

RESOLUTION NO. R-21-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALESTINE, TEXAS, ESTABLISHING AND ADOPTING GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN REINVESTMENT ZONES CREATED IN THE CITY OF PALESTINE, TEXAS, IN ACCORDANCE WITH CHAPTER 312 OF THE TEXAS PROPERTY TAX CODE; ESTABLISHING AN EFFECTIVE DATE; AND AUTHORIZING THE CITY SECRETARY TO POST THE GUIDELINES AND CRITERIA ON THE CITY'S INTERNET WEBSITE UPON APPROVAL.

WHEREAS, the City of Palestine, Texas (the "City") wishes to continue to promote economic development programs in accordance with the authority granted to municipalities; and

WHEREAS, the City's economic development programs include, but are not limited to the granting of tax abatements in accordance with Chapter 312 of the Texas Tax Code, which is known as the Property Redevelopment and Tax Abatement Act (the "Code"); and

WHEREAS, Section 312.002(a) of the Code requires the City, as a taxing unit, to adopt a resolution establishing guidelines and criteria governing tax abatement agreements; and

WHEREAS, the City previously expressed its intent to consider tax abatements by Resolution R-21-19 approved on November 12, 2019; and

WHEREAS, the City previously adopted Resolution R-23-19 establishing guidelines and criteria governing tax abatement agreements, approved on November 25, 2019; and

WHEREAS, pursuant to Section 312.002 of the Code, tax abatement guidelines and criteria are effective for only two (2) years unless amended or repealed by a vote of three-fourths of the City Council; and

WHEREAS, the City Council of the City of Palestine, Texas desires to re-adopt its Tax Abatement Guidelines and Criteria once again; and

WHEREAS, the City Council of the City of Palestine held a public hearing pursuant to Section 312.002(c-1) of the Texas Tax Code regarding the proposed guidelines and criteria for granting tax abatement on the 13th day of June, 2022 at a properly noticed meeting, at which the public was given the opportunity to be heard on the issue; and

WHEREAS, the Council reaffirms its absolute discretion under Section 312.002(d) of the Code to decide whether to enter into a specific tax abatement agreement and to

delegate to its employees the authority to determine whether the City Council should consider a particular application or request for abatement; and

WHEREAS, the adoption of the guidelines and criteria for granting tax abatement does not create any property, contract, or other legal right in any person to have the City Council consider or grant a specific application or request for tax abatement according to Section 312.002(d)(3).

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


SECTION 1. The foregoing recitals shall be and are hereby incorporated in this Section 1 as if said recitals were fully set forth herein.

SECTION 2. The Policy, Guidelines and Criteria for Granting Tax Abatement Relief in Reinvestment Zones created in the City of Palestine, Texas, attached hereto as Exhibit "A" to this Resolution, is hereby incorporated herein as if fully stated and are hereby adopted by the City of Palestine.

SECTION 3. The City Secretary shall cause the Policy, Guidelines and Criteria for Granting Tax Abatement Relief to be posted on the City's internet website.

SECTION 4. This Resolution shall be effective as of the date considered, approved, and adopted by the City Council of the City of Palestine, Texas.

PASSED AND APPROVED, by the City Council of the City of Palestine, Texas on the 13th day of June 2022.



Vicky Chivers, Mayor Pro Tem
City of Palestine, Texas

ATTEST:



April Jackson, City Secretary

/s/ Gary Landers
Gary Landers, City Attorney



Exhibit "A" to Resolution No. R-21-22

CITY OF PALESTINE, TEXAS

POLICY, GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT RELIEF

(Chapter 312, Texas Tax Code)

Effective June 13, 2022

CONFIDENTIAL

PLEASE NOTE:

Section 312.003 of Chapter A of the Texas Tax Code provides:

“Information that is provided to a taxing unit in connection with an application or request for tax abatement under this chapter and that describes the specific process or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed. That information in the custody of a taxing unit after the agreement is executed is not confidential under this section.”

Persons in possession of an Application for Tax Abatement are reminded of this provision of the law and should restrict access to such information accordingly.

