

**ORDINANCE NO. 2006-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AUTHORIZING THE CITY OF TOMBALL TO PARTICIPATE IN THE TEXAS ENTERPRISE ZONE PROGRAM UNDER THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE; DEFINING AVAILABLE TAX INCENTIVES; NOMINATING BJ SERVICES COMPANY, U.S.A. TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT AND TOURISM THROUGH THE ECONOMIC DEVELOPMENT BANK FOR DESIGNATION AS AN ENTERPRISE PROJECT UNDER THE ACT; AND DESIGNATING A LIAISON FOR OVERSEEING ENTERPRISE PROJECTS AND COMMUNICATING WITH INTERESTED PARTIES.**

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**WHEREAS**, the City of Tomball, Texas (“the City”) desires to create the proper economic and social environment to induce the investment of private resources in productive business enterprises located in the City and to provide employment to residents of those areas;

**WHEREAS**, the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code, as amended, (the “Act”) authorizes the designation of enterprise projects within an enterprise zone (or, if the requirements of Section 2303.402 (a) (2) of the Act are met, within an area that does not qualify as an enterprise zone);

**WHEREAS**, under the 2003 amendments to the Act, the Act is now administered by Office of the Governor Economic Development and Tourism (“OOGEDT”) through the Texas Economic Development Bank (“Bank”);

**WHEREAS**, with proper notice to the public, a public hearing to consider this Ordinance was held on Monday, August 21, 2006, during a meeting of the City Council, Tomball City Hall, in Tomball, Texas, during which all interested persons were allowed to appear and be heard; and

**WHEREAS**, the City Council has determined that passage of this Ordinance would best serve public health, necessity, and convenience and the general welfare of the City and its citizens; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:**

**SECTION 1.** As required by Section 2303.4051 (b) of the Act, the City’s local incentives available in each area within an enterprise zone and in each area not in an enterprise zone are identified and summarized briefly in the attached **Exhibit A**; and at least one of the local incentives is unique to the enterprise zone area.

**SECTION 2.** The City finds that BJ SERVICES COMPANY, U.S.A. (“BJ SERVICES”) meets the criteria for designation as an enterprise project under the Act on the following grounds:

- (a) BJ SERVICES, is a “qualified business” under Section 2303.402 of the Act because it is engaged in the active conduct of a trade or business at a qualified

business site within the governing body's jurisdiction, located outside of an enterprise zone and at least thirty-five (35%) percent of its new employees in the qualified business site will be residents of an enterprise zone in this state or economically disadvantaged individuals;

- (b) The BJ SERVICES project is qualified under Section 2303.404 of the Act because (1) it involves "an expansion, renovation, or new construction"; (2) it will be completed within a predetermined period not to exceed five years; and (3) BJ SERVICES maintains separate books and records for the Tomball operations;
- (c) There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the jurisdiction of the City;
- (d) The designation of BJ SERVICES as an enterprise project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area in which the enterprise project will be located; and
- (e) BJ SERVICES qualifies for job retention benefits under section 2303.406 (a) (4) (D) because BJ SERVICES anticipates a ten percent increase in production capacity;

**SECTION 3.** BJ SERVICES qualifies as an Enterprise Project as defined in Section 2303.407 (b) (4) of the Act because BJ SERVICES will be making a capital investment in a project in excess of \$5,000,000. The City finds that it is in the best interest of the City to nominate BJ SERVICES as an Enterprise Project under the Act.

**SECTION 4.** The City nominates BJ SERVICES as an Enterprise Project under the Act and designates the City Manager or his designee as liaison to oversee enterprise projects nominated by the City and to perform the other duties described in Section 2303.204 of the Act. The City authorizes the City Manager or his designee to file an application requesting designation of BJ SERVICES as an Enterprise Project with the Bank, and to execute all documents and agreements necessary to process the application. Further, the City directs the City Manager or his designee to submit to the Bank the information required by section 2303.4052 of the Act.

**SECTION 5.** The City finds that BJ SERVICES meets the criteria for tax relief and other incentives adopted by the City and that BJ SERVICES will be located at a qualified business site and will retain jobs and create economic activity and stability. As required by Section 2303.4051 (c) (2) of the Act, the City's local incentives, including tax incentives that, at the election of the City Council, are or may be made available to BJ SERVICES, the nominated project, are identified and summarized briefly in the attached **Exhibit A**.

**SECTION 6.** Upon approval of the Texas Economic Development Bank, the Enterprise Project will be named BJ SERVICES COMPANY, U.S.A. Project ("Project").

**SECTION 7.** The Enterprise Project designation must be for a predetermined designation period approved by the Bank, with a beginning date and ending date for the Project; and the designation period for the Project may not exceed five (5) years from date on which the designation is made, as required by Section 2303.404 of the Act. BJ SERVICES and the City

request that the Bank approve September 1, 2006, as the beginning date and September 1, 2011, as the ending date of the Project.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21<sup>ST</sup> DAY OF AUGUST, 2006.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 28<sup>TH</sup> DAY OF AUGUST, 2006.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN FAGAN	<u>AYE</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

(signed) H. G. Harrington  
H. G. HARRINGTON, Mayor

ATTEST:

(signed) Doris Speer  
DORIS SPEER, City Secretary

## Exhibit A

### Incentives offered by the City of Tomball

Name of Incentive			Description of Incentive			Availability		
1	Tax abatement		Property tax abatement.		Citywide, except for school districts			
2	Tax increment financing		Financing through the creation of tax increment reinvestment zones.		Citywide			
3	Low-interest loans		Low-interest loans offered through Tomball Economic Development Corporation or other government sponsored programs.		Citywide			
4	Bonds		Tax-Exempt Industrial Bonds.		Citywide			
5	Fee waivers		The city may waive or refund any and all applicable fees due or paid.		Citywide			
6	Infrastructure improvements		The city may provide infrastructure improvements for industries.		Citywide			
7	Streamlined permitting		City may allow permit applications and supporting materials to be tendered to one department for distribution to the appropriate city departments.		Citywide			
8	Increased fire and police protection		Safety and protection of city residents.		Citywide			
9	Community crime prevention programs		Volunteers in Policing		Citywide			
10	Capital improvements in water and sewer		The city can provide resources for a capital improvement plan related to water and sewer service.		Citywide			
11	Road repair		The city is responsible for maintaining and repairing all public streets and alleys within city limits.		Citywide			

## Exhibit A (Continued)

### Incentives offered by the City of Tomball

Name of Incentive		Description of Incentive	Availability
12	Promotion and marketing service	Greater Tomball Area Chamber of Commerce and Tomball Economic Development Corporation.	Citywide
13	Job training	Offered in conjunction with Tomball College – Tomball.	Citywide
14	Retraining program	Offered in conjunction with Tomball College – Tomball.	Citywide
15	Literacy and employment skills program	Offered in conjunction with Tomball College – Tomball and public school districts.	Citywide
16	Creation or improvement of parks	Maintain healthy lifestyle for City residents.	Citywide
17	Vocational education	Offered in conjunction with Tomball College – Tomball. and public school districts.	Citywide
18	Local Sales Tax Refunds	The City may allow sales and use tax refunds.	Enterprise Zone Projects / Enterprise Zone areas on a Case-by-Case Basis