

RESOLUTION NO. 20211109-009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS ELECTING TO PARTICIPATE IN TAX ABATEMENT AGREEMENTS, AND ESTABLISHING GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENT FOR ECONOMIC DEVELOPMENT PROSPECTS IN THE CITY OF ANGLETON IN ACCORDANCE WITH CHAPTER 312 OF THE TEXAS TAX CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, §312.002, Texas Tax Code, requires a taxing unit to adopt a resolution establishing guidelines and criteria governing tax abatement agreements and stating that the taxing unit elects to become eligible to participate in tax abatement; and

WHEREAS, the City Council of the City of Angleton has previously expressed its intent to consider tax abatements and adopted Tax Abatement Guidelines and Criteria; and

WHEREAS, PURSUANT TO §312.002, the Tax Abatement Guidelines and Criteria are effective for two years unless amended or repealed by a vote of three-fourths of the City Council; and

WHEREAS, the prior tax abatement guidelines and criteria established by the City of Angleton have expired; and

WHEREAS, the Angleton City Council desires to once again adopt Tax Abatement Guidelines and Criteria; and

WHEREAS, the Angleton City Council elects to continue to be eligible to participate in tax abatement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS:

SECTION 1: The City of Angleton elects to participate in tax abatement agreements pursuant to Chapter 312 of the Texas Tax Code, and the Guidelines and Criteria attached as Exhibit "A" to this resolution for granting tax abatements in designated Tax Abatement Reinvestment Zones are hereby adopted as of the date of this resolution.

SECTION 2: In the event that one or more of the provisions contained in this Resolution shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability of this Resolution shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein, but shall not affect the remaining provisions of this Resolution, which shall remain in full force and effect.

SECTION 3: That this resolution shall be effective immediately from and after its passage.

PASSED AND APPROVED THIS THE 9TH DAY OF NOVEMBER 2021.

CITY OF ANGLETON, TEXAS

Jason Perez
Mayor

ATTEST:

Frances Aguilar, TRMC, MMC
City Secretary

Exhibit A
CITY OF ANGLETON, TEXAS
TAX ABATEMENT GUIDELINES AND CRITERIA

DEFINITIONS Section 1

(a) "Abatement" means the full or partial exemption from ad valorem taxes on certain real property in a reinvestment zone designated by the City of Angleton for economic development purposes.

(b) "Eligible Jurisdiction" means the City of Angleton, Brazoria County and any school district or other local taxing jurisdictions eligible to abate taxes according to Texas law, the majority of which is located in the City of Angleton that levies ad valorem taxes upon and provides services to a reinvestment zone designated by the City of Angleton.

(c) "Agreement" means a contractual agreement between a property owner and/or lessee and the City of Angleton for the purpose of tax abatement.

(d) "Base Year Value," means the assessed value of eligible property January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the agreement.

(e) "Deferred Maintenance" means the improvements necessary for continued operations, which do not improve productivity or alter the process technology.

(f) "Distribution Center Facility" means buildings 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 operator where a majority of the goods or services are distributed to points at least fifty (50) miles from its location in the City of Angleton.

(g) "Expansion" means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.

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

(i) "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.

(j) "Modernization" means the replacement and upgrading 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.

(k) "New Facility" means a property previously undeveloped, which is placed into service, by

means other than or in conjunction with expansion or modernization.

(l) "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 City of Angleton.

(m) "Productive Life" means the number of years a property improvement is expected to be in service.

(n) "Regional Entertainment Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of users reside at least fifty (50) miles from its location in the City of Angleton.

(o) "Research Facility" means buildings and structures, including 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 processes thereto.

(p) "Regional Service Facility" means buildings and structures, including machinery and equipment, used or to be used to service goods where a majority of the goods being serviced originate at least fifty (50) miles from the facility's location in the City of Angleton.

(q) "Commercial Facility" means buildings and structures for service related industries and certain retail establishments as deemed appropriate by the City Council where a minimum of five (5) new jobs and/or pay role exceeding one hundred thousand dollars (\$100,000) and investment of seven hundred and fifty thousand dollars (\$750,000) or more in new buildings will be made.

(r) "Economic Development" means participation in or support of an organized program or entity which for the purpose of its mission, engages in activities designed to encourage employment opportunities development/commercial and manufacturing business/industry to locate and/or expand in the City of Angleton, thus expanding and diversifying the tax base as well as increasing the economic strength and stability of the City of Angleton.