Table of Contents

SECTION 1 – PREAMBLE	1
SECTION 2 – DEFINITIONS	2
SECTION 3 – TAX ABATEMENT AUTHORIZED	3
SECTION 4 – TAX ABATEMENT SCHEDULES	7
SECTION 5 – TAX ABATEMENT APPLICATION	10
SECTION 6 – TAX ABATEMENT AGREEMENT	11
SECTION 7 – TAX ABATEMENT RECAPTURE	12
SECTION 8 – TAX ABATEMENT ADMINISTRATION	13
SECTION 9 – AGREEMENT ASSIGNMENT	13
SECTION 10 – SUNSET PROVISION	14
SECTION 11 – DISCRETION OF THE CITY	14
SECTION 12 – RECONCILIATION WITH STATE LAW	14

SECTION 1 – PREAMBLE

This City of Palestine, Texas Policy, Guidelines and Criteria for granting Tax Abatement Relief (“the Policy”) adopted June 13, 2022 by the City of Palestine is designed to stimulate continued economic growth in the City of Palestine, while preserving the values and existing assets that provide the quality of life our citizens already have come to enjoy.

It seeks a balance between attracting new businesses that are seeking to relocate here, providing a friendly environment for new undertakings, promoting the expansion of economic resources already in place, and considering the effect of economic change upon existing economic assets that already have realized their potential.

It seeks to preserve the values of the past, stimulate and consider current economic opportunities, and plan for a future that includes a global economic marketplace and new and exciting economic endeavors.

It is the intent of the City of Palestine (the “City”) to put in place a Tax Abatement Policy that will take the City through the 21st century and be of benefit to all the citizens of our community.

The City acknowledges that both the retention of economic assets and existing jobs and the creation of new jobs and economic endeavors have an important place in striking a positive economic balance in the City of Palestine. These Guidelines and Criteria for seeking a Tax Abatement from the City are intended to be flexible, and special circumstances may lead the City to tailor individual Tax Abatement Agreements to specific circumstances.

This particular Tax Abatement Policy and Guidelines and Criteria apply to the granting of a Tax Abatement by the City of Palestine. There are a number of other entities and bodies that can choose to abate or not abate taxes as well. We urge applicants to check with the appropriate agencies, and the Anderson County Appraisal District to determine the circumstances of your particular situation as far as determining the taxing entities that may affect your project. However, the City of Palestine has no objection to other taxing entities adopting this Tax Abatement Policy and Guidelines and Criteria as their own subject to their complying with the statutory requirements for doing so; however, in no event should an amendment of this Policy by another taxing entity constitute an amendment by the City of Palestine without the City of Palestine City Council complying with the statutory requirements of Ch. 312 of the Texas Tax Code for making amendments to its tax abatement policy, guidelines and criteria once adopted and while in effect.

SECTION 2 – DEFINITIONS

The following definitions shall be applicable to this Tax Abatement Policy and Guidelines and Criteria only.*

- a. **"Abatement" (or "Tax Abatement")** means the full or partial exemption from ad valorem taxes of certain property in a reinvestment zone or enterprise zone designated by the City of Palestine for economic development purposes.
- b. **"Agreement"** means a contractual agreement between a property owner and/or lessee and an eligible taxing jurisdiction for the purpose of tax abatement.
- c. **"Base year value"** means the taxable 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 execution of the agreement.
- d. **"Deferred maintenance"** means improvements necessary for continued operation which do not improve productivity or alter the process technology.
- e. **"Expansion"** means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.
- f. **"Facility"** means property improvements completed or in the process of construction which together comprise an integral whole.
- g. **"Full-Time Equivalent Job" (or "FTE")** means a job where an employee works a minimum of thirty-five (35) hours per week, or one thousand eight hundred twenty (1,820) hours per year, for a specified wage and/or salary.
- h. **"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.
- i. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.
- j. **"Office Building"** means a new office building to be occupied 100% by one owner or one tenant, providing further that said building and owner or tenant meet the other criteria set forth herein.
- k. **"Economic Life"** means the number of years a property improvement is expected to be in service in a facility.

- l. **“Eligible Jurisdiction”** means the area within the corporate boundaries of the City of Palestine, Texas, or other taxing district located within the corporate limits of the City of Palestine, Texas, that is eligible to abate its taxes according to Texas law that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- m. **“Manufacturing Facility”** means buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacturing of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- n. **“Part-Time Equivalent Job” (or “PTE”)** means a job where an employee works a minimum of one thousand forty (1,040) hours per year.
- o. **“Regional Distribution Center Facility”** means buildings and structures, including fixed 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 outside Anderson County.

