment or facilities when the existing equipment and facilities will be removed thus eliminating existing value from the tax rolls. In this event, the value of the existing facility and equipment shall be frozen at the time of the abatement agreement and shall remain frozen throughout the abatement period. The eligible abatable value of the new project shall be the difference between the total new investment amount and the existing tax value of the equipment and/or facility to be removed.
- l.) Taxability.** From the execution of the abatement contract to the end of the agreement period, taxes shall be payable as follows: (1) the value of ineligible property as provided in Section 2 e.) shall be fully taxable; (2) the base year value of existing eligible property as determined each year shall be fully taxable; and, (3) the additional value of new eligible and partially eligible property shall be taxable in the manner described in Section 2 g.).
- m.) Term of Abatement.** Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. The term

shall be no longer than as set out in the schedule shown in paragraph 2 h.) for each stated range of investment.

APPLICATION - Section 3

317

- a.) Any present or potential owner of taxable property in an affected jurisdiction may request the creation of a Reinvestment Zone and tax abatement by filing a written request with the affected jurisdictions and attaching a plat and metes and bounds description effectively describing said Reinvestment Zone.
 - b.) The application shall consist of a completed application form accompanied by: a general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken; a descriptive list of the improvements which will be a part of the facility; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of modernizing, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The application form shall also include such financial and other information necessary for the governing body to evaluate the financial capacity and other factors of the applicant.
 - c.) The initial application for the creation of a "Reinvestment Zone" and tax abatement shall be made to Victoria's Mayor if the project is to locate within the incorporated territory of the City of Victoria. If the project is to be located within Victoria County but outside of the incorporated territory of the City of Victoria, then the initial application shall be made to the Victoria County Judge. Upon receipt of a completed application, the Mayor or County Judge, as applicable, shall notify in writing the presiding officer of the legislative body of each affected jurisdiction and provide each presiding officer with a copy of the application. The Mayor or County Judge as applicable, shall then set a public hearing before the "Initiating Governing Body" to afford the Applicant an opportunity to request that a Reinvestment Zone be designated and to describe the project and request the tax abatement. All interested parties will have the opportunity to publicly state why the abatement should or should not be granted at this hearing. Notice of the Public Hearing shall be clearly identified on a governing body agenda and be timely posted as provided by law. After, the Initiating Governing Body creates the Reinvestment Zone, the other affected jurisdictions may set their public meetings in the same manner as described above to grant or not grant the applied for abatement.
 - d.) After receipt of an application for creation of a Reinvestment Zone and application for abatement, Victoria Economic Development Corporation shall provide the affected jurisdictions a feasibility study setting out the impact of the proposed Reinvestment Zone and tax abatement. The feasibility study shall include, but not be limited to, an estimate of the economic impact on each jurisdiction of the creation of the Zone and the abatement of taxes on the property to be included in the Zone.
 - e.) The governing body shall not establish a Reinvestment Zone for the purpose of 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.

PUBLIC HEARING - Section 4

- a.) The adoption of the guidelines and criteria by the governing body of a taxing unit does not:
 - (1) limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;
 - (2) limit the discretion of the governing body 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 governing body consider or grant a specific application or request for tax abatement.

- b.) Should any affected jurisdiction be able to make findings during its public hearing that the granting of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of service, that finding shall be a reason for the governing body to deny any designation of the Reinvestment Zone, the granting of abatement, or both. Additionally, the initiating governing body reserves the right to grant less than the abatement percentages shown in Section 2, paragraph g.), or deny all abatements if the governing body, in its sole discretion, determines that Applicant's investment will not meet the community enhancement goals of said governing body.

- c.) Neither a Reinvestment Zone nor abatement agreement shall be authorized if it is determined that: (1) there would be a substantial adverse affect on the provision of government service or tax base; (2) the applicant has insufficient financial capacity; (3) planned or potential use of property would constitute a hazard to public safety, health or morals; or, (4) violation of other codes or law.

AGREEMENT - Section 5

- a.) The initiating governing body of a taxing unit 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 these Guidelines and Criteria.

- b.) After approval, the governing body shall formally pass a resolution and execute an agreement with the Applicant, and if applicable, the owner of the facility which shall include: (1) estimated value to be abated and the base year value; (2) percent of value to be abated each year as provided in Section 2 g.); (3) the commencement date and the termination date of abatement; (4) the proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provided in, Section 3 b.); (5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as

provided in Sections 6 and 7, or other provisions that may be required for uniformity or State law.