(s) "Qualified Vendors and Services" means those vendors and services that meet the company's individual stated requirements, which can include but are not limited to safety, financial condition, environmental record, quality or ability to perform.

(t) "The City of Angleton Vendor and Services" means a company that employs the City of Angleton residents and pays the City of Angleton taxes.

ABATEMENT AUTHORIZED Section 2

(a) Authorized Facility. A facility may be eligible for abatement if it is a Manufacturing Facility, Research Facility, Distribution Center or Regional Service Facility, Regional Entertainment Facility, Approved "Commercial Facility" or Other Basic Industry.

(b) Creation of New Value. Abatement may only be granted for the additional value of eligible

property improvements made subsequent to and specified in an abatement agreement between the City of Angleton and the property owner or lessee, subject to such limitations as the City of Angleton 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.

(d) **Eligible Property.** Abatement may be extended to the value of buildings, structures; fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility.

(e) **Ineligible Property.** The following type of property shall be fully taxable and ineligible for abatement: land, inventories, supplies, tools, furnishings, and other forms of movable personal property; vehicles, vessels, aircraft, housing, hotel accommodations, retail facilities (except as approved under Section 1 [q]) deferred maintenance investments, property to be rented or leased (except as provided in Section 2 [f]), property owned or used by the State of Texas or its political subdivisions or by any organizations owned, operated or directed by a political subdivision of the State of Texas.

(f) **Owned/Leased Facilities.** If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee. Publicly owned land leased to private entities shall be eligible if otherwise qualified.

(g) **Value and Term of Abatement.** Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. On a Scale as follows:

Investment	Year	Maximum Abatement
\$750,000 - \$2,000,000	1	80%
	2	50%
	3	25%
	4	0%
\$2,000,001 - \$4,000,000	1-2	90%
	3	60%
	4	50%
	5	25%
	6-7	0%
\$4,000,001 - \$10,000,000	1-2	100%
	3-4	75%
	5-6	50%
	7	25% or as negotiated.
\$10,000,001 and up	negotiable up to 7	negotiable

Notwithstanding any other provision of the guidelines and criteria the City Council has the authority to negotiate with applicant the term of years and percentage of abatement.

Such percentage of value that shall be set by City Council order of new eligible properties shall be abated for up to seven years or one-half (1/2) the productive life of the improvement whichever is less. The abatement may be extended through an initial agreement and a subsequent agreement may be required to comply with state law regarding the term of the reinvestment zone. If a 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).

(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 be reasonably expected to increase the value of the property in the amount of \$750,000 or more;

(2) Must prevent the loss of employment and create employment for at least five additional (5) people (meaning a net gain of five [5] full time employees) on a full-time (forty [40] hours per week equivalent) basis in the City of Angleton for the duration of the abatement period; and

(3) Must be necessary because capacity cannot be provided efficiently utilizing existing improved property; Additionally, the owner of the project:

(4) Must provide for and pay, at the time of filing an application for tax abatement, a non-refundable application fee of one thousand dollars (\$1,000). A part of the application fee will be dedicated by the City of Angleton to economic development programs authorized by Local Government Code, Section 381.004.

(5) Must file a plan statement with application demonstrating willingness and planned efforts to use qualified City of Angleton vendors and services where applicable in the construction and operations of the facility. The City of Angleton vendors and services must be competitive with non-county vendors and services regarding price, quality, safety, availability and ability to perform.

(i) **Taxability.** From the execution of the abatement contract to the end of the agreement period, taxes shall be payable as follows:

(1) The value of ineligible property as provided in Section 2(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 Section 2(g).

APPLICATION Section 3

(a) Any present or potential owner of taxable property in the City of Angleton may request

the creation of a reinvestment zone and tax abatement by filing a written request with the City of Angleton. The application shall be filed with the administrative head of the governing body and the applicant shall furnish a copy to each member of the governing body.

(b) The application shall consist of a completed application form accompanied by: a general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements which will be a part of the facility; a map and property description; a time schedule for undertaking and completing the planned improvements. In the case of modernizing, a statement of the assessed value of the facility separately stated for real and personal property shall be given for the tax year immediately preceding the application. The application form shall require such financial and other information, as the City of Angleton deems appropriate for evaluating the financial capacity and other factors of the applicant.