** While the definitions above may be incorporated into a formal properly executed tax abatement agreement, parties to any tax abatement agreement should refer to their specific tax abatement agreements for specific agreed upon definitions.*

SECTION 3 – TAX ABATEMENT AUTHORIZED

- a. **Eligible Facilities.** Upon application, Eligible Facilities shall be considered for Tax Abatement as hereinafter provided. Eligible Facilities must fall within one of the following series of the North American Industrial Classification Code as determined by the United States Office of Management and Budget:
 - (1) **Manufacturing:**
 - Major Group 31-33 (Food and Kindred Products, Textiles, Furniture and Fixtures, Printing, Chemicals, Petroleum Refining, Leather, Stone Products, Fabricated Metals, Industrial Machinery, Electronic Equipment, Transportation Equipment, and Miscellaneous Manufacturing)
 - (2) **Transportation:**
 - Major Groups 48-49 (Railroad Transportation, Warehousing, Communications, Electric and Gas Services)
 - Sector 22 (Utilities)

(3) **Services:**

- Major Groups 54, 62 (Professional, Scientific, and Technical Services, Health Care Services)
- Sector 11 (Agriculture, forestry, fishing and hunting)
- Sector 21 (Mining) (Wholesale trade)
- Sector 44-45 (Retail trade)
- Sector 51 (Information)
- Sector 52 (Finance and insurance)
- Sector 53 (Real estate and rental and leasing)
- Sector 55 (Management of companies and enterprises)
- Sector 56 (Administrative and support and waste management and remediation services)
- Sector 61 (Education services)
- Sector 71 (Arts, entertainment, and recreation)
- Sector 72 (Accommodation and food services)
- Sector 81 (Other services, except public administration)
- Sector 92 (Public administration) Sector 99 (Unclassified)

- b. **Creation of New Value.** Abatement may only be granted for the additional value created by eligible property improvements made subsequent to and specified in an abatement agreement between the City and the property owner or lessee (if required), subject to such limitations as the City 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 types 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; deferred maintenance investments; property to be rented or leased except as provided in Section 3; property owned or used by the State of Texas or its political subdivisions 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 is granted abatement, the agreement shall be executed with the property owner (lessor) and the lessee.
- g. **Economic Qualification.** In order to be eligible to receive Tax Abatement, the planned improvement:
- (1) Must be expected to have an increased appraised ad valorem tax value of at least \$500,000 based upon the Anderson County Appraisal District's assessment of the Eligible Property; and
 - (2) Must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis (i.e., FTEs) in the City of Palestine.
- h. **Standards for Tax Abatement.** The following factors, among others, may be considered in determining whether to grant Tax Abatement, and if so, the percentage of value to be abated and duration of the Tax Abatement.
- (1) Value of land and existing improvements, if any;
 - (2) Type and value of proposed improvements;
 - (3) The expected economic life of proposed improvements;
 - (4) Number of existing permanent jobs (i.e., FTEs) to be retained by the proposed improvements;
 - (5) Number and type of permanent new jobs (i.e., FTEs) to be created by the proposed improvements;
 - (6) Estimated value of local payroll to be created or enhanced,
 - (7) Whether the new jobs to be created will be filled by persons residing or projected to reside within the corporate limits of the City of Palestine, Texas, or its extraterritorial jurisdiction;
 - (8) Amount of local sales taxes, franchise fees, other fees, and revenues to be generated directly and indirectly, which may include:
 - i) Applicant's willingness to obtain a Direct Pay Permit from the Texas Comptroller, if appropriate; and
 - ii) the project's projected effect on the City's effective tax rate at the end of the Abatement.
 - (9) The amount of property tax base valuation will be increased during term of Abatement and after Abatement, which shall include a definitive

commitment that such valuation shall not, in any case, be less than \$500,000;

- (10) The costs to be incurred by the City to provided facilities or services directly resulting from the new improvements;
- (11) The amount of ad valorem taxes to be paid to City of Palestine during the Abatement period considering (A) the existing values, (B) the percentage of new value abated, (C) the Abatement period, and (D) the value after expiration of the Abatement period;
- (12) The population growth of City of Palestine that might occur directly as a result of new improvements;
- (13) The types and values of public improvements, if any, to be made by applicant seeking Abatement;
- (14) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (15) The impact on the business opportunities of existing businesses;
- (16) The attraction of other new businesses to the area;
- (17) The overall compatibility with the comprehensive, long-range plan for the area;
- (18) Whether the project is environmentally compatible with the community and has no negative impact on quality-of-life perceptions.
- (19) The company profile, when established, including business references, principal bank, audited financial statement and Business Plan.

