

Adopted 7-13-2023

GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN

REINVESTMENT ZONES

Rains County, Texas

I. **PURPOSE**

Rains County, hereinafter referred to as "County" is committed to the promotion of quality development in all parts of the County and to improving the quality of life for its citizens. In order to help meet these goals, the County will consider recommending tax incentives, which may include the designation of reinvestment zones, accepting applications for tax abatement, and entering into tax abatement agreements to stimulate growth and development.

It is the intent of the County that such incentives will be provided in accordance with the procedures and criteria in this document and in Chapter 312 of the Texas Tax Code. However, nothing in these Guidelines and Criteria shall imply or suggest to be construed to imply or suggest that tax entities are under any obligation to provide any incentives to any applicant. All such applicants for tax incentives shall be considered on an individual basis for both the qualification for tax abatement and the amount of any tax abatement. The adoption of these Guidelines and Criteria shall not create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

Only that increase in the fair market value of the property directly resultant from the development, redevelopment, and improvement specified in the contract will be eligible for abatement. All abatement contracts will be for a term no longer than allowed by law. Additionally, the Rains County Commissioners Court reserves the right to negotiate a tax abatement agreement in order to compete favorably with other communities.

II. **DEFINITIONS**

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

### III. GUIDELINES AND CRITERIA

In order to be eligible for designation as a reinvestment zone and to receive tax abatement, the planned improvement as a minimum must meet the following:

(a) Be an authorized Facility. A Facility may be eligible for abatement if it is a(n):

- Aquaculture/ Agriculture Facility
- Distribution Center Facility
- Manufacturing Facility
- Office Building
- Regional Entertainment/Tourism Facility
- Research Facility
- Regional Service Facility
- Historic Building in designated area
- Renewable Energy Facility
- Other Basic Industry

(b) The project must be reasonably expected to have an increase in positive net economic benefit to Rains County of at least \$ 15,000,000 over the life of the abatement, computed to include (but not limited to) new sustaining payroll and capital improvement. In consideration of the request for designation as a reinvestment zone and to receive tax abatement, the following factors will also be considered:

{1} Jobs. The projected New Jobs created including the number of jobs, the retention of existing jobs, the type of jobs, the average payroll, the total payroll and the number of local persons hired.

(2) Fiscal Impact. The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that will be generated, the infrastructure improvements by the county that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the county's development goals.

(3) Community Impact, including:

- i. The pollution, if any as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;
- ii. The revitalization of a depressed area;
- iii. The business opportunities of existing local vendors;
- iv. The alternative development possibilities for proposed site;
- v. The impact on other taxing entities, including the use of municipal or county infrastructure; and/or
- vi. Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Rains County to another.

**IV. ABATEMENT AUTHORIZED**

- (a) Authorized Date. A facility may be eligible for tax abatement for a period not to exceed 10 years or one-half of the productive life of the improvement, whichever is less. The "productive life" will be calculated from the effective date of the tax abatement and the date the equipment ceases to be in service. If an application for abatement is submitted prior to the commencement of construction, the facility must meet the criteria granting tax abatement in reinvestment zones created in Rains County pursuant to these Guidelines and Criteria.
- (b) Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to the filing of an application for tax abatement and specified in the abatement agreement between the County and the owner or lessee (and lessor if required pursuant to IV(f)) of the facility or improvements receiving the abatement, all subject to such limitations as the Guidelines and Criteria may require.
- (c) New and Existing Facilities. Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion. If the modernization project includes facility replacement, the abated value shall be the value of the new unit(s) less the value of the old unit(s).
- (d) Eligible Property. Abatement may be extended to the value of the following: new, expanded, replaced or modernized buildings and structures; fixed machinery and equipment; site improvements; office space and related fixed improvements necessary to the operation and administration of the facility; and all other real and tangible personal property as permitted by Chapter 312 of the Texas Tax Code.
- (e) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement:
  - i. Land
  - ii. Animals
  - iii. Inventories
  - iv. Supplies
  - v. Tools
  - vi. Furnishings and other forms of movable personal property other than machinery and equipment that are in essential part of the facility or improvements receiving abatement
  - vii. Vehicles
  - viii. Vessels
  - ix. Aircraft
  - x. Housing or residential property
  - xi. Fauna
  - xii. Flora
  - xiii. Deferred Maintenance investments
  - xiv. Property to be rented or leased (except as provided in Part IV(f),

- xv. Any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility, and
- xvi. Property owned or used by the State of Texas or its political subdivision or by any organization owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities. If a leased facility or leased improvements are granted an abatement, the agreement shall be executed with the lessor and lessee of the facility or improvements. The owner of the real property where the facility or improvements are located is not required to execute the abatement agreement if it is not the lessor or lessee of the facility or improvements.

(g) Value and Term of Abatement

(1) Abatement shall be granted effective no earlier than the January 1 valuation date immediately following the date of execution of the agreement. The agreement may provide that the period for which the abatement applies will commence on a later date. The value of new eligible property shall be abated according to the approved agreement between applicant and the governing body. The Rains County Commissioners Court, in its sole discretion, shall determine the amount of any abatement.

