

APPLICATION FOR TAX CREDIT ON QUALIFIED PROPERTY (Chapter 313, Subchapter D, Tax Code)

School district name <i>Port Arthur Independent School District</i>	Phone (area code and number) <i>409-989-6244</i>
Address <i>733 5th Street, Port Arthur, TX 77640</i>	Application filing date <i>8/30/06</i>

This application is for credit for taxes paid on the portion of value in excess of the value limit under Chapter 313, Subchapter B or C, Tax Code, in the two-year qualifying period. You must file this completed application with the school district before September 1 of the year immediately following the second year of the qualifying time period under Subchapter B or C. The school board must determine eligibility of this application before the 90th day from the application filing date. Subject to certain limitations, the school's tax assessor will apply annually one-seventh of the credit to taxes imposed on the qualified property for a seven-year period beginning with the tax year after the date the school board approves the application.

Step 1: Corporation or limited liability company name and address	Only corporations and limited liability companies that received an appraised value limitation under Chapter 313, Subchapter B or C, Tax Code, are eligible for this tax credit.		
	Corporation or limited liability company's name: <i>PRAXAIR, INC.</i>		
	Mailing address: <i>39 Old Ridgebury Road</i>	City, State: <i>Danbury CT</i>	ZIP code + 4: <i>06870</i>
	Taxpayer I.D. Number (11 digits): <i>1-06-1249050-7</i>	Appraisal district account number: <i>521510-000/000010-00000</i>	
	Name of person preparing this application: <i>DONALD McLEAN</i>	Title: <i>MANAGER, PROPERTY TAX</i>	
	Phone (area code and number): <i>203-837-2219</i>		

Step 2: Show tax credit amount	What is the full amount of tax credit for which you are applying? The credit will be applied over a seven year period, but please show the total cumulative amount. <i>\$ 631,188.00</i>
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Step 3: Provide attachments and supplements	Attach the following items to this application: 1. A copy of the agreement between the applicant and the school district under Section 313.027 or 313.051, Tax Code. 2. A copy of receipts for taxes paid on qualified property during the first two years of the qualifying time period.
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Step 4: Sign and date application	By signing this application, you certify that this information is true and correct and that you are in full compliance with the terms of the attached agreement to the best of your knowledge and belief.	
	print here <i>DONALD C. McLEAN</i> Authorized signature	
	sign here <i>Donald C Mc L</i> Authorized signature	<i>8/30/06</i> Date
	On behalf of <i>PRAXAIR, INC.</i> Name of corporation/company	<i>My Property Tax</i> Title

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

House Bill 1200
Tax Credit Calculation
Actual - based on 2004 and 2005 Assessed Values
H2 SMR @ Motiva Refinery
Port Arthur Independent School District

2004

Assessed Value - 1/1/04	32,120,600
Value Limitation	30,000,000
Excess	2,120,600
M & O Tax Rate	1.50
Excess M & O Taxes	31,809.00

2005

Assessed Value - 1/1/05	69,958,600
Value Limitation	30,000,000
Excess	39,958,600
M & O Tax Rate	1.50
Excess M & O Taxes	599,379.00
Total Excess M & O Taxes	631,188.00



JEFFERSON COUNTY

Payment Information

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Year 2004 to Present

Account No.: 52151000000001000000

Receipt Date	Payment Amount	Payer
2006-02-07	\$1,258,324.35	PRAXAIR INC
2005-01-27	\$529,880.27	UNKNOWN

JEFFERSON COUNTY TAX OFFICE
1149 PEARL ST
BEAUMONT, TX 77701
(409)835-8516

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JEFFERSON COUNTY

Taxes Due Detail by Year

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Taxes Due as of Fri Sep 08 09:42:25 CDT 2006

Account No.: 5215100000001000000

* Additional Collection Costs

		September		October		Novemb
Year	Base Tax Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due	Total Due	Penalty, Interest, and ACC* Due
<i>No taxes due.</i>						

JEFFERSON COUNTY TAX OFFICE
 1149 PEARL ST
 BEAUMONT, TX 77701
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TEXAS ECONOMIC DEVELOPMENT ACT PARTICIPATION AGREEMENT

by and among

PORT ARTHUR INDEPENDENT SCHOOL DISTRICT,

and

PRAXAIR, INC.

Dated

November 18, 2003

**AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY
FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES**

STATE OF TEXAS §

COUNTY OF JEFFERSON §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES (hereinafter referred to as the "Agreement") is executed and delivered by and between Port Arthur Independent School District (the "District"), a lawfully created independent school district of the State of Texas operating under and subject to The Texas Education Code, and Praxair, Inc., hereinafter referred to as the "Applicant."

RECITALS

WHEREAS, on August 15, 2003, the Superintendent of Schools of the Port Arthur Independent School District acting as agent of the Board of Trustees received an Application from Praxair, Inc. for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Property Tax Code; and

WHEREAS, the Board of Trustees has acknowledged receipt of the Application along with the requisite application fee as established pursuant Texas Property Tax Code § 313.025(a)(1) and Local District Policy; and

WHEREAS, the Application was delivered to the Texas Comptroller's Office for review pursuant to Texas Property Tax Code § 313.025(d); and

WHEREAS, the Application was reviewed by the Texas Comptroller's Office pursuant to Texas Property Tax Code § 313.025(d); and

WHEREAS, the Board of Trustees has caused to be conducted an economic impact evaluation pursuant to Texas Property Tax Code § 313.026 and has carefully considered such evaluation; and

WHEREAS, the Application was reviewed by the County Appraisal District established in this County pursuant to the authority of Texas Property Tax Code § 6.01; and

WHEREAS, the Board of Trustees has conducted a public hearing on the Application, as amended, at which it has solicited input into its deliberations on the application from all interested parties within the District; and

WHEREAS, the Board of Trustees has made factual findings in accordance with the Texas Economic Development Act that this Agreement is in the best interest of the District;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE I

AUTHORITY, TERM, DEFINITIONS, AND GENERAL PROVISIONS

Section 1.1. AUTHORITY

This Agreement is executed by the District as its written agreement with the Applicant pursuant to the provisions and authority granted to the District in § 313.027 of the Texas Property Tax Code.