(c) Prior to adopting an Ordinance designating a reinvestment zone, the City Council must conduct a public hearing. Not later than the seventh day before date of the public hearing, notice of the hearing must be published in the newspaper having general circulation in the municipality and delivered in writing by registered or certified mail, to the presiding officer of each other governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone. At the public hearing, any interested person is entitled to speak and present evidence for or against the designation of a reinvestment zone. At the public hearing on the reinvestment zone, City Council must find that the improvements sought are feasible and practical and would be a benefit to the zone after the expiration of the tax abatement agreement. The City Council must also find that the zone meets one of the applicable criteria for reinvestment zones identified in Texas Tax Code Sec. 312.202, as amended, such as it is reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment to the zone. This City Council findings must be approved by the City Council at an open meeting and should be noted in the minutes for that meeting. If the zone designation is approved, the designation lasts for five (5) years and may be renewed for successive periods of up to five (5) years.

(d) Prior to adopting a Resolution granting a tax abatement and approving a tax abatement agreement, the City Council must conduct a public hearing. Not later than the seventh day before the date on which the City enters into a tax abatement agreement, the Mayor 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 by registered or certified mail, that the City intends to enter into the agreement. The notice must include a copy of the proposed agreement. All interested parties shall be entitled to speak and present written materials for or against the approval of the tax abatement. The public hearing shall also afford the applicant and the designated representative of any eligible jurisdiction opportunity to show cause why the abatement should or should not be granted. The tax abatement agreement may not exceed ten (10) years.

(e) The public hearing to designate an area as a reinvestment zone and the public hearing on the tax abatement may be conducted at the same regularly scheduled meeting of the City Council.

(f) After receipt of an application for creation of a reinvestment zone and application for abatement, the Tax Abatement Review Committee (TARC) shall prepare a feasibility study setting out the impact of the proposed reinvestment zone and tax abatement. The feasibility study shall

include, but not be limited to, an estimate of the economic effect of the creation of the zone and the abatement of taxes and the benefit to the eligible jurisdiction and the property to be included in the zone. The cost of said feasibility study shall be paid by the applicant.

(g) If upon written request for a legal opinion or interpretation from the City Council or its members, the legal counsel for the City of Angleton determines that the application does not appear to comply with the written language of the Guidelines and Criteria, a public hearing on said application, if already set, shall be postponed for a period of at least thirty days from the scheduled date of public hearing to allow time for further review by the City Council or any duly appointed review committee, or if an initial setting has not been made, the hearing on such application shall be set on the City Council agenda no sooner than sixty (60) days from the time the Court enters an order to set the public hearing date. The applicant shall file a supplement or addendum to its application to show cause why the application should be approved and shall present reasons at the public hearing on the same. Provided that any final decision or interpretation as to the intent and meaning or policy of any provision or its written language; any final decision as to whether or not an application complies or does not comply with the guidelines and criteria; and any final decision as to whether to grant or deny tax abatement shall be made by the City Council at its sole discretion.

(h) The City of Angleton shall not establish a reinvestment zone for the purpose of abatement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization, expansion or new facility.

(i) Variance. Requests for variance from the provisions of Subsection (a) of Section 1 and/or (h)(2) of Section 2 may be made in written form to the Mayor with a copy forwarded to the TARC. Said variance will only be considered if it is requested for a project valued at less than seven hundred and fifty thousand dollars (\$750,000). Such requests shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request requires a three-fourth (3/4) vote of the governing body.

(j) Special Variance: Air Carriers. A special variance from all applicable provisions of these guidelines and criteria, with the exception of Section 2 (h)(4) and (h)(5) may be granted allowing abatement or partial abatement of ad valorem taxes on the personal property of a certificated or non-certificated air carrier that owns or leases taxable real property in the City of Angleton provided that the personal property has a value of at least ten million dollars (\$10,000,000). Approval of a request for this variance requires a three-fourth (3/4) vote of the City Council.

PUBLIC HEARING Section 4

(a) Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:

- (1) There would be a substantial adverse effect on the provision of government service or tax base;
- (2) The applicant has insufficient financial capacity;
- (3) Planned or potential use of the property would constitute hazard to public safety,

health or morals; or,

- (4) Violation of other codes or laws.

