



CHAPTER 312 AND CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM GUIDELINES, CRITERIA AND POLICY

I. General Purpose and Objectives

The City of Hitchcock is committed to the promotion of quality development, expansion of its existing business base, expanding job opportunities, and encouraging projects that create additional revenue for the City without significantly increasing the demand on City services or infrastructure. The City Council desires to provide economic development incentives and to establish various programs to ensure the City remains competitive in the marketplace, encourages the increase and retention of quality jobs, and encourages the creation of additional revenue streams from mixed-use, commercial, industrial, and manufacturing businesses. The City of Hitchcock will, on a case-by-case basis, give consideration to providing economic development incentives to individuals and businesses meeting these objectives in accordance with the guidelines, criteria, and procedures set forth herein.

Nothing herein shall imply that the City is under any obligation to provide any economic development incentives. Nothing herein shall prohibit the City Council from waiving the criteria to further the objectives of this policy. The City may, notwithstanding this policy, provide economic development incentives and/or establish economic development programs on a case-by-case basis which promote economic development, create employment opportunities, increase sales tax and property tax revenue.

In addition to the purposes set forth above, this policy statement and the economic development incentive programs described herein shall constitute a program providing for the promotion of state and local business and the stimulation of business and commercial activity in the City for purposes of Chapter 380 and Chapter 312 the Texas Local Government Code, as amended, hereinafter sometimes referred to as "Chapter 380" and "Chapter 312."

II. Definitions

"Agreement" means the contractual agreement between City and the grantee(s) for the purpose of a grant or grant(s) and/or tax incentives.

"Designated Area" means an Enterprise or Reinvestment Zone or a specified region in that has been selected by the City Council to receive special consideration in order to encourage economic development in that region. The maps found in Exhibit B identifies the current designated areas in Hitchcock.



“Enterprise Zone” means an area that is defined by the most recent federal decennial census available at the time of designation, in which at least 20 percent of the residents have an income at or below 100 percent of the federal poverty level; or an area currently designated by the federal government as a renewal community, a federal empowerment zone, or a federal enterprise community; or an area located in a distressed county (Exhibit B).

"Expansion" means the addition of buildings, structures, fixed machinery, or equipment for the purpose of increasing production capacity.

"Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

“Full-time job” means a job that requires a minimum of thirty (30) hours of work per week; or sixty (60) hours of work per two weeks and receives benefits and is hired to work full-time year.

“Grantee” means a company or project that is approved to receive grants and/or tax incentives by the City of Hitchcock.

“HUBzone” means Historically Underutilized Business Zone and is a U.S. Small Business Administration program that promotes small business growth with a goal of awarding at least 3% of federal contract dollars to HUBZone-certified companies each year (Exhibit B).

"Lease" means a relationship whereby the business applying for a grant has a contract for exclusive possession of either the real property on which improvements are to be made and/or of movable personal property to be used for the operation of the business for a defined period of time.

“New Markets Tax Credit (NMTC) Area” means federal financial program which aims to stimulate business and real estate investment in low-income communities in the United States via a federal tax credit (Exhibit B).

"New facility" means a property previously undeveloped, which is placed into service by means other than expansion or modernization.

“Modernization” means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the cost of operation, and extends the economic life of the facility. Modernization may result from the construction of, alteration, or installation of buildings, structures, fixed machinery, or equipment. It shall not be for the purpose of reconditioning, refurbishing, repairing, or completion of deferred maintenance.

"Personal Property" means machinery and equipment bought, or leased for use, in the operation of the business applying for a grant and/or tax incentives, other than that which was located on the real property at any time before the period covered by the agreement, and other than inventory, supplies, and/or office equipment.



"Real Property" means the area of land defined by legal description as being owned or leased by the business applying for a grant or tax incentives, including any improvements thereto, which has been or will be improved and valued for property tax purposes.