Section 1.2. TERM OF THE AGREEMENT

This Agreement shall commence and first become effective for the ad valorem property valuations assessed against the qualified property and investments made pursuant to this Agreement beginning with the tax appraisals to be made as of January 1, 2004, which shall be referred to as the commencement date. The parties to this Agreement acknowledge that the limitation on the local ad valorem property values shall not commence until the valuations made as of the second anniversary of the commencement date. These first two years shall be referred to as the qualifying time period as that term is defined in Texas Tax Code § 313.021(4). The limitation on the local ad valorem property values shall terminate in the year 2013.

The tax years for which this Agreement is effective are as follows:

<u>Year of Agreement</u>	<u>Date of Appraisal</u>	<u>School Year</u>	<u>Tax Year</u>	<u>Summary Description of Provisions</u>
1	January 1, 2004	2004-05	2004	No limitation on value. Tax credit in future years.
2	January 1, 2005	2005-06	2005	No limitation on value. Tax credit in future years.
3	January 1, 2006	2006-07	2006	\$ 30 million property value limitation
4	January 1, 2007	2007-08	2007	\$ 30 million property value limitation. Possible tax credit payment due to Applicant.

AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF
PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES
BETWEEN PORT ARTHUR ISD AND PRAXAIR, INC.

<u>Year of Agreement</u>	<u>Date of Appraisal</u>	<u>School Year</u>	<u>Tax Year</u>	<u>Summary Description of Provisions</u>
5	January 1, 2008	2008-09	2008	\$ 30 million property value limitation. Possible tax credit payment due to Applicant.
6	January 1, 2009	2009-10	2009	\$ 30 million property value limitation. Possible tax credit payment due to Applicant.
7	January 1, 2010	2010-11	2010	\$ 30 million property value limitation. Possible tax credit payment due to Applicant.
8	January 1, 2011	2011-12	2011	\$ 30 million property value limitation. Possible tax credit payment due to Applicant.
9	January 1, 2012	2012-13	2012	\$ 30 million property value limitation. Possible tax credit payment due to Applicant.
10	January 1, 2013	2013-14	2013	\$ 30 million property value limitation. Possible tax credit payment due to Applicant.
11	January 1, 2014	2014-15	2014	No tax limitation. Possible tax credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.
12	January 1, 2015	2015-16	2015	No tax limitation. Possible tax credit due to Applicant. Applicant obligated to Maintain Viable Presence if no early termination.
13	January 1, 2016	2016-17	2016	No tax limitation. Possible tax credit due to Applicant. Applicant obligated to Maintain Viable Presence.

Section 1.3. DEFINITIONS

Wherever used herein, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning, to-wit:

AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF
PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES
BETWEEN PORT ARTHUR ISD AND PRAXAIR, INC.

"Act" means the Texas Economic Development Act set forth in Chapter 313, Texas Property Tax Code, as amended.

"Agreement" means this Agreement.

"Applicant" means Praxair, Inc., the company listed in the Preamble of this Agreement who, on August 15, 2003 filed an Application with the District for a Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Property Tax Code. The term shall also include the Applicant's assigns and successors in interest.

"Applicable School Finance Law" means Chapters 41 and 42 of the Texas Education Code, the Texas Economic Development Act (Chapter 313, Texas Property Tax Code), Chapter 403, Subchapter M, Texas Government Code applicable to the District, and the Constitution and general laws of the State applicable to the independent school districts of the State, including specifically, the applicable rules and regulations of the agencies of the State having jurisdiction over any matters relating the public school systems and school districts of the State, and judicial decisions construing or interpreting any of the above. The term also includes any amendments or successor statutes which may be adopted in the future which could impact or alter the calculation of Applicant's ad valorem tax obligation to the District either with or without the limitation of property values made pursuant to this Agreement.

"Application" means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C, Property Tax Code) initially filed with the District by Applicant on August 15, 2003.

"Comptroller" means the Texas Comptroller of Public Accounts.

"Comptroller's Rules" means the applicable rules and regulations of the Comptroller set forth at 34 Texas Administrative Code § 9.107 together with any court or administrative decisions interpreting same.

"County" means Jefferson County, Texas.

"District" or "School District" means the Port Arthur Independent School District, being a duly incorporated and operating independent school district in the State, having the power to levy, assess, and collect ad valorem taxes within its boundaries.