(h) Economic Qualification. In order to be eligible for designation as a reinvestment zone and to qualify for tax abatement the planned improvement:

(1) Must create employment for at least 10 people on a full-time (40 hours per week equivalent) basis in Rains County for the duration of the abatement period at the abated facility site described in the tax abatement application; or alternatively, must retain and prevent the loss of employment of 10 employees or fifty percent (50%) of the existing facility containing the abated facility site described in the tax abatement application whichever is greater, for the duration of the abate period. The following is applicable to the employment retention/preventing loss of employment requirement:

(a) "Existing facility" is a Manufacturing Facility, Research Facility, Distribution Center or Regional Facility, Regional Entertainment Facility, Other Basic Industry, or a facility the Commissioners Court determines would enhance job creation and the economic future of Rains County. The facility must be expanded or modernized and contain the proposed improvements to be abated. A manufacturing or processing unit or units of a larger plant complex that separately comprise a manufacturing or production sub-unit of the larger plant shall be considered the existing facility for the purposes of Section 2(h)(l) employment retention requirement (that the planned improvements cause the retention or prevention of loss of employment of 10 employees or 50% of the employees of the existing facility, whoever is greater). For example, if a large plant complex has a sub-unit that produces chlorine and 100 employees are employed at or in connection with that unit, an expansion or modernization of all or part of that facility

must result in the retention of at least 50 employees employed at or in connection with the expanded or modernized "existing facility" in order for the facility improvements to qualify for abatement.

(b) Employees of a larger plant until transferred or assigned to and employed at or in connection with a new sub-unit containing the planned improvements, constructed on underdeveloped land constituting the proposed abated facility site/reinvestment zone shall be considered "created" employment for purposes of this sub-section.

(c) The proposed number of employees to be employed at the abatement facility as stated in the abatement application for the property that is the subject of the tax abatement agreement (including the projected creation or retention of employment) must be maintained for the duration of the abatement period at the abated facility site. For purposes of this subsection, in order for a planned improvement to be considered as preventing the loss of employment or retaining employment, the abated facility/project must be necessary in order to retain or keep employment at levels as indicated in the application and in order to retain the proposed number of employees at the abated facility as indicated in the application. The owner/Applicant seeking to qualify on the basis of retention or preventing loss of employment must provide a detailed statement as an attachment to its application affirmatively represent compliance with this sub-subsection and explaining the necessity of this project to prevent loss of employment. Any variance from the requirements of this sub-section is subject to approval of Commissioners Court in accordance with the variance section of these Guidelines & Criteria.

(d) Full-time employee creation requirements for Renewable Energy Facilities shall be determined on a case by case basis by the Commissioners Court.

(2) Must be not expected to solely or primarily have the effect of transferring employment from one part of the county to another part of the county. A variance may be requested relative to this provision which approval shall be at the sole discretion of the County.

(3) Must be necessary because capacity cannot be provided efficiently utilizing exist improved property.

Additionally, the owner of the project:

(4) Will be wholly responsible for all County roads and right-of-way (including bridges, culverts, ditches, etc.) and damage caused thereto as a result of the construction of or of an on-going maintenance and operations of the Abated Facility Site as well as associated facilities to the Abated Facility Site, including but not limited to, the following:

a. Cost to maintain the roads, if needed, utilized for construction of the Abated Facility Site in an effort to keep the road safe for the traveling public will be tracked by Rains County and invoiced on a regular basis to the Abatee.

b. Cost to reconstruct the roadway, if needed, will be actual costs to repair the County roads and right-of-way incurred by the County and invoiced to the Abatee. These costs

will include all construction costs as well as all related professional services for the repair work.

c. Cost associated with the issuance of a County driveway permit, which shall be required in the event the project is accessed directly by a County Road. Owner agrees to promptly submit a completed County driveway permit application

(l) Taxability. From the execution of the abatement contract to the end of the prior during which the abatement applies, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Part IV(e) shall be fully taxable;
- (2) The base year value of existing eligible property as determined each year shall be fully taxable; and
- (3) The additional value of new eligible property shall be taxable in the manner described in the abatement agreement.

**V. APPLICATION FOR TAX ABATEMENT**

(a) Any present or potential owner, assignee, or lessee of taxable property in Rains County may request the creation of a reinvestment zone and the consideration of a tax abatement agreement by filing a written request with the County. The completed Application must be accompanied by the payment of a one thousand dollar (\$1,000) non-refundable application fee for administrative costs with the processing of the tax abatement request. Additional fees may be assessed for more complex requests at the discretion of the Commissioner's Court. All checks in payment of the administrative fee shall be made payable to Rains County.

(b) The completed application must contain the following information/attachments:

- (1) A general description of the proposed use and the general nature and extent of the modernization, expansion, or new improvements to be undertaken;
- (2) A descriptive list of the improvements which will be part of the facility.
- (3) A map and list of parcel id's
- (4) A time schedule for undertaking and completing the planned improvements
- (5) In the case of modernizing or replacing existing facilities in whole or in part, a statement of the assessed value of the facility separately stated for real and personal property for the tax year immediately preceding the year in which the application is filed.

The County may require that the application be supplemented with such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant.

(c) Upon receipt of a completed application, the County shall, through public hearings, afford the applicant and the designated representative of any Affected Jurisdiction the opportunity

to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on an agenda of the Rains County Commissioners Court to be posted at least (30) days prior to the hearing.