"Reinvestment Zone" means area designated by the City as a Tax Abatement reinvestment zone in accordance with Chapter 312 of the Texas Tax Code.

"Target Area and Target Developments" means specified geographic locations and types of developments in Hitchcock that have been selected by the City Council to receive special consideration in order to encourage economic development in that location. The maps found in the Exhibits identifies the current target areas in Hitchcock.

III. Eligibility Criteria

1. **Eligible Property:** Grants and tax incentives may only be awarded to the owners or lessees of real property improvements and/or the owners of personal property improvements. Real property improvements include the construction of a new facility and the expansion/modernization of an existing facility. Property must be taxable (tax exempt improvements are not eligible for consideration).
2. **Ineligible Property:** Any property that is not specifically identified in the agreement will not receive a grant or tax incentives. Inventory, supplies, and/or office equipment are not eligible for grants or tax incentives.
3. **Property Located in Texas Enterprise Zones:** The State of Texas has designated certain areas of the City with high unemployment as enterprise zones. Various economic development incentives are available to owners of property located in enterprise zones. In accordance with state law, all property located within an enterprise zone is automatically designated as a Tax Abatement Reinvestment Zone. However, the City typically designates individual Tax Abatement Reinvestment Zone overlays when it wishes to grant Tax Abatements on property located in an Enterprise Zone.

IV. Real Property Tax Abatement, Real Property Tax Incentives, or Grants in Lieu Thereof

The City may consider tax abatement for real property pursuant to Chapter 312 of the Texas Tax Code or provide economic development incentives pursuant to Chapter 380 to provide grants equivalent to a certain percentage of property taxes paid to the City.

Conditions and Requirements

1. Any request for real property incentives shall be reviewed by the Hitchcock Economic Development Corporation and City Council to determine the total revenue stream to be generated by the business, the proposed project, job creation, annual average wages, and the cost of providing municipal services for the project.



2. Grant amounts will be based on the amount of capital investment in real and/or personal property, and also on job creation and annual average wages. Factors that will be considered include:
 - (a) Number of new jobs created and the average annual wages. For existing businesses, consideration will be provided to the retention and/or expansion of jobs for significant real or personal property investments;
 - (b) Local annual payroll;
 - (c) Real property taxable value above the existing taxable value;
 - (d) Local annual sales tax generated to the City;
 - (e) Personal property taxable value above the existing taxable value; and/or
 - (f) Projects must pay an annual average wage, excluding benefits, of \$39,000.

3. A business is eligible to receive real property tax abatement or real property tax incentives, and personal property tax abatement or personal property tax incentive located on the same premises.

4. The real property tax incentive may be considered for relocation to the City or for an expansion of an existing business.

5. The real property tax incentive, or a grant pursuant to Chapter 380, or a combination of both, may be considered for projects located or to be located in areas of the City targeted for redevelopment or which will create high visibility for the business and the City such that the project is deemed to serve as a catalyst to draw other projects to the targeted area. The table below establishes the maximum percent (%) of abatement or property tax reimbursement that may be available to general projects based on minimum Investment and Employment. Eligible project facilities are noted in Exhibit A. Abatement or property tax reimbursement may be extended to new buildings, structures, site improvements and Business Personal Property as well as the expansion or modernization of existing facilities and structures. The following projects will be exempt from the capital investment requirement and/or job requirements: projects located in the Downtown Development District, Grocery Store, targeted to be recruited to the city, and Office and Industrial Spec Buildings as noted in Exhibit A.

Property Tax Incentives			
<u>Capital Investment</u>	<u>Jobs</u>	<u>Maximum % Abatement/Reimbursement</u>	<u>Years</u>
\$1,000,000-\$3,000,000	10-15	40%	3-4
\$3,000,001-\$5,000,000	16-20	50%	5
\$5,000,001-\$10,000,000	20-25	60%	6
\$10,000,001+-	26+	70%	7



6. Personal Property, Machinery, and Equipment

The City may consider an economic development incentive pursuant to Chapter 380 to provide grants equal to a percentage of the property taxes generated by a specific project in addition to, or in lieu of, tax abatement pursuant to Chapter 312 of the Tax Code.