"Maintain Viable Presence" means the operation over the life of this Agreement of the facility or facilities for which the tax limitation agreement is granted and the retention over the entire term of this Agreement of substantially the number of Qualifying Jobs set forth in the Application, with the minimum salaries required by Texas Tax Code § 313.021(3)(E). Applicant shall be deemed to have maintained a viable presence in the event of a temporary interruption in operations due to strike, judicial decision, weather, or other act of God. In the event a fire or other disaster shuts down plant operations,

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Applicant will be deemed to have maintained a viable presence so long as it commences repairs and/or reconstruction of the damaged within ninety (90) days of the catastrophic event. In the event a closure due to environmental reasons, Applicant will be deemed to have maintained a viable presence so long as it commences remediation or otherwise acts in accordance with the order of the court or environmental agency.

"Maintenance and Operations Revenue" means those revenues which the District receives from the levy of its annual ad valorem maintenance tax pursuant to Texas Education Code § 45.002 and Article VII § 3 of the Texas Constitution. The term also includes all state revenues to which the District is or may be entitled under Chapter 42 of the Texas Education Code or any other statutory provision as well as any amendment or successor statute to these provisions. The term shall also include any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 41 of the Texas Education Code.

"Qualified Investment" means an investment that an owner proposes to build or install and that will qualify the owner for a limitation in the appraised value of qualified property. The term does not include land, but means:

- (A) tangible personal property that is described as Section 1245 property by Internal Revenue Code of 1986, § 1245(a), and that is first placed in service in Texas during the applicable qualifying time period that begins after December 31, 2001;
- (B) tangible personal property that is first placed in service in Texas during the applicable qualifying time period that begins after December 31, 2001, and that is used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product. For purposes of this subparagraph, tangible personal property is neither required to be affixed to or incorporated into real property, nor required to be actually located in the cleanroom environment. Examples include, but are not limited to, integrated systems, fixtures, and piping; property that is necessary or adapted to reduce contamination or to control environmental conditions (e.g. airflow, temperature, humidity, or chemical purity) or to control manufacturing tolerances; and production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting;
- (C) a building or a permanent, non-removable component of a building that is built or constructed during the applicable qualifying time period that begins after December 31, 2001, and that houses tangible personal property described by subparagraph (A) or (B) of this paragraph; or
- (D) any property that is described in subparagraphs (A)-(C) of this paragraph that is leased under a capitalized lease, but excludes any property that is leased under an operating lease.

"Qualified Property" means property that is used either as an integral part, or, as described in the Comptroller's Rules set forth 34 Tex. Admin. Code, § 9.107(b)(6), as a necessary auxiliary part, in manufacturing, research and development, or renewable energy generation and consists of:

- (A) a new building or other new improvement that does not exist before the date on which the owner applies for an appraised value limitation, which date, for purposes of this Agreement, was August 22, 2002;
- (B) land that is not subject to a tax abatement agreement into which a school district has entered under Tax Code, Chapter 312; and is located in an area that is designated as a reinvestment zone under Tax Code, Chapter 311 or Chapter 312, or as an enterprise zone under Government Code, Chapter 2303, on which the owner:
 - (i) proposes to construct, erect, or affix a new building or new improvement that does not exist before the date on which the owner applies for an appraised value limitation; and
 - (ii) in connection with that new building or new improvement, also proposes to make at least the minimum amount of qualified investment required by this section; and
 - (iii) proposes to create at least 10 new jobs if the land is in a rural school district as defined by the Comptroller pursuant to 34 Tex. Admin. Code § 9.107(e)(1)(B), or at least 25 new jobs if the land is in a school district that is not a rural school district; or
- (C) tangible personal property that is either first placed in service in the new building or in or on the new improvement that did not exist before the date on which the owner applies for an appraised value limitation (unless the property is considered a semiconductor fabrication cleanroom or equipment under Tax Code, § 151.318(q)) or first placed in service on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business that is conducted in that new building or in or on that new improvement. To qualify, tangible personal property may not be subject to a tax abatement agreement into which a school district has entered under Tax Code, Chapter 312.

"Qualifying Job" means a new permanent full-time job that:

- (A) requires at least 1,600 hours of work per year;

- (B) is not transferred from one area in this state to another area in this state;
- (C) is not created to replace a previous employee;
- (D) is covered by a group health benefit plan, as defined by Government Code, § 481.151, for which the business pays or offers to pay at least 80% of the premiums or other charges that are assessed for employee-only coverage under the plan; and
- (E) pays at least 110% of the county average weekly wage for manufacturing jobs as computed by the Texas Workforce Commission for the county where the job is located.

"State" means the State of Texas.

"Tax Credit" means the credit to be paid by the District to the Applicant computed under the provisions of Subchapter D of the Texas Economic Development Act and 34 Tex. Admin. Code § 9.107(o), provided that the Applicant complies with the requirements under such provisions, including the filing of a completed application under Section 313.103 of the Texas Tax Code and 34 Tex. Admin. Code § 9.107(o)(2) before September 4, 2005.

"Tax Limitation Amount" means the minimum amount which must be placed as a value on a Qualified Property/Qualified Investment for years three (3) through ten (10) of this Agreement pursuant to Texas Property Tax Code § 313.054. For purposes of this Agreement that amount has been determined to be Thirty Million Dollars (\$30,000,000.00).

ARTICLE II

PROPERTY DESCRIPTION

Section 2.1. LOCATION WITHIN A QUALIFIED REINVESTMENT OR ENTERPRISE ZONE

The Qualified Property upon which the Qualified Investment will be located is within an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Texas Government Code. The metes and bounds description of the reinvestment or enterprise zone in which the qualified property is located is attached to this Agreement as Exhibit 1 and is incorporated herein by reference for all purposes.