- (d) The County shall consider the application for tax abatement after the application has been reviewed and required public notices have been posted. The County shall notify the applicant of the approval or disapproval promptly after the corresponding hearing of the Commissioners Court.
- (e) A request for reinvestment zone for the purpose of abatement shall not be granted by the County if the County finds that the request for the abatement was filed after the commencement of construction, alteration, or installation of taxable improvements related to a proposed modernization expansion or new facility. Before the Rains County Commissioners Court holds a public hearing to designate a reinvestment zone it shall do the following:
  - (1) Not later than the seventh day before the date of the hearing, publish notice of the hearing in a newspaper having general circulation in the County; and
  - (2) Not later than the seventh day before the date of the hearing, deliver written notice of the hearing to the presiding officer of the governing body of each taxing unit that includes in its boundaries any real property that is to be included in the proposed reinvestment zone.
- (f) Requested Variances. Requests for variance from any provision of these Guidelines and Criteria may be made in written form to the Rains County Commissioners' Court. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) vote of the Rains County Commissioners Court.
- (g) Deemed Variances. The Rains County Commissioners' Court may approve a tax abatement agreement that varies from any requirement in these Guidelines and Criteria so long as such variance is permitted by Chapter 312 of the Texas Tax Code. Any aspect of a tax abatement agreement duly authorized and approved by the Rains County Commissioners' Court that varies in any respect from any requirement in these Guidelines and Criteria shall be deemed to have been granted a variance from the Guidelines and Criteria by the Court. It is the express intention of the Rains County Commissioners Court that no tax abatement agreement that has been duly authorized and approved by the Court shall be challenged or held to be invalid because such authorized and approved tax abatement agreement varies from any requirement contained in these Guidelines and Criteria.

**VI. PUBLIC HEARING**

- (a) Should any Affected Jurisdiction be able to show cause in the public hearing why the granting of abatement by the County will have a substantial adverse effect on its bonds, tax revenue, service incapacity or the provision of service, that showing shall be considered by the Rains County Commissioners' Court when deciding to approve or disapprove of the application for tax abatement.
  
- (b) Neither a reinvestment zone nor an abatement shall be authorized if it is determined that:
  - (1) There would be a substantial adverse effect on the provision of a government service or the tax base of an Affected Jurisdiction;
  - (2) The applicant has insufficient financial capacity to construct and operate the proposed facility or improvements;
  - (3) The planned or potential use of the property would constitute a hazard to public safety, health, or morals; or
  - (4) The planned or potential use of the property violate other governmental codes or laws.

**VII. AGREEMENT**

- (a) If an application for tax abatement is approved by the Rains County Commissioners Court, the Court shall formally pass a resolution and execute an agreement with the owner and/or lessee of the facility which shall include:
  - (1) The percentage of value to be abated each year as provided in Part IV(g) of these Guidelines and Criteria.
  - (2) The commencement date and the termination date of abatement.
  - (3) The proposed use of the facility, nature of construction, time schedule for undertaking completing the planned improvements, map, property description, and improvements list as provided in Part V of these Guidelines and Criteria.
  - (4) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes recapture, administration and assignment (as provided in the agreement), and other provision that may be required for uniformity or by state law or that are mutually agreed to by the County and the applicant.
  - (5) Amount of investment, forecast depreciation over abatement period, and/or average number of jobs applicant commits to create for the period of abatement.
  - (6) Any other provisions required by Chapter 312 of the Texas Tax Code.
  
- (b) The county will use its best efforts to cause such agreement to be executed within forty-five (45) days after the later of the date applicant has forwarded all necessary information to the jurisdiction receiving the application or the date of the approval of the application. Prior to the execution of the Agreement, the County will comply with the following notice requirement in Tax Code§ 312.2041(a):

Not later than the thirtieth day before the date on which a municipality or county enters into an abatement agreement, the governing body of the municipality or county or a designated officer or employee of the municipality or county shall deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the agreement is located, a written notice that the municipality or county intends to enter into the agreement. The notice must include a copy of the proposed agreement.

- (c) Each other taxing unit that has jurisdiction over the facility or improvements for which the County approves or disapproves an application for tax abatement shall make its own determination of abatement (if requested by the applicant) which shall not bind any other Affected Jurisdiction.

#### VIII. RECAPTURE

- (a) In the event that the facility or improvements are completed and begin operating but subsequently discontinue operating for any reason excepting a force majeure event (as such event may be more specifically defined in the tax abatement) for a period of more than one (1) year during the abatement period, then the abatement agreement shall terminate along with the abatement of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the County within sixty (60) days from the date of termination. The County is permitted to enter into a tax abatement agreement that varies from the provisions of this paragraph without being deemed to be in violation of the Guidelines and Criteria so long as the agreement provides for the recapture of property taxes in the event that the approved facility or improvements discontinue operations during the period of tax abatement.
- (b) If the County determines that a party to a tax abatement agreement is in default according to the terms and conditions of its agreement, the County shall notify the party in writing at the address stated in the agreement, and if such is not cured within (60) days from the date of such notice, then the agreement shall be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination. Further, it will be a default under a tax abatement granted pursuant to these Guidelines and Criteria if the owner of the eligible property subject to the abatement is delinquent in paying any undisputed taxes to any taxing authority in Rains County, Texas. The County is permitted to enter into a tax abatement agreement that varies from the provision of this paragraph without being deemed to be in violation of these Guidelines and Criteria so long as the agreement provides for the recapture of property tax in the event that the applicant named in the tax abatement agreement defaults in its obligations under the agreement.

**IX. ADMINISTRATION**

- (a) The Chief Appraiser of the Rains County Appraisal District shall annually determine an assessment of any real and/or personal property that is the subject of a tax abatement agreement. Each party to a tax abatement agrees shall be required to furnish the assessor with such information as may be necessary to determine an assessment. Once a value has been established, the Chief Appraiser shall notify the Affected Jurisdictions of the appraised value.
- (b) The abatement agreement shall stipulate that employees and/or designated representatives of the County will have access to the facility or improvements that are the subject of the agreement during the term of the abatement to inspect the facility or improvements to determine if the terms and conditions of the agreement are being met. The terms, guidelines, and requirements concerning inspections shall be set forth in the abatement agreement.
- (c) After the period of abatement begins, the County shall annually evaluate each facility receiving abatement and report possible violations of the abatement agreement to the Rains County Commissioners Court. The abatement agreement may also require the party receiving the abatement to file annual certifications with the County.
- (d) All proprietary information acquired by the County for purposes monitoring compliance with the terms and conditions of an abatement agreement shall be considered confidential.
- (e) "Buy Local" Provision. Each recipient of property tax abatement shall additionally agree to give preference and priority to local manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency.
- (f) Right to Modify or Cancel. Notwithstanding anything herein, Rains County may cancel or modify Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones if an owner fails to comply with the Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones.

