

INTERLOCAL CONTRACT FOR REGULATION OF
FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES,
MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
COUNTY OF BRAZORIA §

This Contract is made and entered into by and between the COUNTY OF BRAZORIA, a political and legal subdivision of the State of Texas (hereinafter referred to as "COUNTY") which term shall be construed to include any officer, employee, representative, department, or board of the COUNTY having authority to represent or act for it in relation to any part of the subject of this Contract, acting herein by and through its County Judge, hereunto duly authorized by appropriate order of the Commissioners Court of Brazoria County, Texas, and the CITY OF WEST COLUMBIA, TEXAS, a municipal corporation located within Brazoria County, Texas, acting herein through its mayor, hereunto duly authorized by appropriate action of its governing body (hereinafter referred to as "MUNICIPALITY").

W I T N E S S E T H

PREAMBLE

WHEREAS, it is the policy of the State of Texas to improve the efficiency and effectiveness of local governments by authorizing the fullest possible range of intergovernmental

contracting authority at the local level including contracts between counties and cities, villages, or towns organized under the laws of this state; and

WHEREAS, Vernon's Ann. Civ. St. art. 4413(32)c, sec. 4(a), The Interlocal Cooperation Act, provides that any local government may contract with one or more local governments to perform governmental functions and services; and

WHEREAS, The Interlocal Cooperation Act, sec. 3(2), states that "governmental functions and services" means all or part of any function or service including, but not limited to, the general area of public health and welfare which is of mutual concern to the contracting parties; and

WHEREAS, The Interlocal Cooperation Act, sec. 4(c), recognizes that the authority of the COUNTY to perform a contractual service for the MUNICIPALITY includes the authority of the COUNTY to apply the rules, regulations, and orders of the COUNTY; and

WHEREAS, V.T.C.A., Health & Safety Code, sec. 437.003, provides that to enforce state law and rules adopted under state law, the commissioners court of a county by order may require food service establishments, retail food stores, mobile food units, and roadside food vendors to obtain a permit from the county and such requirement was duly adopted by the Commissioners Court of the COUNTY on December 7, 1987 by Order No. 19, titled "THE BRAZORIA COUNTY HEALTH DEPARTMENT RULES ON THE PERMITTING OF RETAIL FOOD STORES AND FOOD SERVICE ESTABLISHMENTS" which are incorporated in their entirety into this contract by reference.

WHEREAS, V.T.C.A., Health & Safety Code, sec. 437.002(a), provides that the COUNTY may enforce state law and rules adopted under state law concerning food service establishments, retail food stores, mobile food units, and roadside vendors; and

WHEREAS, the Texas Department of Health has adopted rules pertaining to food service operations which shall be liberally construed and applied to promote their underlying purpose of protecting the public health; and

WHEREAS, the COUNTY and the MUNICIPALITY have determined and now declare that the implementation of this Contract is in the interest of and for the public health, safety, and welfare of the COUNTY and the MUNICIPALITY; and

WHEREAS, the COUNTY and the MUNICIPALITY have determined separately and individually, that they are authorized to enter into these agreements pursuant to law and their general powers to contract.

NOW, THEREFORE, for and in consideration of the promises, covenants, and obligations set forth below, the COUNTY and the MUNICIPALITY, each individually and separately, by this instrument, contract and agree as follows:

I.

GENERAL STATEMENT

The matters and facts set forth in the foregoing preamble are true and correct to the best knowledge of the parties hereto and constitute material representations by the parties hereto.

II.

SERVICES

The COUNTY agrees to issue permits to food service establishments, retail food stores, mobile food units, and roadside food vendors within the incorporated limits of the MUNICIPALITY while this Contract is in effect. The procedures and requirements for the issuance of permits shall be "THE BRAZORIA COUNTY HEALTH DEPARTMENT RULES ON THE PERMITTING OF RETAIL FOOD STORES AND FOOD SERVICE ESTABLISHMENTS".

III.

CONSIDERATION

As compensation for the services performed by the COUNTY under this Agreement, COUNTY through its Health Department, shall collect permit fees as provided by "THE BRAZORIA COUNTY HEALTH DEPARTMENT RULES ON THE PERMITTING OF RETAIL FOOD STORES AND FOOD SERVICE ESTABLISHMENTS". All permit fees shall be payable and belong solely to Brazoria County. The Commissioners Court of Brazoria County hereby affirmatively finds that the fees so collected fairly compensate the COUNTY for the services performed.

IV.

LEGAL REPRESENTATION

Any suit brought to enjoin a food service establishment, retail food store, mobile food unit, or roadside food vendor within the incorporated limits of the MUNICIPALITY from operating without a permit when a permit is required shall be the responsibility, obligation and at the expense of the MUNICIPALITY.

Any offense of operating a food service establishment, retail food store, mobile food unit, or roadside food vendor without a permit when a permit is required shall be prosecuted by the COUNTY through its District Attorney in the appropriate Justice of the Peace Court.

V.

TERMS AND EFFECTIVE DATE

The initial term of this Contract and Agreement is one year from 9-9-91, through 9-9-92, provided, however that this Contract shall be automatically extended for periods of one year each unless either party gives the other party 30 days written notice before the expiration of the contract period that such party desires to terminate this Contract, in which event the contract shall terminate at the end of that one year period.