Such agreement shall be executed within 60 days after the applicant has forwarded all necessary information and documentation to the governing body, or at such later date as may be agreed between applicant and the governing body.

319

RECAPTURE - Section 6

- a.) In the event that the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster for a period of one year during the abatement period, then the abatement agreement shall terminate and so shall the abatement of the taxes for the current and any future calendar year during which the facility no longer produces. The taxes which were to be abated for that calendar year shall be paid to the affected jurisdictions within 60 days from the date of termination.
- b.) Should the governing body determine that the company or individual is in default according to the terms and conditions of its agreement, the governing body shall notify the company or individual in writing at the address stated in the agreement, and if such is not cured within 60 days from the date of such notice ("Cure Period"), then the agreement may be terminated.
- c.) In the event that the company or individual (1) allows its unabated ad valorem taxes owed any of the affected jurisdictions to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or (2) violates any of the terms and conditions of the abatement agreement with any of the affected jurisdictions and fails to cure during the Cure Period, the agreement then may be terminated by every affected jurisdiction and all taxes previously abated by virtue of every agreement will be recaptured by each affected jurisdiction and shall be paid by Applicant to each affected jurisdiction within 60 days of the termination.

ADMINISTRATION - Section 7

- a.) The Chief Appraiser of the County shall annually 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 abatement. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions which levies taxes on the amount of the assessment.
 - b.) The agreement shall stipulate that employees and/or designated representatives of the affected jurisdictions 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 the giving of twenty -four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All
-
-

inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

- c.) Upon completion of construction, the affected jurisdictions shall annually evaluate each facility and report possible violations to the contract and agreement to the governing body and its attorney.

320

SUNSET PROVISION - Section 8

- a.) These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years, at which time all Reinvestment Zones and tax abatement contracts created pursuant to its provisions will be reviewed by the governing body to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed or eliminated providing that such actions shall not affect existing contracts.
- b.) These Guidelines and Criteria do not apply to Industrial District Contracts entered into in accordance with Chapter 42 of the Texas Local Government Code.

BEING a 2.55-acre portion of the P. Dimmitt Two League Grant, Abstract 20 and a 47.45-acre portion of the Jose Miguel L'Hermit Survey, Abstract 77 and being a tract out of the North West end of that 1661.7-acre tract a portion of that same land described as Tract "A" Fourth Share awarded to J. Irving Kyle in a Decree of District Court of Victoria County, Texas, No. 4387, styled J. Allen Kyle vs Mrs. Mattie J. West, et al, rendered December 17, 1912 and recorded in Volume 16, Page 267 of the Minutes of said Court, also recorded in Volume 72, Page 63 of the Deed Records of Victoria County, Texas and this 50.00-acre tract being described by metes and bounds as follows:

321

BEGINNING at a concrete monument at the P. T. of a 19° curve same being opposite Station 148/92.85 and 40 feet left of centerline of Farm to Market Highway No. 447, said monument being the following calls and distances from the original North corner of the Edith M. Carpenter 920.34-acre tract, S $44^{\circ} 44' 08''$ W a distance of 6187.87 feet, N $77^{\circ} 55' 47''$ W a distance of 163.45 feet and S $12^{\circ} 04' 13''$ W a distance of 20.0 feet;

THENCE with said 19° curve as follows, S $86^{\circ} 45' 47''$ E a distance of 105.17 feet and N $83^{\circ} 45' 13''$ E a distance of 16.0 feet to a concrete monument for corner;

THENCE S $40^{\circ} 03' E$ a distance of 966.0 feet to a concrete monument for the East corner of this tract;

THENCE S $49^{\circ} 57' W$ at 1400 feet a concrete monument on line and at 1512.0 feet the South corner of this tract on the East bank of the Guadalupe River;

THENCE up the meanders of the East bank of the Guadalupe River as follows:

N	18°	35'	25"	W	a distance of	65.0	feet
N	24°	00'	34"	W	a distance of	200.20	feet
N	33°	09'	46"	W	a distance of	165.50	feet
N	37°	33'	37"	W	a distance of	204.79	feet
N	51°	50'	47"	W	a distance of	224.04	feet
N	16°	43'	11"	W	a distance of	252.94	feet
N	17°	35'	05"	W	a distance of	151.10	feet
N	55°	07'	12"	W	a distance of	194.17	feet
N	4°	21'	30"	W	a distance of	427.92	feet
N	15°	24'	55"	E	a distance of	378.0	feet

to the South right-of-way of Farm to Market Highway No. 447;