**X. ASSIGNMENT**

- (a) Except as otherwise provided in the abatement agreement, an abatement agreement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the Rains County Commissioners Court, subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of an assignment and assumption agreement between the holder of the agreement and the assignee. Approval shall not be unreasonably withheld.
- (b) No assignment or transfer shall be approved if the party/parties to the existing agreement or the proposed assignee is liable to any taxing jurisdiction for outstanding taxes or other obligations.

**XI. SUNSET PROVISION**

- (a) These Guidelines and Criteria are effective upon the date of the adoption and will remain in force for two (2) years unless amended by three quarters vote of the Rains County Commissioners Court, at which time all reinvestment zones and tax abatement contracts created pursuant hereto will be reviewed by each Affected Jurisdiction to determine whether the goals have been achieved. Based on that review, these Guidelines and Criteria may be modified, renewed, or not renewed, providing that such actions shall not affect existing abatement agreements.
- (b) These Guidelines and Criteria do not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the Affected Jurisdiction.

**XII. SEVERABILITY AND LIMITATIONS**

- (a) In the event that any section, clause, sentence, paragraph or any part of these Guidelines and Criteria shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria.
- (b) Property that is located in a reinvestment zone and that is owned or leased by a person who is a member of the Commissioners Court may not be subject to a tax abatement agreement entered into with the County.
- (c) If these Guidelines and Criteria have omitted any mandatory requirements of the applicable tax abatement laws of the State of Texas, then such requirements are hereby incorporated as a part of these Guidelines and Criteria.

**XIII. TAX ABATEMENT DETERMINATION**

- (a) Nothing herein shall imply or suggest Rains County is under any obligation or duty to provide tax abatement to any applicant, and reserves the right to make exceptions, approve, and deny based on concerns including, however not limited to environmental and quality of life issues and/or compatibility with the economic goals and objectives of Rains County.

**GLOSSARY:**

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real or tangible personal property in a reinvestment zone designated by the County or a municipality for economic development purposes.
- (b) "Aquaculture/Agriculture Facility" means building, structures and major earth structure improvements, including fixed machinery and equipment, the primary purposes of which is of food and/or fiber products in commercially marketable quantities.
- (c) "Affected Jurisdiction" means Rains County and any municipality, or school district, the majority of which is located in Rains County that levies ad valorem taxes upon and/or provides services to property located within the proposed or existing reinvestment zone
- (d) "Agreement" means a contractual agreement between a property owner and/or lessee and the County for the purpose of tax abatement.
- (e) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application.
- (f) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process of technology.
- (g) "Distribution Center Facility" means building and structures, including machinery and equipment, used or to be used primarily to receive, store, service, or distribute goods or materials owned by the facility from which a majority of revenue generated by activity at the facility are derived from outside of Rains County.
- (h) "Expansion" means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.
- (i) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

- U) "Manufacturing Facility" means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (k) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- (l) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (m) "New Jobs" means a newly created employment position on a full-time permanent basis. Two or more part-time permanent employees totaling an average of no less than 40 hours per week may be considered as one full-time permanent employee.
- (n) "Office Building" means a new office building.
- (o) "Other Basic Industry" means buildings and structures, including fixed machinery and equipment not elsewhere described used or to be used for the production of products or services which serve a market primarily outside the County and results in the creation of new permanent jobs and new wealth in the County.
- (p) "Regional Entertainment/Tourism Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment and/or tourism related services, from which a majority of revenues generated by activity at the facility are derived from outside Rains County.
- (q) "Research Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production process thereto.
- (r) "Regional Service Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide a service from which a majority of revenues generated by activity at the facility are derived from outside Rains County.

- (s) "Renewable Energy Facility" means buildings and structures, including but not limited to electricity generating equipment (such as wind turbines or photovoltaic solar panels), electric transmission lines, electric power substations, electrical gathering equipment, communications systems and roads, fixed machinery and equipment, used or to be used to provide electrical energy, and which meet the definition of "Renewable Energy Electric Generation" in Chapter 313 of the Texas Tax Code.

**STATE OF TEXAS**

**RAINS COUNTY**

**RAINS COUNTY RESOLUTION AND ORDER NO. 07-13-2023**

**ELECTING TO BECOME ELIGIBLE TO PARTICIPATE IN TAX ABATEMENT,  
ADOPTING TAX ABATEMENT GUIDELINES AND CRITERIA, AND ESTABLISHING  
A PROGRAM TO STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN  
RAINS COUNTY, TEXAS**

**WHEREAS**, the Commissioners Court has the authority pursuant to the Property Redevelopment and Tax Abatement Act, Chapter 312, Texas Tax Code, to adopt a tax abatement policy and enter into tax abatement agreements with eligible entities; and

**WHEREAS**, tax abatement provides a valuable economic tool for use by the County and others interested in supporting and creating jobs in Rains County; and

**WHEREAS**, the Commissioners Court finds that a tax abatement policy is in the public interest and will contribute to the economic development of the County; and

**WHEREAS**, pursuant to section 312.002, Texas Tax Code, Rains County may not enter into a tax abatement agreement unless the Commissioners Court establishes guidelines and criteria governing tax abatement and tax abatement agreements and, by resolution, elects to become eligible to participate in tax abatement; and

**WHEREAS**, the Commissioners Court has the authority pursuant to Section 381.004, Texas Local Government Code to develop and administer a program in order to stimulate business and commercial activity in the county:

1. For local economic development;
2. For small or disadvantaged business development;
3. To stimulate, encourage, and develop business location and commercial activity in the county;
4. To promote or advertise the county and its vicinity or conduct a solicitation program to attract conventions, visitors, and business; and
5. Other purposes as set out in the statute.