Additionally, it is understood and agreed between the parties that either party may, at any time during the contract term, terminate this Contract by delivering thirty (30) days written notice of such intention, whereupon, on the date specified, this Contract shall automatically terminate.

VI.

NOTICES

In this agreement, whenever any notice, demand, request, or report is required to be given by COUNTY or MUNICIPALITY, such notice, demand, request or report shall be written, and shall be sent certified or registered U.S. mail, or shall be hand

delivered with proof of delivery obtained. The place notice is to be given each party is as follows:

COUNTY:

Brazoria County Judge
Brazoria County Courthouse
Angleton, Texas 77515

MUNICIPALITY:

MAYOR ROBERT DIXON
P.O. DRAWER 487
W. Columbia, TX 77486

VII.

GENERAL

It is specifically agreed between the parties hereto that it is not intended by any of the provisions of any part of this Contract or of the contract documents or references to create in the public or in any member thereof any third party beneficiary rights hereunder, or to authorize anyone not a part of this Contract to maintain a suit for personal injuries, property damage, or any other relief in law or equity pursuant to the terms and provisions of this Contract. The duties, obligations, and responsibilities of the parties of this Contract with respect to third parties shall remain as imposed by law.

VIII.

NON-ASSIGNMENT

This agreement is non-assignable by either party.

IX.

FORCE MAJEURE

It is expressly understood and agreed between the parties that if the performance of any covenant, agreement, obligation or undertaking contained in this Contract is delayed by reason of

war, civil commotion, act of God, governmental restrictions or regulations (excepting those imposed by the County), fire or other casualty, or any other circumstances beyond the control of the party obligated to such performance, each party so delayed shall be excused from doing or performing same during the period of delay.

X.

MISCELLANEOUS

The captions or titles of the articles of this instrument are inserted for convenience and reference only, and are not to be considered a part hereof, and shall not in any way serve to modify or restrict any of the terms or provisions hereof, and shall never be considered or given any effect in ascertaining intent, if any questions of intent should arise.

The parties hereto agree that this instrument shall not be construed in favor of or against any party on the basis that the party did or did not author this instrument.

The terms of this instrument shall be binding upon and inure to the benefit of COUNTY, and its successors and assigns, and to the benefit of MUNICIPALITY, and its successors and assigns.

XI.

ENTIRETY

This Contract contains the entire agreement between the parties hereto and no representation, inducements, promises, agreements, oral or otherwise between the parties not embodied herein shall be of any force or effect.

XII.

AMENDMENT

No amendment, modification, or alteration of the terms of this Contract shall be binding unless it is in writing, dated subsequent to the date of this Contract, and duly executed by the parties to this Contract or their legally authorized successors or assigns.

IN WITNESS WHEREOF, the COUNTY and the MUNICIPALITY have executed this instrument in multiple duplicates, each of which when fully executed shall be deemed to be an original.

COUNTY:

BY: James B. Phillips
COUNTY JUDGE

ATTEST: Shelly Bailey
COUNTY CLERK

MUNICIPALITY:

BY: Robert E. Dyer
MAYOR

ATTEST: Konnie Thompson
Asst. MUNICIPAL SECRETARY

BRAZORIA COUNTY COMMISSIONERS' COURT

VOLUME 34 PAGE 268

REGULAR SESSION - OCTOBER 14, 1991

ORDER NO. 29 RE: AUTHORIZATION FOR COUNTY JUDGE TO SIGN THE
INTERLOCAL CONTRACT FOR REGULATION OF FOOD
SERVICE ESTABLISHMENTS WITH CITY OF BRAZORIA,
SWEENEY and WEST COLUMBIA

Motion by Commissioner Brooks, seconded by Commissioner Broadus that the Commissioner's Court of Brazoria County authorize the County Judge to sign the Interlocal Contracts for Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors with the City of Brazoria, City of Sweeney, and City of West Columbia.

Motion carried, all present voting aye.

ORDER NO. 30 RE: SHINTECH INCORPORATED TAX ABATEMENT APPLICATION

Motion by Commissioner Broadus, seconded by Commissioner Brooks that the following action be taken by the Court:

That the application for tax abatement of SHINTECH INCORPORATED attached hereto be granted in accordance with the Guidelines and Criteria for Granting Tax Abatement in a Reinvestment Zone created in Brazoria County; that the subject location described in the attached application be designated a reinvestment zone for tax abatement purposes in accordance with the guidelines and criteria of Brazoria County and applicable law; and further that the County Judge is authorized to execute a tax abatement agreement with SHINTECH INCORPORATED in accordance with the same guidelines and criteria.

Motion carried, all present voting aye.

ORDER NO. 31 RE: BASF CORPORATION TAX ABATEMENT AGREEMENT
(REINVESTMENT ZONE NO. 5)

Motion by Commissioner Broadus, seconded by Commissioner Clawson that the following action be taken by the Court:

That the attached written Tax Abatement Agreement for property located in the BASF CORPORATION Reinvestment Zone No. 5 be approved for execution and the County Judge is hereby authorized to execute the same.

Motion carried, all present voting aye.