THENCE S $74^{\circ} 08' 47'' E$ a distance of 237.52 feet with right-of-way to a concrete monument opposite centerline Station 158/04.16 the P. C. of an $8^{\circ} 16'$ curve, said monument being 40 feet from centerline;

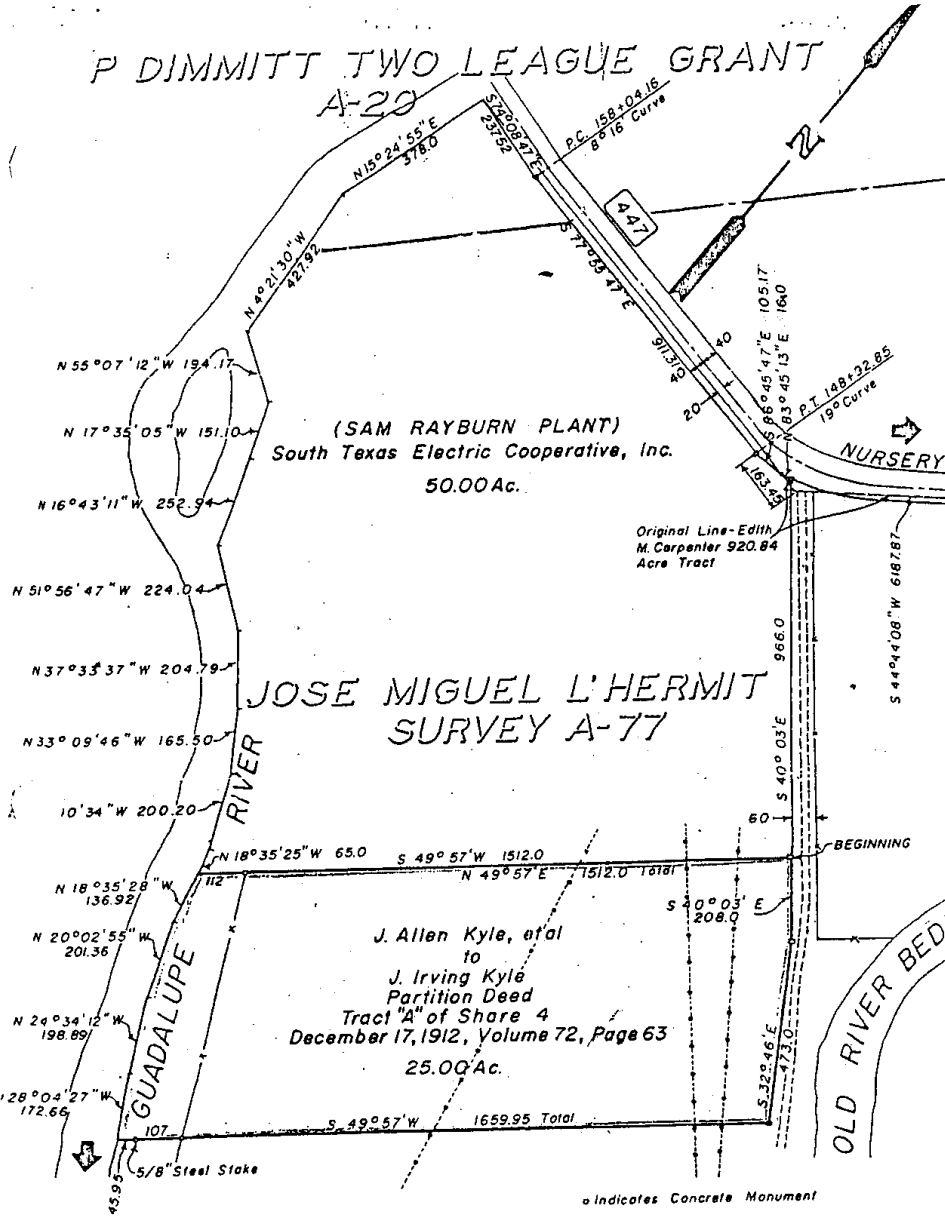
THENCE S $77^{\circ} 55' 47'' E$ a distance of 911.31 feet with right-of-way to place of beginning, CONTAINING 50.00 acres of land.

EXHIBIT A

P DIMMITT TWO LEAGUE GRANT

A-29

322



MAP

Showing a 25.00 Acre Tract situated in the Jose Miguel L'Hermit Survey, Abstract 77, Victoria County, Texas.

Andrew L. Speakerman
Andrew L. Speakerman

182 July 1965

Scale 1"=300'

EXHIBIT B