**WHEREAS**, the Commissioners Court may develop and administer a program pursuant to Section 381.004, Texas Local Government Code to stimulate business and commercial activity by entering into a tax abatement agreement with an owner or lessee of a property interest subject to ad valorem taxation, the terms of a tax abatement agreement being governed by the provisions of Sections 312.204, 312.205, and 312.211, Texas Tax Code; and

**WHEREAS**, the Commissioners Court may develop and administer a program pursuant to Section 381.004, Texas Local Government Code to stimulate business and commercial activity by developing and administering a program for making loans and grants of public money and providing personnel and services of the County; and

**WHEREAS**, the Commissioners Court may contract with another entity for the administration of the program or use county employees or funds for the program; and

**WHEREAS**, the Commissioners Court finds that tax abatement within certain guidelines and criteria will attract and/or retain desirable commercial enterprises in Rains County with the result that existing jobs will remain in the County and new jobs will be created in the County; and

**WHEREAS**, the Commissioners Court finds that making loans and grants of public money and providing personnel and services of the County within certain guidelines and criteria will attract and/or retain desirable commercial enterprises in Rains County with the result that existing jobs will remain in the County and new jobs will be created in the County;

**NOW, THEREFORE BE IT RESOLVED** that the Commissioners Court of Rains County, Texas hereby elects to become eligible to participate in tax abatement and hereby adopts the following guidelines and criteria for tax abatement and for tax abatement agreements in order to stimulate business and commercial activity in Rains County, Texas; and

**BE IT FURTHER RESOLVED** that the Commissioners Court of Rains County, Texas hereby elects to develop and administer a program for making loans and grants of public money and providing personnel and services of the County in order to stimulate business and commercial activity in the County and hereby adopts the following guidelines and criteria for loans and/or grants of public money and the providing of County personnel and/or County services:

**IT IS ACCORDINGLY ORDERED** that the Commissioners Court of Rains County, Texas hereby establishes a program to stimulate business and commercial activity in Rains County and adopts the following terms, conditions and requirements for such program:

**SECTION 1. Purpose:** The purpose of the program is to provide an incentive for current and future property owners and/or leaseholders to invest in Rains County and provide increased job opportunities in the County thereby contributing to responsible economic growth of the County. In the implementation and direction of this program, the Commissioners Court shall take into consideration any other incentives provided by the County in order to assure that the overall incentive package offered to prospective beneficiaries achieves the objectives of the program and is in the best interests of the citizens of Rains County.

**SECTION 2. Objective:** It is the objective of this program to encourage responsible economic development in the County that will provide employment opportunities for the citizens of the County and provide tax relief to the residential and agrarian property owners in the County by increasing the amount of ad valorem and sales taxes contributed by business and commercial enterprises without adversely affecting the quality of life for current and future citizens of the County.

### **SECTION 3. DEFINITIONS:**

1. "Abatement" as used herein means the partial exemption from ad valorem taxes of certain real property and/or improvements and/or personal property located in Rains County.
2. "Base Year Value" as used herein means the assessed value of eligible property on the 1st of January preceding the execution of a tax abatement agreement.
3. "Attorney Representing the Commissioners Court" as used herein means the County Attorney or duly appointed designee, the Criminal District Attorney or duly appointed designee, or other attorney designated by the Commissioners Court.
4. "Modernization" as used herein means the replacement or upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the cost of operation. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, or equipment. It shall not include reconditioning, refurbishing, or repairing.
5. "Real Property" as used herein means land.
6. "Property rights subject to taxation" as used herein means any real or personal property subject to ad valorem taxes.
7. "Reinvestment Zone" as used herein means an area within the County that has been designated by a governmental entity as an enterprise zone under Chapter 2303, Government Code, or is designated as a reinvestment zone pursuant to the provisions of Chapter 312, Local Government Code.

### **SECTION 4. Limitations:**

1. Adoption of the guidelines and criteria does not:
  - a. Limit the discretion of the Commissioners Court to decide whether to grant tax abatement and/or enter into a tax abatement agreement, or make loans, or grants, or authorize the use of County personnel or services; or
  - b. Create new property, contract, or other legal right in any person to have the Commissioners Court consider or grant a specific application or request.
2. Unless exemptions or waivers are granted by the Commissioners Court or other appropriate authority, facilities approved must be in compliance and comply with all federal, state, County and municipal laws, rules and regulations, and other requirements approved by the Commissioners Court.
3. No tax abatement, loan, or grant will be approved that will have the effect of reducing current ad valorem tax or sales tax revenues.
4. The County shall not grant tax abatement or enter into a tax abatement agreement if the Commissioners Court finds that the application for tax abatement was filed after the commencement of construction, expansion or modernization.

5. Guidelines and criteria adopted herein shall be effective for two years from the date of adoption or until July 27, 2022 unless amended or repealed by the Commissioners Court.

**SECTION 5. Contract with Other Entities:** Rains County has an existing contract with the Emory Economic Development Corporation (hereinafter "EDC") and, consistent with that agreement, will use the services of EDC whenever feasible to assist the County in implementation of the program to achieve the objectives set out herein. However, the program will be administered by County officers and employees under the direction of the Commissioners Court.