Section 2.2. LOCATION OF QUALIFIED PROPERTY

The location of the Qualified Property upon which the Qualified Investment will be located is described in the metes and bounds description which is attached to this Agreement as Exhibit 2 and is incorporated herein by reference for all purposes. The parties to this Agreement expressly agree that the boundaries of the Qualified Property may not be materially changed from its current configuration without the express authorization of each of the parties.

Section 2.3. DESCRIPTION OF QUALIFIED INVESTMENT

The Qualified Investment for which Applicant is seeking this tax limitation Agreement is described in Exhibit 3 which is incorporated herein by reference for all purposes. Property which is not specifically described in Exhibit 3 shall not be considered by the District or the Appraisal District to be a Qualified Investment for purposes of this Agreement. Qualified Investments may not be added to Exhibit 3 except by an official determination of the Board of Trustees of the District made pursuant to Texas Property Tax Code § 313.027(e).

Section 2.4. QUALIFYING USE

The Qualified Investment described above in Section 2.3 qualifies for a tax limitation agreement under Texas Property Tax Code § 313.024(b)(1) as a manufacturing facility.

ARTICLE III

PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES

Section 3.1. INTENT OF THE PARTIES

It is the intent of the parties executing this Agreement that the District shall, in addition to the receipt of payments in lieu of taxation as set forth below in Article IV of this Agreement, be compensated by the Applicant for any loss that the District incurs in its Maintenance and Operations Revenue by virtue of its decision to participate in this Agreement under the Act. This Agreement is being executed to ensure that the risk of any negative financial consequence to the District in making the decision to participate in this Agreement is borne by the Applicant and not by the District.

Section 3.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY PORT ARTHUR ISD

The amount to be paid by the Applicant to compensate the District for loss of Maintenance and Operations Revenues for each year under this Agreement up to the

AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF
PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES
BETWEEN PORT ARTHUR ISD AND PRAXAIR, INC.

amount of the limit on the revenue protection amount set forth in Section 3.10 of this Agreement shall be determined according to the following formula:

The M&O amount owed by Applicant to District =

Original M&O Revenue *minus* New M&O Revenue;

Where:

- i. Original M&O Revenue = the total State and local Maintenance & Operations Revenue that the District would have received for the school year had this Agreement not been entered into and the full taxable value of the qualified investment and/or qualified property been subject to the ad valorem Maintenance & Operations tax. For purposes of this calculation the tax collection rate on the qualified property and/or qualified investment will be presumed to be one hundred percent (100%).
- ii. New M&O Revenue = the total State and local Maintenance & Operations Revenue that the District actually received for the school year.

In making the calculations required by this section:

- iii. The taxable value of property for each school year will be determined under the Applicable School Law.
- iv. All calculations made for years three (3) through ten (10) of this Agreement under Subsection ii of this Agreement will be based upon the limitation of value on the Qualified Property of Thirty Million Dollars (\$30,000,000.00).
- v. All calculations made under this Section shall be made by a methodology which isolates only the revenue impact caused by this Agreement. Applicant shall not be responsible to reimburse the District for other revenue losses created by other agreements or any other factors.

Section 3.3. COMPENSATION FOR LOSS OF OTHER REVENUES

In addition to the amounts determined pursuant to Section 3.2, above, Applicant, on an annual basis shall also indemnify the District up to the amount of the limit on the revenue protection amount set forth in Section 3.10 of this Agreement for all non-reimbursed costs it incurs in paying or otherwise crediting to the Account of Applicant,

any applicable tax credit to which the Applicant may be entitled pursuant to Chapter 313, Subchapter D, Texas Property Tax Code, for which the District does not receive reimbursement from the State pursuant to Texas Education Code § 42.2515.

Section 3.4. CALCULATIONS TO BE MADE BY THIRD PARTY

All calculations under this Agreement shall be verified annually by an independent third party selected by the District establishing this Agreement. All calculations shall originally be based upon estimates and then be adjusted to reflect "final" or "actual" data for the applicable year as the data becomes available.

Section 3.5. DATA USED FOR CALCULATIONS

The initial calculations for payments under this Agreement shall be initially based upon the valuations placed upon the Qualified Investment and/or Qualified Property by the County Appraisal District in its annual certified tax roll submitted to the District pursuant to Texas Property Tax Code § 26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of this information by the District, it will be transmitted to the third party selected under Section 3.4 of this Agreement. The certified tax roll data shall form the basis of the calculation of any and all amounts due under this Agreement. The data utilized by the third party will be adjusted from time to time to reflect subsequent adjustments by the appraisal district to the District's tax roll.

Section 3.6. DELIVERY OF CALCULATIONS

On or before November 1 of each year for which this Agreement is effective, the third party appointed pursuant to Section 3.4 of this Agreement shall forward to the Applicant a certification containing the calculations required under Sections 3.2 and/or 3.3 of this Agreement in sufficient detail to allow the parties to understand the manner in which the calculations were made. The third party shall simultaneously submit his or her invoice for services rendered to the Applicant, if any fee is being claimed.

Section 3.7. PAYMENT BY APPLICANT

On or before the January 31 next following the tax levy for each year for which this Agreement is effective, the Applicant shall pay any amount determined to be due and owing to the District and any amount billed by the third party. In no year shall Applicant be responsible for the payment of a fee to the Third Party in excess of Two Thousand Five Hundred Dollars.

