

GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN A  
REINVESTMENT ZONE CREATED IN JACKSON COUNTY TEXAS

SECTION I

BACKGROUND

- (A) Pursuant to the Texas Tax Code (hereinafter the "Code"), Jackson County, Texas (hereinafter "the County"), is authorized to designate Reinvestment Zones in areas of the County that do not include areas in the taxing jurisdiction of a municipality, to enter into tax abatement agreements with regard to properties located in Reinvestment Zones, and to enter into tax abatement agreements with regard to properties for which a municipality has given tax abatement incentives by agreement.
- (B) The Code requires that the County establish guidelines and criteria governing tax abatement agreements. These guidelines and criteria are for the purpose of promoting the efficient and reasonably consistent administration of tax abatement incentives. These guidelines are effective for two (2) years from date adopted by the Jackson County Commissioners Court (the "Commissioners Court"). A three-quarter (3/4) vote by the Commissioners Court is required to amend or repeal these guidelines.
- (C) These guidelines and criteria, and the procedures established herein, are in compliance with the requirements of the Code.
- (D) NOTHING HEREIN SHALL IMPLY OR SUGGEST THAT THE COUNTY IS UNDER ANY OBLIGATION TO PROVIDE ANY TAX ABATEMENT, OR PROVIDE ANY LENGTH, LEVEL OR VALUE OF TAX ABATEMENT, TO ANY APPLICANT.

SECTION II

DEFINITIONS

- (A) "*Abatement*" means the full or partial exemption from County ad valorem taxation of the increased values of eligible properties in a Reinvestment Zone designated as such in accordance with state law, or the full or partial exemption from County ad valorem taxation of the increased values of eligible properties located within a municipality's taxing jurisdiction where the municipality has granted full or partial exemption to those properties from municipal ad valorem taxation.
- (B) "*Agreement*" means a contractual agreement between a property owner and a taxing jurisdiction for the purpose of tax abatement.

- (C) *"Base Year Value"* means the market value of any property eligible for abatement under these guidelines and criteria on January 1 of the year of the execution of the agreement. In addition, Base Year Value may include a guaranteed minimum agreed upon value of any property improvements or additions eligible for abatement under these guidelines and criteria made after such January 1 but before execution of such agreement.
- (D) *"Economic Life"* means the number of the years a property improvement is expected to be in service in a facility.
- (E) *"Expansion"* means the addition of buildings, structures, machinery, or equipment for the purpose of increasing production capacity.
- (F) *"Facility"* means property improvements completed or in the process of construction which together comprise an integral whole.
- (G) *"Lease"* means a relationship whereby the person applying for a tax abatement has a contract for exclusive possession of the real property on which improvements are to be made and/or personal property to be used for the operation of the business for a defined period of time.
- (H) *"Modernization"* means the replacement and upgrading of existing facilities which increase the productive input or output, updates the technology, or substantially lowers the unit cost of operation, and extends the economic life of the facility. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, or equipment. Modernization shall not include reconditioning, refurbishing, repairing, or completion of deferred maintenance.
- (I) *"New facility"* means a Facility on property previously undeveloped and which is placed into service by means other than expansion or a modernization.
- (J) *"Personal Property"* means machinery, equipment and/or tools used, or bought or leased for use, in the operations of the person applying for tax abatement, other than that which was located on the real property at any time before execution of the tax abatement agreement. "Personal Property" shall not include inventory, supplies, office furniture, office equipment, motor vehicles, vessels, aircraft, housing, hotel accommodations, or deferred maintenance investments.
- (K) *"Real Property"* means the area of land defined by legal description as being owned or leased by the person applying for a tax abatement, including any improvements thereto, which is to be improved and valued for property tax purposes, and which is to be included in the Reinvestment Zone.
- (L) *"Reinvestment Zone"* is an area designated as such for the purpose of a tax abatement as authorized by the County in accordance with the Code.