Conditions and Requirements

- a. Any request for personal property incentives shall be reviewed by the City Council to determine the total revenue stream to be generated by the business, the proposed project, job creation, average annual wages, and the cost of providing municipal services for the project.
- b. The project must bring an increase of at least \$1,000,000 in taxable value above the current taxable value for personal property including major industrial machinery and equipment and structures or other significant personal property and equipment. Lesser investment levels may be considered in certain designated areas of the city.
- c. The owner of real property and/or Business Personal Property for which a Tax Abatement has been granted shall properly maintain the property to assure the long-term economic viability of the project.
- d. The business must own the building, machinery and equipment or have a new or renewal lease for a minimum term of at least seven (7) years. Lesser terms may be considered only if the lease term exceeds the term of the incentive contract.
- e. The City shall require the company or project to submit a comprehensive listing of all personal property, machinery and equipment and structures for consideration herein.
- f. The City will not abate taxes levied on the following: land, inventory, supplies, or the existing tax base.

Property Tax Incentives			
Capital Investment	Jobs	Maximum % Abatement/Reimbursement	Years
\$1,000,000-\$3,000,000	10-15	40%	3-4
\$3,000,001-\$5,000,000	16-20	50%	5
\$5,000,001-\$10,000,000	20-25	60%	6
\$10,000,001+	26+	70%	Up to 7 years



V. Grant of Certain Sales and Use Tax Receipts

The grant of certain sales and use tax receipts creates a program under which the City will consider providing incentives pursuant to Chapter 380 equivalent to a certain portion of sales and use tax receipts from the City’s one and one-half percent (1.5%) local sales and use tax imposed by the City pursuant to Chapter 321 of the Texas Tax Code for sale of taxable items and services by the business. An applicant requesting a grant pursuant to this subsection would be required to apply for and receive a Direct Pay Permit from the Texas Comptroller’s Office and demonstrate an economic impact that will produce a substantial increase in the City’s local sales and use tax. Sales and use tax grants are for, but not limited to, sales and use tax on construction materials, machinery and equipment, internet sales, and public infrastructure for a project. Prerequisites for a grant of sales tax include: a company must establish a place of business within the City limits and own the building; create a minimum annual sales and use tax revenue to the City of \$50,000. The maximum amount of City sales and use tax revenue paid will be up to 70%. The duration of the grants will not exceed seven (7) years.

Sales and Use Tax Incentives		
<u>Annual Sales Tax</u>	<u>Maximum % / Grant</u>	<u>Maximum Years</u>
\$50,000-\$100,000	30%	3
\$100,001-\$150,000	40%	4
\$150,001-\$225,000	50%	5
\$225,001-\$350,000	60%	6
\$350,001+	70%	7

VI. Sale, Lease, or Exchange of City-owned Land

In some specific instances, the City of Hitchcock has concluded that utilizing the state law exception(s) to competitive bidding (as provided by Section 272.001 Texas Local Government Code) for the sale and conveyance, lease, or trade of certain real property through a negotiated process promotes quality development and expansion of the City’s existing business tax base. Therefore, the City does hereby adopt a policy and program as part of its economic development and business incentives that the City Council, upon receipt of a written recommendation from the City Manager, may sell or exchange land without competitive bidding and at or below market value pursuant to the state law exception(s). The City may also consider providing economic development incentives pursuant to Chapter 380 to offset a portion of the purchase price of such land and improvements when such sale or exchange must be for fair market value under state law.