Section 3.8. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT

In the event that the taxable value of the Qualified Investment and/or Qualified Property is changed after an appeal of its valuation or is otherwise altered, once the determination of a new value becomes final, the calculations required by Sections 3.2 and

3.3 of this Agreement will be remade by the third party using the new valuations. Upon completion of the new calculations, the third party shall transmit same to the parties to this Agreement. Upon receipt of the new calculations, the party owing funds to the other signatories to this Agreement shall pay any amounts owed within thirty (30) days of receipt of the calculations from the third party.

Section 3.9. EFFECT OF STATUTORY CHANGES

Notwithstanding any other provision in this Agreement, in the event that, by virtue of Applicable School Finance Law, administrative interpretations by either the office of the Comptroller and/or the Commissioner of Education or the Texas Education Agency, or for any other reason, the District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State, because of its participation in this Agreement, the Applicant shall make payments to the District, up to the amount of the limit on the revenue protection amount set forth in Section 3.10 of this Agreement, that are necessary to offset any negative impact on the District as a result of its participation in the Agreement as is necessary to secure for the District an amount equal to that which the District would have received from State and local funds had the District not participated in this Agreement. Such calculation shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on the District.

Section 3.10. LIMITATION OF REVENUE PROTECTION AMOUNT IN YEARS FOUR THROUGH TEN OF THIS AGREEMENT

In years four (tax year 2007) through ten (tax year 2013) of this Agreement Applicant shall not be responsible for payment of a revenue protection amount to the District in excess of the amount of taxes which the Applicant would have paid to the District in ad valorem Maintenance and Operations taxes for the applicable year had this Agreement not been made. The comparison of these amounts shall be included in the calculations made pursuant to Section 3.4 of this Agreement. In making this calculation the third party shall include in his or her determination of the revenue protection limit credit for the amount of taxes actually paid by the Applicant on the Qualified Property.

Section 3.11. OPTION TO CANCEL AGREEMENT

For years four (4) through ten (10) of this Agreement, in the event that payments by Applicant to the District become limited in accordance with the provisions of Section 3.10 above, the Applicant shall have the option to terminate this Agreement. Applicant may exercise its option to cancel this Agreement by notifying the District of its election in writing not later than the July 31 of any year next following the tax year in which the annual limitation set forth in Section 3.10 has been reached. The cancellation of the Agreement under this Section shall be effective as of the second tax year next following the year in which the limitation giving rise to the option occurred.

ARTICLE IV

PAYMENTS IN LIEU OF TAXATION

Section 4.1. AMOUNTS EXCLUSIVE OF INDEMNITY AMOUNTS

In addition to undertaking the responsibility for the payment of all of the amounts set forth under Article III of this Agreement, and as consideration for the execution of this Agreement by the District, Applicant shall also be responsible for the payments to the District in lieu of taxation set forth in this Article. It is the express intent of the parties that the obligation for payments in lieu of taxation are separate and independent of the obligation of Applicant to pay the amounts described in Article III.

Section 4.2. CALCULATION OF AMOUNT OF PAYMENTS IN LIEU OF TAXATION

- (a) For each of years four (tax year 2007) through twelve (tax year 2015) of this Agreement, the District shall be entitled to receive as payments in lieu of Taxation, an amount equal to Fifty Percent (50%) of any tax benefit received by the Applicant as a result of this Agreement.
- (b) The "tax benefit" shall be calculated for each of years four (tax year 2007) through twelve (tax year 2015) of this Agreement by determining the amount of Maintenance and Operations Taxes and/or any other property taxes paid to any governmental entity for the support of public education which the Applicant would have paid in the absence of this Agreement, subtracting from that sum the amount of taxes actually due to the District and/or to any other governmental entity for the support of public education for that year, and adding any tax credit received by Applicant. From that difference there will then be subtracted any indemnity amount determined according to Article III of this Agreement. The remainder shall be the tax benefit to be divided as provided in Subsection (a) of this Section.
- (c) The "tax benefit" shall be calculated by the third party selected pursuant to Section 3.4 of this Agreement.
- (d) The calculations shall be made at the same time and on the same schedule as the calculations made pursuant to Section 3.6 of this Agreement.
- (e) Payment of amounts due under this Section shall be made at time set forth on Section 3.7 of this Agreement.

Section 4.3. RECALCULATION OF PAYMENT IN LIEU OF TAXATION

The parties agree that the payment in lieu of taxation amount set forth in Section 4.2 of this Agreement is based upon the current estimate of tax savings to the Applicant which are being made based upon assumptions of student counts, tax collections or other applicable data. For each of years four (tax year 2007) through ten (tax year 2013) of this Agreement the parties shall adjust payment in lieu of taxation based upon the following formula.

Taxes payable to the District and/or any other property taxes that would have been paid to any governmental entity for the support of public education on the value of the Qualified Property had the Tax Limitation Agreement not been made (The taxable values used for Interest and Sinking Fund purposes.)

Minus,

Taxes paid to the District and/or to any other governmental entity for the support of public education based upon the value of the Qualified Property with the Tax Limitation Agreement (The taxable values used for Maintenance and Operations purposes.)

Plus,

Any tax credit payment received by applicant

Minus,

Any amounts previously paid to the District under Sections 4.2 and 4.3 of this Agreement

Divided by,

The number 2.

Upon completion of the new calculations, the third party shall transmit same to the parties to this Agreement. Upon receipt of the new calculations, the party owing funds to the other signatories to this Agreement shall pay any amounts owed within thirty (30) days of receipt of the calculations from the third party.