**SECTION 6. Tax Abatement Guidelines and Criteria:**

1. The Commissioners Court may grant tax abatement to the owner of taxable real property located in a reinvestment zone, but that is not an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property, or both, for a period not to exceed seven years, on the condition that the owner of the property make specific improvements to the property subject to the guidelines and criteria set out herein.
2. The Commissioners Court may grant tax abatement to the owner of a leasehold interest in tax-exempt real property that is located in a reinvestment zone, but that is not an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed seven years, on the condition that the owner of the leasehold interest make specific improvements to the real property subject to the guidelines and criteria set out herein.
3. The Commissioners Court may grant tax abatement to the owner of taxable real property located in the County, but that is not an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property, or both, for a period not to exceed seven years, on the condition that the owner of the property make specific improvements to the property subject to the guidelines and criteria set out herein.
4. The Commissioners Court may grant tax abatement to the owner of a leasehold interest in tax-exempt real property that is located in the County, but that is not an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed seven years, on the condition that the owner of the leasehold interest make specific improvements to the real property subject to the guidelines and criteria set out herein.
5. Creation of New Value. Tax abatement may be granted for the additional value of eligible improvements subject to such limitations as the Commissioners Court may require, and;
  - a. Shall be reasonably expected to increase the appraised value of the improved property; and

- b. Shall be expected to promote increased employment opportunities based on the number of permanent jobs created and sustained in each year of the abatement; and
  - c. Shall not have the effect of merely transferring existing employment from one part of the county to another without demonstration of increased future investment or unusual circumstances whereby, without such a move, employment is likely to be reduced; and
  - d. No tax exemption shall be granted for tangible personal property located on the subject real property at any time prior to the effective date of the granting of tax abatement, including inventory and supplies.
6. Enterprises Eligible for Tax Abatement: Tax abatement may be considered for the following types of enterprises if the location of a new enterprise or the expansion of an existing enterprise will create substantial capital improvements within the County and increase employment opportunities:
- a. Manufacturing Facilities;
  - b. Corporate Offices
  - c. Research Parks;
  - d. Conference centers, hotels, motels, resort hotels, and other such facilities intended to provide locations for the conduct of conventions, seminars and other such activities and provide lodging for persons attending such activities;
  - e. Advanced technology/emerging technology facilities;
  - f. Medical care facilities, including hospitals, clinics, laboratories and other such facilities dedicated to providing for the care and treatment of the ill, elderly or disabled or the improvement of the health and well-being of the residents of the county;
  - g. Educational facilities including schools, training centers and other such facilities offering educational and training opportunities to residents of the county; and
  - h. Retail establishments and service centers provided the sale of goods and/or services at such establishments will result in substantial sales taxes being generated for the benefit of the County.
7. Minimum Investment Required. To be eligible for tax abatement, the proposed project must provide for capital expenditures of at least 2.5 million dollars (\$2,500,000) for a new business or for the expansion or modernization of an existing business.
8. Groundwater Usage. The Hill Country area, which includes Rains County, has been designated as a "Primary Groundwater Management Area" by the Texas Commission on Environmental Quality. Consistent with this designation, an applicant's current water consumption, projected consumption and proposals directed at saving and recycling water will be a critical factor in evaluating an application for tax abatement.

**SECTION 7. Allowable Tax Abatement:** The allowable tax abatement shall be for a period of seven years as approved by the Commissioners Court and shall be based solely on the cost of capital improvements. Table 1 below establishes the level of capital improvements required and the abatement percentages to be allowed. No tax abatement shall exceed 50% of the appraised value of the improvements during any year.

**TABLE 1**

**Tax Abatement Schedule - Tier 1 New Business**

Allowable tax abatement based on new investment appraised values by the Rains County Appraisal District from \$2,500,000 to 4,999,999.99 including land, equipment, and structures:

|       |     |                                       |
|-------|-----|---------------------------------------|
| Year1 | 50% |                                       |
| Year2 | 50% |                                       |
| Year3 | 40% |                                       |
| Year4 | 40% | Average percentage for 7 years is 35% |
| Year5 | 30% |                                       |
| Year6 | 20% |                                       |
| Year7 | 15% |                                       |

**Tax Abatement Schedule - Tier 2 New Business**

Allowable tax abatement based on new investment appraised values by the Rains County Appraisal District from \$5,000,000 to 14,999,999.99 including land, equipment, and structures:

|       |     |                                      |
|-------|-----|--------------------------------------|
| Year1 | 50% |                                      |
| Year2 | 50% |                                      |
| Year3 | 50% |                                      |
| Year4 | 40% | Average percentage on 7 years is 40% |
| Year5 | 40% |                                      |
| Year6 | 25% |                                      |
| Year7 | 25% |                                      |

**Tax Abatement Schedule - Tier 3 New Business**

Allowable tax abatement based on new investment appraised values by the Rains County Appraisal District from \$15,000,000 and above including land, equipment, and structures:

|       |     |                                       |
|-------|-----|---------------------------------------|
| Year1 | 50% |                                       |
| Year2 | 50% |                                       |
| Year3 | 50% |                                       |
| Year4 | 45% | Average percentage for 7 years is 45% |
| Year5 | 45% |                                       |
| Year6 | 40% |                                       |
| Year7 | 35% |                                       |

