

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> October 8, 2013		<b>DATE SUBMITTED:</b> September 17, 2013	
<b>DEPARTMENT OF ORIGIN:</b> Executive Services		<b>SUBMITTED BY:</b> Frank Clark	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input checked="" type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of an ordinance of the City Council of the City of Bryan, Texas, (City) establishing the City's participation in the Texas Enterprise Zone Program pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code (Act), providing tax incentives, designating a liaison for communication with interested parties, and nominating Axis Pipe and Tube, Inc. as an Enterprise Project to the Office of the Governor Rick Perry: Economic Development & Tourism (EDT) through the Economic Development Bank (Bank).			
<b>SUMMARY STATEMENT:</b> If this ordinance is adopted by the City Council, the City is nominating Axis Pipe and Tube, Inc. as a Texas Enterprise project that is operating within an existing Zone. The City is the required entity to nominate Axis Pipe and Tube, Inc. for designation as an enterprise project as the property is located within the City's Extraterritorial Jurisdiction (ETJ).			
<p>This program is available to help a City or County become more attractive in being the successful community to land large developments. In addition, at least twenty-five percent (25%) of the business' new employees will be residents of an Enterprise Zone or economically disadvantaged individuals. The ordinance also lists other incentives that the City can choose to offer but is not required to do so.</p> <p>This ordinance designates the City Manager as the City's liaison to communicate and negotiate with the Office of the Governor's Economic Development and Tourism Division (EDT) through the Economic Development Bank. This ordinance also finds that Axis Pipe and Tube, Inc. meets the criteria for designation as an enterprise project under Chapter 2303, Subchapter F of the Act and is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site located in an enterprise zone. The enterprise project shall take effect on the date of designation of the enterprise project by EDT and terminate on the date that is not less than one year or more than five (5) years after the date of designation.</p> <p>This is a program that will allow Axis Pipe and Tube, Inc. the ability to receive a refund of the State sales tax for their investment and jobs created.</p>			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> Staff recommends adopting this ordinance. During the negotiations, commitments were made to Axis Pipe and Tube, Inc. to explore all programs to aid in reducing their costs. Originally, Brazos County approved a resolution that nominated Axis Pipe and Tube, Inc. to the State but the application was withdrawn because the site is in the City's ETJ, thereby requiring the City to initiate the process.			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
<ol style="list-style-type: none"> <li>1. Adopt the ordinance</li> <li>2. Do not adopt the ordinance and provide direction to staff</li> </ol>			
<b>ATTACHMENTS:</b>			

1. Proposed ordinance
2. Approved resolution from Brazos County

**FUNDING SOURCE:** The City of Bryan is not required to provide funds

**APPROVALS:** Hugh R. Walker, 09/17/2013

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 09/30/2013

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton 09/30/2013

Revised 04/2013

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, ESTABLISHING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING AXIS PIPE AND TUBE, INC. AS AN ENTERPRISE PROJECT (PROJECT) TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM (EDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK); REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE ORDINANCE IS PASSED ARE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Bryan, Texas, (City) desires to create the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas of The City and to provide employment to residents of such area; and

**WHEREAS**, the project or activity is located in an area designated as a 2010 enterprise zone; and

**WHEREAS**, pursuant to Chapter 2303, Subchapter F of the Act, Axis Pipe and Tube, Inc. has applied to The City for designation as an enterprise project; and

**WHEREAS**, the City finds that Axis Pipe and Tube, Inc. meets the criteria for tax relief and other incentives adopted by the City on the grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity, and economic stability; and

**WHEREAS**, a public hearing to consider this ordinance was held by the City on October 8, 2013;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, THAT:**

1.

The City nominates Axis Pipe and Tube, Inc. for enterprise project status;

2.

The following local incentives, at the election of the governing body, are or will be made available to the nominated project or activity of the qualified business:

- a) The City will honor its Non-annexation Agreement commitments with Axis Pipe and Tube, Inc. for ten (10) years, guaranteeing an abatement of municipal taxes (although beginning in the fourth (4<sup>th</sup>) year, partial payments will be made in exchange for municipal services such as fire and police). If the City annexes property within the enterprise zone it may abate taxes for ten (10) years on the increase in value of real property improvements and eligible personal property that is located in the designated enterprise zone. The level of abatement shall be based upon the

extent to which the business receiving the abatement creates jobs for qualified employees, in accordance with the City of Bryan's Tax Abatement Policy, and with qualified employees being defined by Chapter 2303 of the Act.