Section 4.4. DUE DATE OF PAYMENTS

Any amounts owed by Applicant to the District shall be paid on the same date established by Section 3.7 of this Agreement.

ARTICLE V

ADDITIONAL OBLIGATIONS OF APPLICANT

Section 5.1. DATA REQUESTS

During the life of this Agreement Applicant shall be obligated to provide the District and the Jefferson County Appraisal District with all data, necessary under the Texas Tax Code, including but not limited, to employment data, necessary to determine whether all obligations under this Agreement are being met. In the event that the District requests information which the Applicant regards as being technical or business information which is proprietary, a trade secret or confidential in nature or is subject to a confidentiality agreement with any third party, Applicant shall inform the District of its concerns and suitable arrangements shall be made for the District to have access to the information in a manner which does not compromise the confidentiality of the information to other third parties

Section 5.2. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE

By entering into this Agreement, Applicant warrants that it will abide by all of the terms of this Agreement and that it will Maintain Viable Presence in the District through December 31, 2016 or, if this Agreement is terminated early in accordance with Section 3.11 for a period of at least three (3) years after the date of such termination.

Section 5.3. CONSEQUENCES OF EARLY TERMINATION OR OTHER BREACH BY APPLICANT

In the event that Applicant terminates this Agreement without the consent of the District, other than under the terms of Section 3.11, or in the event that the Applicant or its successor in interest fails to comply with the terms of this Agreement or to meet any material obligation under this Agreement, then the District shall be entitled to the recapture of all ad valorem tax revenue lost as a result of this Agreement together with the payment of a penalty or interest, or both, on that recaptured ad valorem tax revenue. For purposes of this calculation the Applicant shall be entitled to a credit for any payments made to the District as protection against loss of revenue pursuant to Article III of this Agreement. The Applicant shall also be entitled to a credit for any amounts paid to the District in lieu of taxation pursuant to Article IV of this Agreement.

Section 5.4. CALCULATION OF PENALTY AND INTEREST

In determining the amount of penalty and interest due under this Agreement in the event of a breach, the District shall determine the base amount of taxes owed less any

credit under Section 5.3 of this Agreement for each year of the Agreement since its inception. For each year of this Agreement since its inception, the District shall calculate penalty and interest for each year in accordance with the methodology set forth in Chapter 33 of the Texas Tax Code as if the base amount calculated for each year of the Agreement under Section 5.3, above, had become due and payable on January 31 of each applicable year. Penalties on said amounts shall be calculated in accordance with the methodology set forth in Tax Code § 33.01(a), or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Tax Code § 33.01(c), or its successor statute.

Section 5.5. DETERMINATION OF BREACH

Prior to making a determination that Applicant has failed to Maintain Viable Presence in the District as required by Section 5.2 or has otherwise committed a material breach of this Agreement, the District's administration shall provide the Applicant with a written notice of the facts which it believes have caused the material breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, Applicant shall be given sixty (60) days to present any facts or argument to the District's Board of Trustees showing that it is not in material breach of its obligations under the Agreement, or that it has cured any such material breach.

After providing an opportunity for response, the District's Board of Trustees shall conduct a hearing. At the hearing the Board shall make findings as to whether or not a material breach of this Agreement has occurred, and the date such material breach occurred, if any. In the event that the Board determines that a material breach has occurred, it shall also determine the amounts of recaptured taxes under Section 5.3 of this Agreement, and the amount of penalty and/or interest under Section 5.4 of this Agreement which are owed to the District.

After making its determination regarding any alleged material breach, the Board shall cause Applicant to be notified of its determination.

Section 5.6. DISTRICT'S REMEDIES AFTER DETERMINATION MATERIAL OF BREACH

After receipt of notice of the Board's determination of a breach under Section 5.5 of this Agreement, Applicant shall have thirty (30) days in which to tender payment. In the event that payment is not received before the expiration of thirty days, the District shall have the remedies for the collection of the amounts determined under Section 5.4 as are set forth at Texas Tax Code Chapter 33, Subchapters B and C, for the collection of delinquent taxes. In the event that the District is required to initiate proceedings for collection under this Agreement, Applicant shall also be responsible for the payment of attorney's fees and a tax lien on the qualified property and investment pursuant to Texas Tax Code § 33.07 to the attorneys representing the District pursuant to Texas Property Tax Code § 6.30.

AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF
PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES
BETWEEN PORT ARTHUR ISD AND PRAXAIR, INC.

ARTICLE VI
MISCELLANEOUS PROVISIONS

Section 6.1. INFORMATION AND NOTICES

All notices required to be sent under this Agreement shall be given in writing via certified mail, return receipt requested to the parties hereto as follows:

To the District:

Dr. Willis Mackey, Superintendent
Port Arthur Independent School District
P.O. Box 1388
Port Arthur, Texas 77641-1388

To the Applicant:

Praxair, Inc.
222 Pennbright Drive, Suite 300
Houston, Texas 77090-5999
Attention: Vice President, South Region

Section 6.2. EFFECTIVE DATE

(a) This Agreement shall be and become effective on and after January 1, 2004.

Section 6.3. AMENDMENTS TO AGREEMENT

No amendments to this Agreement shall be effective until the same are approved and accepted by the parties.

Section 6.4. AMENDMENTS AND MODIFICATIONS.

This Agreement may be modified, amended, or terminated by written mutual agreement of the District and the Applicant.