**Tax Abatement Schedule - Business Expansion/Modernization**

Allowable tax abatement for expansion and/or modernization of an existing business based on expansion and/or modernization appraised values by the Rains County Appraisal District of \$2,500,000 and above including additional land, equipment, and structures:

|       |     |                                    |
|-------|-----|------------------------------------|
| Year1 | 50% |                                    |
| Year2 | 50% |                                    |
| Year3 | 50% |                                    |
| Year4 | 40% | Average percentage for 7 years 40% |
| Years | 40% |                                    |
| Year6 | 25% |                                    |
| Year? | 25% |                                    |

**SECTION 8. Application Procedures for Tax Abatement Consideration:**

1. The applicant shall submit an application to the office of the County Judge providing the following information:
  - a. Name of the enterprise seeking tax abatement, identifying whether the entity is a sole proprietorship, corporation, or partnership; the identity of the owners, (or if a public corporation, the names of the President and Secretary of the corporation); the principal office of the enterprise and the location in Rains County where the enterprise does business or is planning to locate a business; and the primary business activities of the entity seeking tax abatement;
  - b. A general description of the project to be undertaken;
  - c. A description of the proposed construction and/or improvements for which tax abatement is requested, including estimated project costs;
  - d. A map or plat indicating the location or proposed location of the proposed project; and
  - e. The guidelines and criteria under which the tax abatement is requested - new construction or for expansion and/or modernization of an existing business.
2. The County Judge shall place the application on the agenda of a meeting of the Commissioners Court for consideration and action. If permitted by the Open Meetings Act, some of the deliberation concerning the application may be discussed in executive session. In order to grant tax abatement, the Commissioners Court of Rains County must find that the application satisfies the guidelines and criteria set out herein and that:
  - a. There will be no adverse effect on the provision of County's services to the citizens of the county as the result of the granting of the tax abatement;
  - b. The planned use of the property will not constitute a hazard to public health, safety, or morals (Note: Tax abatement is not available to projects wherein the primary purpose of the business is serving alcoholic beverages or where a sexually oriented business is involved.); and
  - c. There will be no adverse effect on the financial condition of the County as the result of the granting of the tax abatement.

3. If the Commissioners Court determines that the application has merit, the Commissioners Court may approve the application for tax abatement as submitted or as modified by the Court and authorize the attorney representing the Commissioners Court to prepare an abatement agreement consistent with the Court's determination if an agreement is required.

**SECTION 9. Tax Abatement Agreement:**

1. After approval of an application for tax abatement by the Commissioners Court, if it is determined that a tax abatement agreement is required, the attorney representing the Commissioners Court shall prepare an agreement including the following provisions as applicable and as directed by the Commissioners Court:
  - a. A description of the proposed improvements and an estimate of the total cost;
  - b. The appraised value of the subject property without the proposed improvements - the base year value;
  - c. The projected value of the property with the improvements;
  - d. The abatement schedule, including the commencement date of abatement and the termination date of abatement;
  - e. The proposed construction/modernization time schedule;
  - f. A provision that the applicant will provide access to and authorize inspection by County officers and/or employees to insure that the improvements are being made according to the conditions and specifications of the agreement;
  - g. The proposed use of the facility and a provision limiting the use of the property consistent with the general purpose of encouraging development or redevelopment during the time that property tax abatements are in effect;
  - h. A provision for recapturing property tax revenue lost as a result of the agreement if the applicant violates the terms of the agreement;
  - i. A requirement that the applicant certify annually to the Commissioners Court that the applicant is in **full** compliance with the agreement;
  - j. A provision that the Commissioners Court may cancel or modify the agreement if the applicant fails to comply with the agreement;
  - k. As an attachment, a map or plat of the subject property and a property description; and
  - l. Usual contractual terms and conditions required for uniformity or by state law.
2. The County Judge shall provide the tax abatement agreement to the applicant for review and execution. Any tax abatement agreement not finalized within forty five (45) calendar days after being provided to the applicant shall expire and the Court's approval of tax abatement may be rescinded by order of the Court.

**SECTION 10. Default and Recapture:**

1. In the event of default of any term or condition of the application for tax abatement or of the tax abatement agreement by the applicant or the applicant's successor or assign of the applicant, the Commissioners Court shall have the right to terminate any agreement and/or terminate the abatement of taxes. Taxes based on the appraised value of the subject property with improvements will be due and payable for the year in which tax abatement is terminated.

2. In the event that the facility is completed and begins producing products or services, but subsequently ceases to produce products or services for any reason, (except for acts of God, war, riot, strike or natural catastrophe), then the Commissioners Court shall have the right to terminate any agreement and/or terminate the abatement of taxes and no amount of taxes shall be abated for any calendar year during which the facility does not produce goods and services.
3. In the event that the applicant fails to pay ad valorem taxes owed to Rains County or any other taxing entity located in the County when due, or violates any of the terms or conditions of the tax abatement policy; or is in default with any other County-sponsored program; then the County shall have the right to terminate the tax abatement, in which event, taxes based on the full value of the subject property with all improvements shall be immediately due and payable, including any amount of taxes abated during the calendar year in which the termination occurs.
4. In the event that the applicant, during the abatement period ceases to operate the facility for which abatement was granted, or moves the facility for which abatement was granted to a location outside of Rains County, the Commissioners Court shall have the right to capture any and all taxes abated during the then current year and any previous years.

**SECTION 11. General Administration:**

1. Following approval of tax abatement by the County, the County Judge shall provide a copy of the County Order granting abatement to the Chief Appraiser of the Rains County Appraisal District.
2. The County Judge with the assistance of the BKCEDC and the attorney representing the Commissioners Court shall retain administrative responsibility and control over all tax abatement agreements entered into by Rains County.

**SECTION 12. Assignment of Tax Abatement and /or Tax Abatement Agreements:**  
There shall be no assignment of tax abatement and/or tax abatement agreements unless such assignment is approved by the Commissioners Court.