### SECTION III

#### REINVESTMENT ZONE DESIGNATION

- (A) A Reinvestment Zone may only be designated in accordance with the Code.
- (B) A Reinvestment Zone may only be designated by the Commissioners Court in an area of the County that does not include an area within the taxing jurisdiction of a municipality.
- (C) An area may be designated as a Reinvestment Zone if the Commissioners Court, after a public hearing on the proposed designation, finds that the designation would attract major investment into the Reinvestment Zone that would be a benefit to the property to be included in the Reinvestment Zone and would contribute to the economic development of the County.
- (D) A public hearing on a proposed Reinvestment Zone designation must be held prior to the findings and action of the Commissioners Court on the proposal. The public hearing shall be conducted in accordance with all applicable provisions of the Code. Notice of the hearing shall be given in accordance with the Code. The public hearing must also be posted as an agenda item in accordance with Chapter 551 of the Texas Government Code (the "Texas Open Meetings Act").
- (E) Property may be located both in a Reinvestment Zone designated by the County and in a Reinvestment Zone designated by a municipality.
- (F) If the Commissioners Court finds that designation of an area as a Reinvestment Zone is proper, such proposed designation shall be put to a vote of the Commissioners Court, and will pass if a majority of the members of the Commissioners Court in attendance vote to approve the designation. The order of the Commissioners Court designating the area as a Reinvestment Zone shall contain a sufficient description of the boundaries of the Reinvestment Zone.
- (G) The designation of a Reinvestment Zone shall be for a period of five (5) years. No designation of a Reinvestment Zone shall exceed five (5) years, and a designation of a Reinvestment Zone shall automatically expire five (5) years after the date of designation unless renewed by the Commissioners Court for one or more subsequent periods not to exceed five (5) years each. The expiration of a designation of a Reinvestment Zone does not affect any existing tax abatement agreement relating to property in such Reinvestment Zone.
- (H) Tax abatement agreements entered into by the County shall be in compliance with all applicable requirements set forth in the Code.

## SECTION IV

### ABATEMENT AUTHORIZED

- (A) Abatement is authorized, subject to approval of the Commissioners Court and execution of a tax abatement agreement, for properties located within a Reinvestment Zone designated by the Commissioners Court.
- (B) Abatement is also authorized for properties located within a municipal Reinvestment Zone when the municipality has entered into a tax abatement agreement with regard to property located within the Reinvestment Zone if the County enters into a tax abatement agreement with regard to that property. Such an agreement must be in compliance with all applicable requirements set forth in the Code.
- (C) Authorized Facilities: Tax abatement may be granted for New Facilities or for the Expansion or Modernization of existing Facilities. The economic life of a Facility or improvements thereto must exceed the life of the tax abatement agreement.
- (D) Eligible Property: Tax abatement may be granted for improvements to owned real property or real property subject to a Lease and for Personal Property located on such real property to the extent allowed by state law.
- (E) Value of Abatement: Authorized Facilities may be granted abatement on all or a portion of the increased taxable value of eligible property over the base year value for a period not to exceed ten (10) years. Such abatement, if granted as to real property, is not with regard to the entire value of the real property, but only to the extent that the value of the real property exceeds the value for the year in which the abatement is granted (i.e., the Base Year Value). Ad valorem taxes on tangible Personal Property may be abated to the extent of additions, but cannot be abated as to personal property located on the real property at any time before the tax abatement agreement is executed, and cannot be abated for inventory, supplies, office furniture, office equipment, motor vehicles, vessels, aircraft, housing, hotel accommodations, or deferred maintenance investments.

## SECTION V

### PROJECT IMPACT DATA

#### (A) Introduction

The information required in this Section V will be used by the Commissioners Court to determine whether or not it is in the best interest of the County to offer tax abatement to a particular applicant. The County may request that the applicant describe the methodologies used to respond to the questions below and to supply supporting documentation.

(B) Proposed Investment

The applicant must submit information providing answers to the following inquiries:

- (1) Identify and describe the type and location. of the proposed real property improvements and/or personal property additions to the property and describe the planned development schedule for the proposed improvements and/or additions.
- (2) To what extent, if any, will material, additional public improvements be needed? Describe the plans, if any, in existence for the provision of such improvements.
- (3) What material governmental approvals or permits will be required for the improvements?
- (4) Is the financial capital required to complete the project already available (financing commitments, reserved funds, etc.)? Explain in reasonable detail.

(C) Fiscal Impact

The applicant must submit information providing answers to the following inquiries:

- (1) What is the estimated cost of the proposed real property improvements and/or personal property additions?
- (2) What is the proposed depreciation schedule for the real and personal property to be abated?

(D) Community Impact

The applicant must submit information providing answers to the following inquiries:

- (1) Provide a copy of an economic impact study prepared with respect to the proposed project. An economic impact evaluation prepared in connection with an application for appraised value limitation under Chapter 313 of the Code will satisfy this requirement.
- (2) What support services or products, if any, does the applicant anticipate will be procured from the local community in the construction of improvements or additions of personal property, and with regard to its operations?

(E) A legal description of the subject real property must be supplied to the County by the applicant.