Section 6.5. ASSIGNMENT

Applicant may assign this Agreement, or a portion of this Agreement, to a new owner or lessee of the Qualified Property upon the written approval of the District, and

AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF
PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES
BETWEEN PORT ARTHUR ISD AND PRAXAIR, INC.

approval shall not be unreasonably withheld. It shall not be unreasonable for the District to withhold approval if the Applicant is liable to the District for outstanding taxes or other obligations arising under this Agreement.

Section 6.6. MERGER

The parties agree that this Agreement contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the parties and others relating hereto are superseded by this Agreement.

Section 6.7. MAINTENANCE OF APPRAISAL DISTRICT RECORDS

When appraising the Qualified Property, the chief appraiser of the Appraisal District shall determine the market value of the Qualified Property and include both the market value and the Tax Limitation Amount of the Qualified Property in its appraisal records.

Section 6.8. GOVERNING LAW

This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law rules that would direct the application of the laws of another jurisdiction.

Section 6.9. AUTHORITY TO EXECUTE AGREEMENT

Each of the parties listed below expressly warrants that he or she has been expressly authorized to execute this Agreement for and on behalf of the respective parties.

Section 6.10. SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be held to be invalid or unenforceable, then such invalidity or unenforceability shall not affect any other term or provision of this Agreement or the application thereof which can be given effect without the invalid or unenforceable provision, and the parties agree that the provisions of this Agreement are and shall be severable.

Section 6.11. EXECUTION OF COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

IN WITNESS WHEREOF, this Agreement has been executed by the District and the Applicant in duplicate originals on this 12 day of November, 2003.

PRAXAIR, INC.

PORT ARTHUR
INDEPENDENT SCHOOL DISTRICT

By: ~~_____~~
Name D. H. Vankowski
Title Vice President
South Region, NAIG

By: Wileen Mae Elmore
President, Board of Trustees

ATTEST

By: Christine Munnif
Secretary, Board of Trustees

Section 6.11. EXECUTION OF COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

IN WITNESS WHEREOF, this Agreement has been executed by the District and the Applicant in duplicate originals on this 10 day of November 2003.

PRAXAIR, INC.

PORT ARTHUR
INDEPENDENT SCHOOL DISTRICT

By: _____
Name _____
Title _____

By: William Mac Elmer
President, Board of Trustees

PLP

ATTEST

By: Christine Apun
Secretary, Board of Trustees

1 PAGE
TO: GARY ERICKSON
FROM: P. Balanes

AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF
PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES
BETWEEN PORT ARTHUR ISD AND PRAXAIR, INC.

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This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

IN WITNESS WHEREOF, this Agreement has been executed by the District and the Applicant in duplicate originals on this 10 day of November 2003.

PRAXAIR, INC.

PORT ARTHUR
INDEPENDENT SCHOOL DISTRICT

By: _____
Name _____
Title _____

By: William Lee Emery
President, Board of Trustees

ATTEST

By: Christina [Signature]
Secretary, Board of Trustees

*Reviewed -
[Signature] 12/1/03*

EXHIBIT 1

**DESCRIPTION OF REINVESTMENT
OR ENTERPRISE ZONE**

EXHIBIT 1

Attached herein are the legal descriptions of the tracts owned by Motiva Enterprises LLC which are the subject of this agreement.

Tract I	-	113,822 acres
Tract II	-	53.5510 acres
Tract III	-	44.2161 acres
Tract VI, Parcel A	-	14.386 acres
Tract VI, Parcel B	-	7.256 acres
Tract VI, Parcel C	-	10.946 acres
Tract VI, Parcel D	-	1.067 acres
Tract VI, Parcel E	-	8.489 acres
Tract VII, Parcel A	-	18.233 acres
Tract VII, Parcel B	-	966.164 acres
Tract VII, Parcel C	-	67.660 acres
Tract VII, Parcel D	-	129.341 acres
Tract VII, Parcel E	-	4.459 acres
Tract VII, Parcel F	-	Only 2.72 acres of the described 9,669 acres is a part of this agreement. The 2.72 acres is located in Blocks 26 and 27 of the Port Arthur Heights Subdivision. The remainder of the tract is in the incorporated area of the City.
Tract VIII	-	62.764 acres
Tract XII	-	40.1276 acres
Tract XIV, Parcel A	-	1785.569
Tract XIV, Parcel B	-	9.373 acres

Kuntsman Corporation and Ethyl Additives Corporation jointly owns a twenty-five percent (25%) interest in the following tracts:

- Tract I out of Tract XIV, Parcel C (28.850 acres)
- Tract II out of Tract XIV, Parcel D (66.004 acres)
- Tract III out of Tract XIV, Parcel E (30.848 acres)
- Tract IV out of Tract XIV, Parcel F (30.677 acres)
- Tract V out of Tract XIV, Parcel G (14.811 acres)

Motiva Enterprises LLC owns the remaining interests in these tracts.

MOTIVA.AGRE

June 5, 1998

Legal Description: Tract I

Port Arthur Terminal

Film Code No. 102-84-1325

Page No. 6

BEING a 113.822 acre tract of land out of the John Bennett, Abstract 70, H. B. Moore, Abstract 147, and John Bennett, A-71, Jefferson County, Texas. Said 113.822 acre tract is being composed of the tracts described in the following listed deeds: Volume 581, Page 350, Volume 452, Page 44, Volume 118, Page 457, Volume 136, Page 181, Volume 135, Page 306, Volume 100, Page 162 and Volume 118, Page 455 of the Jefferson County Deed Records. Said 113.822 acre tract being more particularly described below with all bearings, distances, and coordinates referenced to the Texas Plane Coordinate System, South Central Zone, Lambert Projection, NAD 83, hereinafter referred to as T.S.C. All acreages shown are grid. The theta correction at the PLACE OF BEGINNING of said tract is $2^{\circ} 28' 23''$ and the scale factor is 0.9999035.