**SECTION 13. Application Procedures for Loans, Grants, Use of County Personnel and/or Services Consideration:**

1. The applicant shall submit an application to the office of the County Judge providing the following information:
  - a. Name of the enterprise seeking loans, grants, use of County personnel and/or services, identifying whether the entity is a sole proprietorship, corporation, or partnership; the identity of the owners, (or if a public corporation, the names of the President and Secretary of the corporation); the principal office of the enterprise and the location in Rains County where the enterprise does business or is planning to locate a business; and the primary business activities of the entity;
  - b. A general description of the project to be undertaken;
  - c. A description of the proposed construction and/or improvements, including estimated costs;

- d. A map or plat with a property description indicating the location or proposed location of the proposed improvements; and
  - e. The guidelines and criteria under which the loan, grant, use of County personnel and/or services is requested - new construction or for expansion and/or modernization of an existing business.
2. The County Judge shall place the application on the agenda of a meeting of the Commissioners Court for consideration and action. If permitted by the Open Meetings Act, some of the deliberation concerning the application may be discussed in executive session. In order to approve a loan, grant, use of County personnel or services, the Commissioners Court must find that the application satisfies the guidelines and criteria set out herein and that:
- a. There will be no adverse effect on the provision of County's services to the citizens of the County as the result of the granting of the loan, grant, use of County personnel or services;
  - b. The planned use of the property will not constitute a hazard to public health, safety, or morals (Note: A loan, grant, use of County personnel or services is not available to projects wherein the primary purpose of the business is serving alcoholic beverages or where a sexually oriented business is involved.); and
  - c. There will be no adverse effect on the financial condition of the County as the result of the approval of the loan, grant, or use of County personnel or services.
3. If the Commissioners Court determines that the application has merit, the Commissioners Court may approve the application as submitted or as modified by the Court and authorize the attorney representing the Commissioners Court to prepare an agreement consistent with the Court's determination.

**SECTION 14. 381 AGREEMENT:**

1. After approval of an application for a loan, grant, use of County personnel or services by the Commissioners Court, the attorney representing the Commissioners Court shall prepare an agreement, including the following provisions as applicable and as directed by the Commissioners Court:
- a. A description of the proposed improvements and an estimate of the total cost;
  - b. The terms of the loan, grant, use of County personnel or services;
  - c. The proposed construction/modernization time schedule;
  - d. A provision that the applicant will provide access to and authorize inspection by County officers and/or employees to insure that the improvements are being made according to the conditions and specifications of the agreement;
  - e. The proposed use of the facility and a provision limiting the use of the property consistent with the general purpose of encouraging development or redevelopment;
  - f. A provision for recapturing County funds lost as a result of the agreement if the applicant violates the terms of the agreement;
  - g. A requirement that the applicant periodically certify to the Commissioners Court that the applicant is in full compliance with the agreement;

- h. A provision that the Commissioners Court may cancel or modify the agreement if the applicant fails to comply with the agreement;
    - i. As an attachment, a map or approved plat of the subject property and a property description; and
    - j. Usual contractual terms and conditions required for uniformity or by state law.
  2. The County Judge shall provide the agreement to the applicant for review and execution. Any agreement not finalized within forty five (45) calendar days after being provided to the applicant shall expire and the Court's approval may be rescinded by order of the Court.

**SECTION 15. Default and Recapture:**

1. In the event of default of any term or condition of the application for a loan, grant, use of County personnel or services, or the agreement by the applicant or the applicant's successor or assign of the applicant, the Commissioners Court shall have the right to terminate the agreement.
2. In the event that the facility is completed and begins producing products or services, but subsequently ceases to produce products or services for any reason, (except for acts of God, war, riot, strike or natural catastrophe), then the Commissioners Court shall have the right to terminate the agreement.
3. In the event that the applicant fails to pay sales taxes or ad valorem taxes owed to Rains County or any other taxing entity located in the county when due, or violates any of the terms or conditions of this policy; or is in default with any other County-sponsored program; then the County shall have the right to terminate the agreement.
4. In the event that the applicant ceases to operate the facility or moves the facility for which a loan, grant, use of County personnel or services was granted to a location outside of Rains County, the Commissioners Court shall have the right to capture the amount of any loan, grant, cost of County personnel, or services, together with attorney's fees and costs of court.

**SECTION 16. General Administration:** The County Judge with the assistance of the BKCEDC and the attorney representing the Commissioners Court shall retain administrative responsibility and control over all agreements entered into by Rains County.

**SECTION 17. Assignment of Agreements:** There shall be no assignment of agreements unless such assignment is approved by the Commissioners Court.

**SECTION 18. Sunset Provision:**

1. These guidelines and criteria are affective upon the date of their adoption and will remain in force for two years from the date of adoption. Prior to expiration of such two-year period, the Commissioners Court shall review the guidelines and criteria and either adopt the guidelines and criteria for another two-year period, adopt revised guidelines and criteria, or terminate the policy.

2. During the two-year period following adoption of these guidelines and criteria, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the Commissioners Court.

**ADOPTED AND EFFECTIVE THIS 13TH DAY OF JULY 2023.**

  
Linda Wallace, Rains County Judge

\_\_\_\_\_  
Jeremy Cook, Commissioner Pct. 1

\_\_\_\_\_  
Mike Willis, Commissioner Pct. 2

\_\_\_\_\_  
Korey Young, Commissioner Pct. 3

\_\_\_\_\_  
Lori Northcutt, Commissioner Pct. 4

\_\_\_\_\_  
Mandy Sawyer, County Clerk