VII. Procedural Guidelines

Application Requirements:

1. Applicants for a grant, tax incentive or other incentive must submit a completed application with the correct filing fee to the Hitchcock Economic Development Corporation (HEDC). Incomplete applications will not be considered. All documents received by HEDC (physically or electronically) may be subject to public disclosure under certain circumstances. HEDC will evaluate an application on the merit and value of the proposed project. Based on the outcome of the evaluation and approval by HEDC, HEDC may present the application to the City Council for consideration.
2. The filing fee for projects located in designated areas or target areas is \$1,000.00. The filing fee for projects located outside designated areas or target areas is \$1,500.00. Applications will not be processed without submission of the filing fee.
3. The City of Hitchcock reserves the right to review/verify the applicant's financial statements and request additional information in determining the economic feasibility and long-term benefit of the overall project.
4. The City, upon a favorable submission from HEDC and determination that the written request and associated application satisfies the conditions and requirements of this policy, the City may, in its discretion, enter into an incentive agreement with the business or individual pursuant to Chapter 380 and/or a tax abatement agreement pursuant to Chapter 312 of the Texas Tax Code for a period not to exceed seven (7) years.
5. The applicant shall be required to enter into an agreement for the incentive or tax abatement, as the case may be, in a form prepared by and approved by the City Attorney. Such agreement shall contain such terms as may be required by the City, including but not limited to recapture of the incentive and or abated taxes, with interest, in the event of an uncured breach or default by the business or individual under such agreement.

Requirements for Particular Incentives

1. An application from the City for any type of incentive sought must be filled out in full. Partially filled out applications will not be processed.
2. Personal Property: If the business seeks an incentive for personal property, machinery and equipment, and structures rebates, the business must provide the City an annual statement and/or certificate on or before February 1st of each year, providing the following:



- (a) The applicable percentages of the business's taxable property in the City that represents the assessed value of machinery and equipment, personal property, and structures for each year the requestor seeks the incentive provided for by these guidelines and policy; if the building is not owned, the number of years remaining on the lease must be provided.

3. Real Property: If the business seeks real property tax incentives, the business must submit a description of the company's location or expansion plans, a plat and metes and bounds survey, and listing of all real property proposed to be abated.

4. Sales and Use Tax: If the business seeks a grant of sales and use tax, the business must submit at a minimum of the following information:

- (a) Description of the project's location and expansion plans including a plat or metes and bounds description of the property; and
- (b) Description of how the project will make a unique or unequalled contribution to development or redevelopment efforts in the City, due to its magnitude, significance to the community, or aesthetic quality.

VIII. City Council Consideration

All projects brought to City Council for consideration will be vetted and approved by HEDC, and presented at meetings conducted pursuant to the Open Meetings Act. The City Council retains the sole authority to approve or deny any tax incentive and/or grant agreement and is under no obligation to approve any tax incentive or grant agreement.

IX. Compliance Verification

Initial Inspection

1. Certificate of Compliance: After the initial requirements of the agreement have been completed (i.e., construction/installation of improvements), the grantee must submit an executed Certificate of Compliance to the City Manager annually in a form approved by the City Council.



2. City Staff Inspection: After receipt of an executed Certificate of Compliance approved by the City Manager, City staff shall make an inspection to verify that all initial contract requirements and construction are completed. City Staff shall provide reasonable notification to the company as will be noted in the Agreement and the company shall provide the City reasonable access to inspect the premises to certify that the improvements have been completed. Upon verification, the City Manager will approve the Certificate of Compliance, authorize the commencement of the grant payments and/or tax incentives to the grantee according to the Agreement, and notify the Galveston County Appraisal District.

Annual Certification

1. On or before January 31st of every year, the grantee must submit a statement which provides information about the project's achievement during the prior calendar year regarding the improvements and/or job creation covered by the grant and/or tax incentives. The following items must be included in the statement:

- (a) The added square footage and/or improvement value made;
- (b) The value of the construction/installation (most recent value by GCAD);
- (c) The total number of jobs created (full-time), to date;
- (d) The average wage of the employees working at the facility;
- (e) The amount of property taxes paid on the facility during the prior year; and
- (f) Any property tax protests or disputes that have been filed regarding ad valorem taxes and a description of the reasons for the tax appraisal protest/dispute, or sworn verification that no tax appraisal protest/dispute was filed.