(F) Pursuant to the Code, information submitted in the application process is confidential, and is not subject to public disclosure, unless and until a tax abatement agreement is executed. If an application for abatement is granted, the information submitted in the application process will be considered public once the abatement agreement has been signed by representatives for both parties.

## SECTION VI

### GUIDELINES

#### (A) Economic Qualification

To be eligible for designation of a Reinvestment Zone and to receive tax abatement, the proposed project must be reasonably shown to have an estimated cost upon completion of at least \$5,000,000.00

#### (B) Eligibility

The Commissioners Court shall determine eligibility for abatement on a case-by-case basis.

#### (C) Rate and Duration of Tax Abatement

When a determination has been made to offer tax abatement, the County will determine the percent of value abated and the length of abatement on a case-by-case basis.

## SECTION VII

### PROCEDURE

(A) Any person or entity desiring that the County consider tax abatement for a proposed project must comply with the following procedural guidelines.

#### (B) Application Process

The applicant shall submit a letter of application for tax abatement to the County Judge for submission to the Commissioners Court. The application must:

- (1) give a reasonably detailed explanation of the proposed project (improvements to owned or leased real property, and/or addition of owned or leased Personal Property);
- (2) address all criteria questions and inquiries outlined in Section V above;
- (3) provide a current survey of the real property and information showing the proposed location of the proposed improvements and additions on such real property, together with a legal description of such real property;
- (4) identify the name, address, telephone number, fax number, and e-mail address of the applicant's contact person for purposes of the application;
- (5) identify the form of organization & the applicant (e.g., sole proprietorship, partnership, corporation, limited liability company, etc.) and any assumed or trade names under which the applicant operates; and
- (6) identify how the project will comply with or fit within the criteria and guidelines set forth in the preceding sections.

- (7) Provide a payment of \$1,000.00 to Jackson County with the letter of application for tax abatement.

All applications will be reviewed by the Commissioners Court's designee or designees for accuracy and completeness. If requested by the Commissioners Court or its designee, the applicant shall verify any information submitted to the Commissioners Court. In addition, the applicant shall provide any additional information requested by the Commissioners Court or its designee. Upon completion of the application process, the application will be placed on the agenda for a meeting of the Commissioners Court for consideration.

- (C) The application shall be considered at a meeting of the Commissioners Court held in compliance with the Texas Open Meetings Act. If the abatement would involve the designation of a Reinvestment Zone, a public hearing regarding such designation must first be held in accordance with the procedures and notice requirements in the Code. No applicant has a legal right or expectation to a favorable determination by the Commissioners Court with respect to its application.
- (D) The abatement, if granted, must be made pursuant to a tax abatement agreement which meets all of the requirements of law and is acceptable to the Commissioners Court. Any such tax abatement agreement shall provide that in filling any new employment positions created as a result of the project, the applicant will use commercially reasonable efforts to hire qualified applicants located in the County and willing to perform the work required by such position. A tax abatement agreement must be approved by the Commissioners Court for execution by the County Judge before it can be effective.
- (E) Any abatement is for County ad valorem taxes only, and does not provide abatement from taxation by other taxing jurisdictions in which the property may be located unless otherwise provided by state law. Property owned or leased by a member of the Commissioners Court is not eligible for tax abatement.

## SECTION VIII

### ADMINISTRATION

- (A) The tax abatement agreement shall stipulate that employees of the County and/or designated representatives of the County will have access to the Reinvestment Zone during the term of the abatement to inspect the Facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after giving forty-eight (48) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the company and in accordance with the safety standards for the Facility.
- (B) The employees and/or designated representatives of the County who conduct an inspection of the Facility shall within ten days of the inspection submit a written report to the Jackson County Commissioners Court regarding the property owner's compliance

with the terms and conditions of the agreement.

- (C) Violations of the terms of the tax abatement agreement by the tax abatement recipient may result in the full or partial loss of the abatement and give rise to a right of the County to recoup taxes abated and terminate the agreement, all as may be more fully provided for in the agreement.

## SECTION IX

### ASSIGNMENT

A tax abatement agreement may be assigned to a new owner or lessee of the Facility with the prior written consent of the Commissioners Court, which consent shall not be unreasonably withheld, delayed or conditioned. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of a tax abatement agreement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if the assignor or the assignee are indebted to the County for delinquent ad valorem taxes or other obligations.

## SECTION X

### SUNSET PROVISION

These Guidelines and Criteria are effective **September 25, 2020**, and will remain in force until **September 25, 2022**, at which time all tax abatement agreements created pursuant to these provisions will be reviewed by the County to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed, or eliminated.