AGREEMENT Section 5

(a) After approval, the City of Angleton City Council shall formally pass a resolution and negotiate and execute a mutually acceptable agreement with the owner of the facility and/or lessee as required, which shall include:

- (1) Estimated value to be abated and the base year value;
- (2) Percent of value to be abated each year as provided in Section 2(g);
- (3) The commencement date and the termination date of abatement;
- (4) The proposed use of the facility; nature of construction, time schedule, map, property description and improvement list as provided in Application, Section 3(b);
- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided in Sections 2(a), 2(f), 2(g), 2(h) 6, 7, and 8;
- (6) Size of investment and average number of jobs involved for the period of abatement; and
- (7) Provision that Owner shall annually furnish information necessary for the City of Angleton's evaluation of Owner's compliance with the terms and conditions of the tax abatement agreement and these guidelines and criteria (in the form of an annual report/statement of compliance), together with an additional provision that the City of Angleton may, at its election, request and obtain information from Owner as is necessary for the city's evaluation of Owner's compliance with the terms and conditions of the tax abatement agreement and these guidelines and criteria.

If the parties successfully negotiate an agreement, such agreement shall be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to the City of Angleton.

RECAPTURE Section 6

(a) In the event that the facility is completed and begins producing products or service but subsequently discontinues producing products or service for any reason except fire, explosion or other casualty or accident or natural disaster for a period of six months during the abatement period, then the agreement shall terminate and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year and all taxes previously abated by virtue of this agreement will be reconstructed and shall be paid to the City of Angleton within sixty (60) days from the date of termination.

(b) Should the City of Angleton determine that the company or individual is in default

according to the terms and conditions of its agreement, the City of Angleton shall notify the company or individual in writing at the address stated in the agreement and if such is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement may be terminated.

(c) In the event that the company or individual (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the "Cure Period", the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

(d) Any amount to be recaptured under this section shall be a lien on all real and personal property of the owner, the company and/or individual receiving the abatement.

ADMINISTRATION Section 7

(a) The Chief Appraiser of the Brazoria County Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the city with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify the eligible jurisdictions, which levies taxes on the amount of the assessment.

(b) The agreement shall stipulate that TARC of the City of Angleton 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 the giving of twenty-four (24) hours prior notice and will only be conducted in such a 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 or individual and in accordance with their safety standards.

(c) Tax Abatement Review Committee. The City Council shall appoint a standing Tax Abatement Review Committee (TARC) for purposes of (1) reviewing the tax abatement application and preparing or having prepared the feasibility study report required by Section 3(d) of these guidelines; (2) conducting annual inspections and/or evaluations of the abated facilities to insure compliance with the terms/conditions of the tax abatement agreement.

- (d) The Tax Abatement Review Committee shall be comprised of the following persons:
- (1) Mayor of the City of Angleton;
 - (2) City Manager of the City of Angleton;
 - (3) One council member of the City Council of the City of Angleton, to be approved by a majority vote of the City Council of the City of Angleton;
 - (4) Three persons who are residents of the City of Angleton or who engage in business in the City of Angleton. Said persons shall be appointed by a majority vote of the City Council.

(5) The City Attorney, who shall serve as an ex-officio member of the committee and render advice on abatement qualifications and procedures.

(6) The Economic Development Director or other person from said department will act as the administrator of the TARC and serve as an ex-officio member of the committee.

(7) Finance Director of the City of Angleton.

The appointed members shall serve for two-year terms and are eligible for reappointment by the City Council.

(e) Upon completion of construction, the owner of an abated facility must submit a written report/statement of compliance annually during the life of the abatement to the City of Angleton City Council and the Tax Abatement Review Committee clearly detailing the status of the facility and how it is complying with the abatement guidelines. The Committee shall annually evaluate each abated facility and report possible violations to the contract and agreement to the City of Angleton City Council.

(f) The City of Angleton shall timely file with the Texas Department of Commerce and the Property Tax Division of the State Comptroller's office all information required by the Tax Code.

ASSIGNMENT Section 8

Abatement 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 City of Angleton 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 a new contractual agreement with the City of Angleton. No assignment or transfer shall be approved if the new parties to the existing agreement, the new owner or new lessee are liable to the City of Angleton or any eligible jurisdiction for delinquent taxes or other obligations. Approval shall not be unreasonably withheld.

SUNSET PROVISION Section 9

(a) These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax abatement contracts created, pursuant to its provisions, will be reviewed by the City of Angleton to determine whether the goals have been achieved. Based on that review, the Guidelines and Criteria will be modified, renewed or eliminated providing that such actions shall not affect existing contracts or applications for tax abatement filed prior to the expiration of said Guidelines and Criteria shall be governed by the provisions of these Guidelines and Criteria regardless of any subsequent modification or amendment.

(b) This policy is mutually exclusive of existing Industrial District Contracts and owners of real property in areas deserving of special attention as agreed by the eligible jurisdictions.