- b) The City may provide regulatory relief to businesses, including:
  - 1) zoning changes or variances;
  - 2) exemptions from unnecessary building code requirements, impact fees, or inspection fees; or
  - 3) streamlined permitting.
  
- c) The City may provide enhanced services to businesses, including:
  - 1) ensuring police and fire protection provided by the City of Bryan;
  - 2) institution of community crime prevention programs; or
  - 3) special public transportation routes or reduced fares.
  
- d) The City may provide improvements in community facilities, including:
  - 1) capital improvements in water and sewer facilities;
  - 2) road repair; or
  - 3) creation or improvement of parks.
  
- e) The City may provide improvements to housing, including:
  - 1) sponsoring applications for grants and/or low-interest loans for housing rehabilitation, improvement, or new construction; or
  - 2) transfer of abandoned housing to individuals or community groups.
  
- f) The City may provide business and industrial development services, including:
  - 1) providing the "Freeport" exemption;
  - 2) establishing a "Free Trade Zone" designation;
  - 3) on-site and off-site development credits;
  - 4) reduced land cost or use of surplus or other underutilized publicly owned facilities as development sites and/or small business incubators;
  - 5) negotiating reduced tariff rates for electricity;
  - 6) provision of publicly owned land for development purposes, including residential, commercial, or industrial development;
  - 7) creation of special one-stop permitting and problem resolution centers or ombudsmen; or
  - 8) promotion and marketing services through the City of Bryan and Brazos County Economic Development Foundation and Research Valley Partnership.
  
- g) The City in coordination with Workforce Solutions – Brazos Valley, may facilitate the provision of job training and employment services to businesses, including:
  - 1) retraining programs;
  - 2) literacy and employment skills programs;
  - 3) vocational education; or
  - 4) customized job training.

3.

The enterprise zone areas within the City and its portion of the extraterritorial jurisdiction in Brazos County are reinvestment zones in accordance with the Texas Tax Code, Chapter 312.

4.

The City Council of the City of Bryan directs and designates its City Manager as the City's liaison to communicate and negotiate with the Office of the Governor's Economic Development and Tourism Division (EDT) through the Economic Development Bank and enterprise project(s) and to oversee zone activities and communications with qualified businesses and other entities in an enterprise zone or affected by an enterprise project.

5.

The City of Brazos finds that Axis Pipe and Tube, Inc. meets the criteria for designation as an enterprise project under Chapter 2303, Subchapter F of the Act on the following grounds:

- a) Axis Pipe and Tube, Inc. is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site located in an enterprise zone in the governing body's jurisdiction and at least twenty-five percent (25%) of the business' new employees will be residents of an Enterprise Zone or economically disadvantaged individuals; and
- b) There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities in the area; and
- c) The designation of Axis Pipe and Tube, Inc. as an enterprise project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area.

6.

The enterprise project shall take effect on the date of designation of the enterprise project by EDT and terminate on the date that is not less than one year or more than five (5) years after the date of designation.

7.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict

8.

The Code of the City of Bryan, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

9.

Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

10.

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of time, place and purpose of said meetings was given.

11.

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001 et seq., Texas government code, and that advance public notice of time, place and purpose of said meetings was given.

12.

The effective date of this ordinance shall be the date of its final passage following the second reading, as set forth below.

**PRESENTED AND GIVEN** first reading the 8<sup>th</sup> day of October, 2013, at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, passed and approved on the 22<sup>nd</sup> day of October, 2013, by a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ noes at a regular meeting of the City Council of the City of Bryan, Texas.

**ATTEST**

**CITY OF BRYAN**

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Jason P. Bienski, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Janis K. Hampton, City Attorney

RESOLUTION No. 13-011

**A RESOLUTION OF THE COMMISSIONERS' COURT OF BRAZOS COUNTY, TEXAS, ESTABLISHING THE COUNTY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (ACT), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING AXIS PIPE AND TUBE, INC. TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM (EDT) THROUGH THE ECONOMIC DEVELOPMENT BANK (BANK) AS AN ENTERPRISE PROJECT (PROJECT).**

**WHEREAS**, the Commissioners' Court of Brazos County, Texas, (County) desires to create the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas of the county and to provide employment to residents of such area; and

**WHEREAS**, the project or activity is located in an area designated as a 2010 enterprise zone; and

**WHEREAS**, pursuant to Chapter 2303, Subchapter F of the Act, Axis Pipe and Tube, Inc. has applied to the County for designation as an enterprise project; and