2. For sales and use tax grantees, the grantee shall also provide a copy of their Direct Pay Permit and Sales and Use Tax Disclosure for each business seeking rebates of sales and use tax receipts. The Disclosure shall be provided on a form provided by the City that will allow the Texas Comptroller of Public Accounts to release information to the City that documents the amount of receipts collected by the Comptroller for the City from the business(es).

3. The City of Hitchcock reserves the right to send representatives from the City and GCAD to inspect the facilities and records of the grantee during the term of the agreement to verify the accuracy of the information provided for the grant and/or tax incentive.

4. The City will hold and process any information that is received or viewed in accordance with all applicable United States laws and regulations.



X. Recapture

1. Appraisal Disputes/Protests Initiated by Grantee: If during the term of the agreement, an appraisal dispute initiated by the grantee or any representative of the grantee that results in the reduction of the appraised value of such improvements below the appraisal dispute value agreed to by the parties in the Agreement, the City reserves the right to cancel and/or modify the agreement and/or require repayment of all or some of the grant(s) received under the agreement. The appraisal dispute value will be agreed upon prior to contract execution and will be part of the contract agreement. The appraisal dispute value will be calculated throughout the entire term of the contract. Any appraisal disputes initiated by or on behalf of the grantee during the term of the contract can initiate recapture of all or a portion of grant or tax incentive funds by the City of Hitchcock.
2. As part of the consideration under the Agreement, the City shall have, without limitation, the right to (i) review and verify the applicant's financial statements and records related to the development project and the Incentives in each year during the term of the Agreement prior to the granting of incentives in any given year and (ii) conduct an on-site inspection of the development project in each year during the term of the incentives to verify compliance with the terms and conditions of the Agreement. Any incidents of non-compliance will be reported to all taxing units with jurisdiction over the real property subject to Abatement.
3. Noncompliance: If the project does not meet its obligations under the Agreement, the City shall have the right to terminate the Agreement. Grantee shall be responsible and obligated to repay to the City the full value of all grants and tax incentives, including the value of in-kind incentives, received from the City. Repayment of incentives shall be made by the project within sixty (60) days written demand by the City.
4. If the Grantee breaches any of the terms or conditions of the Agreement and fails to cure such breach in accordance with the Agreement, the City shall have the right to terminate the Agreement. In this event, the recipient will be required to pay the City any property and sales and use taxes that were abated pursuant to the Agreement prior to its termination.
5. The recipient of the Agreement may sell, assign, transfer, or otherwise convey any of its rights under an Agreement to an affiliate of the recipient, as defined in the Tax Agreement, or as security to a lender of the recipient, provided that the City, the assignor, and the assignee each execute a document acceptable to the City that outlines the roles and responsibilities of the parties in that event. Otherwise, a Grantee may not sell, assign, transfer or otherwise convey its rights under a Agreement unless specifically approved by the City Council. A sale, assignment, lease, transfer or conveyance of the real property that is subject to the Agreement and which is not permitted by the Agreement shall constitute a breach of the Agreement and may result in termination of the Tax Agreement and recapture of any taxes abated or granted after the date on which the breach occurred.