BEGINNING at a concrete monument found in the Easterly line of the Kansas City Southern 150 foot right-of-way and the Southwesterly corporate line of the City of Port Arthur. Said rebar also being the most Northerly corner of the tract herein described with T.S.C. coordinates of $y = 3891064.041$ feet and $x = 3568248.578$ feet.

HENCE S $53^{\circ} 18' 50''$ E along and with said City of Port Arthur corporate line a distance of 19.92 feet to a concrete monument found.

HENCE along and with the Easterly line of the tract herein described as follows:

S $22^{\circ} 32' 56''$ W a distance of 999.37 feet to a $5/8''$ iron rod set at the P.C. of a curve to the left with a long chord that bears S $17^{\circ} 30' 57''$ W a distance of 339.55 feet, a radius of 1935.18 feet and a central angle of $10^{\circ} 03' 58''$;

Southwesterly along and with said curve to the left an arc distance of 339.96 feet to a $5/8''$ rebar found at the P.T. of said curve;

S $12^{\circ} 28' 58''$ W a distance of 1450.91 feet to a $5/8''$ rebar found at the P.C. of a curve to the right with a long chord that bears S $16^{\circ} 01' 43''$ W a distance of 71.45 feet, a radius of 577.65 feet and a central angle of $7^{\circ} 05' 30''$;

Southwesterly along and with said curve to the left an arc distance of 71.50 feet to a $5/8''$ rebar found (bent) at the P.T. of said curve,

S $19^{\circ} 34' 28''$ W a distance of 291.77 feet to a concrete monument found (broken) at the P.C. of a curve to the left with a long chord that bears S $12^{\circ} 18' 04''$ W a distance of 159.29 feet, a radius of 627.62 feet and a central angle of $14^{\circ} 34' 50''$;

Southwesterly along and with said curve to the left an arc distance of 159.72 feet to a concrete monument found (broken) at the P.T. of said curve;

S $05^{\circ} 01' 55''$ W a distance of 1392.23 feet to a $5/8''$ rebar found;

S $02^{\circ} 04' 05''$ E a distance of 157.00 feet to a $5/8''$ rebar found;

S $05^{\circ} 01' 55''$ W a distance of 346.43 feet to a $5/8''$ rebar found;

S $87^{\circ} 35' 05''$ E a distance of 85.62 feet to a point of intersection with the line of mean high tide along the West side of Sabine Neches Canal.

MARK W. WHITELEY AND ASSOCIATES, INC.

PAGE 2

Legal Description: Tract I
Port Arthur Terminal
Film Code No. 102-84-1325
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THENCE S 03° 43' 14" E along and with said line a distance of 356.59 feet to its intersection with the bulkhead along the Southeasterly side of said tract herein described.

THENCE along and with said bulkhead as follows:

- S 05° 30' 48" W a distance of 630.08 feet;
- S 17° 28' 34" W a distance of 364.49 feet;
- S 22° 45' 05" W a distance of 500.58 feet;
- S 31° 54' 03" W a distance of 509.54 feet;
- S 40° 40' 03" W a distance of 1098.74 feet;
- S 52° 41' 17" W a distance of 198.52 feet;
- S 75° 30' 11" W a distance of 52.90 feet;

N 78° 50' 45" W a distance of 70.29 feet along and with said bulkhead to its intersection with said line of mean high tide along the East side of the Port Arthur Ship Canal.

THENCE along and with the East side of said Port Arthur Ship Canal and said line of mean high tide as follows:

- N 07° 16' 15" E a distance of 1326.26 feet;
- N 10° 51' 45" E a distance of 127.78 feet;
- N 14° 36' 14" E a distance of 228.17 feet to an intersection with the Southeast line of the Turning Basin.

THENCE along and with said line of mean high tide and said Turning Basin as follows:

- N 43° 29' 38" E a distance of 468.78 feet to a point;
- N 35° 58' 24" W a distance of 137.07 feet to the Northwest corner of a concrete dock;
- N 50° 40' 38" E a distance of 547.45 feet to the Northeast corner of said concrete dock;
- S 89° 27' 37" E a distance of 24.06 feet to a point on the West edge of a bulkhead;
- N 50° 32' 27" E a distance of 468.28 feet to a point on said bulkhead;
- N 32° 26' 45" E a distance of 235.26 feet to a point for corner;
- N 29° 07' 37" W a distance of 51.92 feet to a point for corner;
- N 46° 07' 38" W a distance of 262.77 feet to a point on a bulkhead;
- N 79° 31' 36" W a distance of 38.47 feet to the intersection of the Northerly line of said Turning Basin and the Easterly wharf line of Slip No. 3.

THENCE N 02° 24' 55" E along and with said line of mean high tide and said Easterly wharf line of said Slip No. 3 a distance of 2319.87 feet to a 5/8" rebar found on the North end of said Slip No. 3.

THENCE N 02° 24' 55" E a distance of 1058.86 feet to a concrete monument found (broken).

MARK W. WHITELEY AND ASSOCIATES, INC.