**WHEREAS**, the County finds that Axis Pipe and Tube, Inc. meets the criteria for tax relief and other incentives adopted by the County on the grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and stability; and

**WHEREAS**, a public hearing to consider this ordinance was held by the County on May 22, 2013;

**NOW, THEREFORE BE IT RESOLVED BY THE COMMISSIONERS COURT OF BRAZOS COUNTY, TEXAS, THAT:**

Section 1: The County nominates Axis Pipe and Tube, Inc. for enterprise project status;

Section 2: The following local incentives, at the election of the governing body, are or may be made available to the nominated project or activity of the qualified business:

- a) The County will abate taxes for 10 years on the increase in value of real property improvements and eligible personal property that Axis Pipe and Tube, Inc. locates in the designated enterprise zone. The level of abatement shall be based upon the extent to which the business receiving the abatement creates jobs for qualified employees, in accordance with the Brazos County's Tax Abatement Policy, and with qualified employee being defined by the Act.
- b) The County may provide regulatory relief to businesses including:
  - 1) streamlined permitting.

- c) The County may provide enhanced services to businesses, including:
  - 1) facilitating police and fire protection agreements, to be provided by the City of Bryan;
  - 2) institution of community crime prevention programs; or
  - 3) special public transportation routes or reduced fares.
- d) The County may participate in providing improvements in community facilities, including:
  - 1) capital improvements in water and sewer facilities; or
  - 2) road repair.
- e) The County may provide improvements to housing, including:
  - 1) sponsoring applications for grants and/or low-interest loans for housing rehabilitation, improvement, or new construction; or
  - 2) transfer of abandoned housing to benefit individuals or community groups.
- f) The County may provide business and industrial development services, including:
  - 1) providing the "Freeport" exemption;
  - 2) establishing a "Free Trade Zone" designation;
  - 3) on-site and off-site development credits;
  - 4) reduced land cost or use of surplus or other underutilized publicly owned facilities as development sites and/or small business incubators;
  - 5) facilitating negotiations with Bryan Texas Utilities for reduced tariff rates;
  - 6) provision of publicly owned land for development purposes, including residential, commercial, or industrial development;
  - 7) creation of special one-stop permitting and problem resolution centers or ombudsmen; or
  - 8) promotion and marketing services through the Economic Development Foundation and Research Valley Partnership.
- g) The County in coordination with Workforce Solutions - Brazos Valley, may facilitate the provision of job training and employment services to businesses, including:
  - 1) retraining programs;
  - 2) literacy and employment skills programs;
  - 3) vocational education; or
  - 4) customized job training.

Section 3: The enterprise zone areas within the County are reinvestment zones in accordance with the Texas Tax Code, Chapter 312.

Section 4: The Commissioners' Court of Brazos County directs and designates its County Judge as the County's liaison to sign the Texas Enterprise Project Certification of Application, communicate and negotiate with the Office of the Governor's Economic Development and Tourism Division (EDT)

through the Economic Development Bank and enterprise project(s), and to oversee zone activities and communications with qualified businesses and other entities in an enterprise zone or affected by an enterprise project.

Section 5: The County of Brazos finds that Axis Pipe and Tube, Inc. meets the criteria for designation as an enterprise project under Chapter 2303, Subchapter F of the Act on the following grounds:

- (a.) Axis Pipe and Tube, Inc. is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site located in an enterprise zone in the governing body's jurisdiction and at least twenty-five percent (25%) of the business' new employees will be residents of an Enterprise Zone or economically disadvantaged individuals; and
- (a.) There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities in the area; and
- (b.) The designation of Axis Pipe and Tube, Inc. as an enterprise project will contribute significantly to the achievement of the plans of the County for development and revitalization of the area.

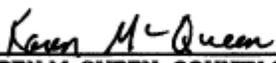
Section 6: The enterprise project shall take effect on the date of designation of the enterprise project by EDT and terminate on the date that is not less than one year or more than five (5) years after the date of designation.

Section 7: This resolution shall take effect from and after its passage as the law and charter in such case provides.

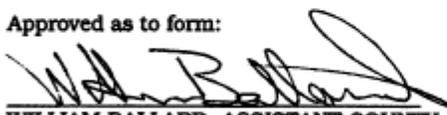
PASSED AND APPROVED this 28<sup>th</sup> day of May, 2013.

Attest:

  
DUANE PETERS, COUNTY JUDGE

  
KAREN McQUEEN, COUNTY CLERK

Approved as to form:

  
WILLIAM BALLARD, ASSISTANT COUNTY ATTORNEY