Exhibit A

Target Industries and Target Developments

Industries

- Distribution (NAIC 54)
- Energy Services (NAIC 22)
- Grocery Store (NAIC 445110)
- Health Care (NAIC 62)
- Hotels, Destination Tourism & Recreation (NAICS: 72110, 713990)
- Information Technology and Artificial Intelligence
- Maintenance, Repair and Overhaul in Aviation and in other industry sectors (NAIC 4581)
- Manufacturing (NAIC 31-33)
- Regional, National and Corporate Headquarters (NAIC 55141)
- Research & Development (NAIC 5417)

Developments

- Business Parks and Office Parks
- Master Planned Communities
- Mixed Use Centers with Commercial & Retail
- Public Infrastructure for Projects in the Hitchcock Downtown District
- Speculative Industrial & Office Buildings
 - Industrial: Minimum size of 20,000 SF
 - Office: Minimum Size of 10,000 SF

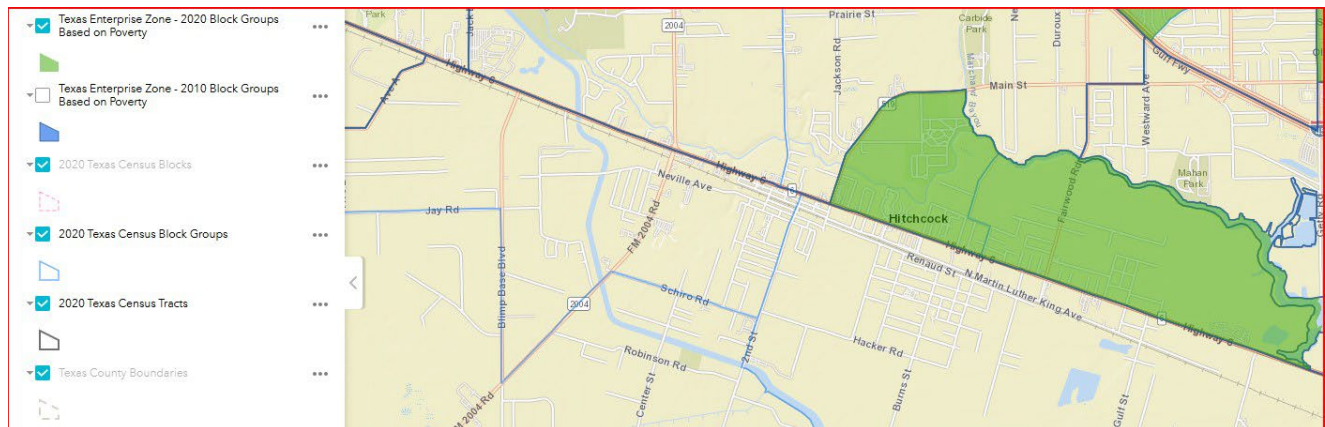


Exhibit B

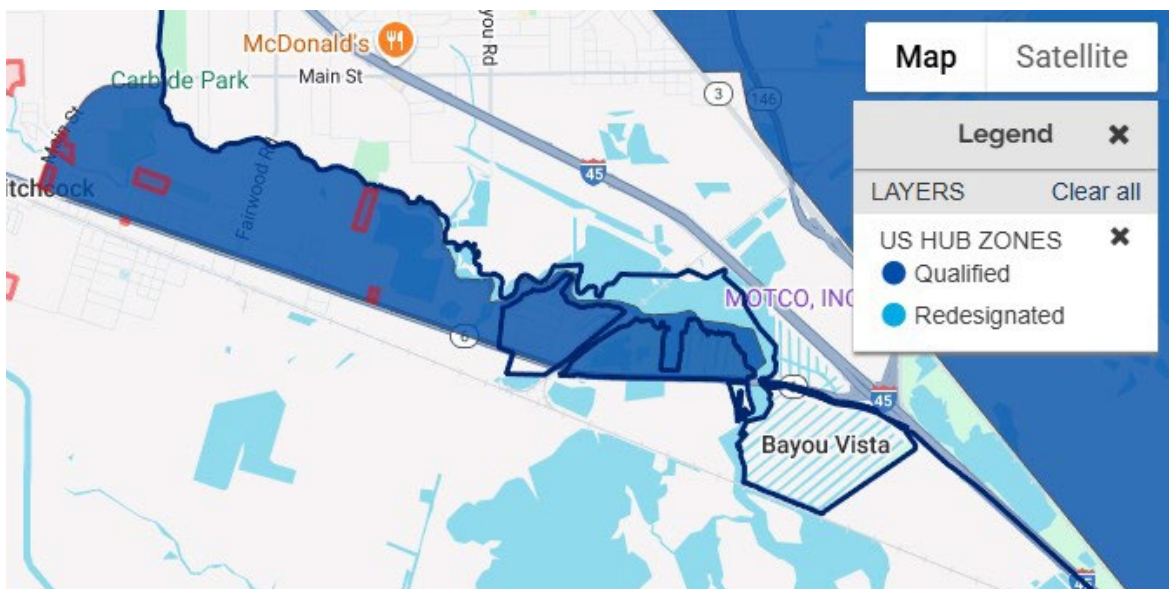
Targeted Areas

- Industrially Zoned Areas
- Downtown District
- Zones: Texas Enterprise Zone, U.S. Empowerment Zone, U.S. HUBzone, U.S. Opportunity Zone, U.S. New Markets Tax Credits Area

Enterprise Zone Map

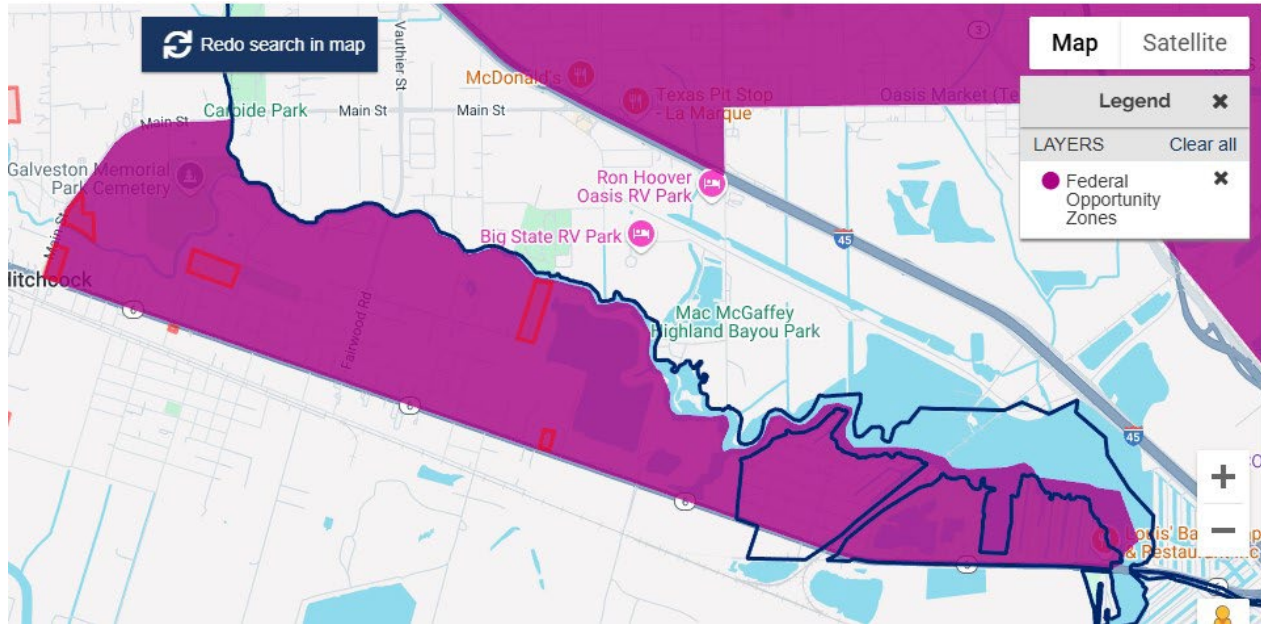


HUBzone Map





Opportunity Zone Map



New Markets Tax Credits (NMTC) Area Map