Each eligible Facility shall be reviewed on its merits utilizing the factors provided above. After such review, Abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

I. **Denial of Abatement.** No Abatement shall be authorized if it is determined that:

- (1) There would be substantial adverse effect on the provision of governmental services or tax base;
- (2) The Applicant has insufficient financial capacity to meet the requirements of the proposed Abatement agreement;

- (3) Planned or potential use of the property would constitute a hazard to public safety, health, or morals;
 - (4) Granting an Abatement would violate State or Federal laws;
 - (5) There exists any other valid reason for denial deemed appropriate by the City of Palestine.
- j. **Taxability.** From the execution of the Abatement to the end of the Agreement period, taxes shall be payable as follows:
- (1) The value of Ineligible Property as provided in Section 3(e) shall be fully taxable;
 - (2) The base year value of existing Eligible Property as determined each year shall be fully taxable;
 - (3) The additional value of new Eligible Property shall be fully taxable at the end of the Abatement period.

SECTION 4 – TAX ABATEMENT SCHEDULES

In the event the City of Palestine desires to participate in a particular tax abatement project, the City may abate the increased value of ad valorem property taxes on real property developed, redeveloped, or improved to qualified businesses located within the City's corporate limits and jurisdiction. The amount of tax abated on any increment in value added to the ad valorem value of the property will be determined by the following objective criteria:

A. Economic Development Policy

1. Objective Requirements

- a. The business must have a minimum of five (5) new Full-Time Employees as defined herein, or
- b. Add at least \$500,000.00 in ad valorem taxable value to the current taxable value of business.
- c. Fall within one of the following series of the North American Industrial Classification Code as determined by the United States Office of Management and Budget:

- (1) **Manufacturing:**
 - Major Group 31-33 (Food and Kindred Products, Textiles, Furniture and Fixtures, Printing, Chemicals, Petroleum Refining, Leather, Stone Products, Fabricated Metals, Industrial Machinery, Electronic Equipment, Transportation Equipment, and Miscellaneous Manufacturing).

- (2) **Transportation:**
 - Major Groups 48-49 (Railroad Transportation, Warehousing, Communications, Electric and Gas Services)
 - Sector 22 (Utilities)

- (3) **Services:**
 - Major Groups Professional, Scientific, and Technical Services, Health Care Services)
 - Sector 11 (Agriculture, forestry, fishing and hunting)
 - Sector 21 (Mining) (Wholesale trade)
 - Sector 44-45 (Retail trade)
 - Sector 51 (Information)
 - Sector 52 (Finance and insurance)
 - Sector 53 (Real estate and rental and leasing)
 - Sector 55 (Management of companies and enterprises)
 - Sector 56 (Administrative and support and waste management and remediation services)
 - Sector 61 (Education services)
 - Sector 71 (Arts, entertainment, and recreation)
 - Sector 72 (Accommodation and food services)
 - Sector 81 (Other services, except public administration)
 - Sector 92 (Public administration)
 - Sector 99 (Unclassified)

d. Incentive Points may be awarded according to the following criteria:

(continued on next page)

EVALUATION CRITERIA	INCENTIVE POINTS
Each new Part-Time Equivalent Job created:	0.5
Each new Full-Time Equivalent Job created:	1
Each existing Full-Time Equivalent Job retained:	5
Every \$100,000 in capital investment generated:	1
Every \$20,000 in annual payroll (new and/or retained)	1
Meets "Manufacturing" group criteria (see above)	50
Meets "Transportation" group criteria (see above)	30
Meets "Service" group criteria (see above)	20

B. Abatement Eligibility

1. Standard Abatements

- a. Abatement percentages may be earned depending upon total incentive points allocated in the following categories for new and expanding industries:

ALLOCATED INCENTIVE POINTS				
Abatement Year	35 to 74 Points	75 to 200 Points	201 to 400 Points	401 to 600 Points
1	80%	100%	100%	100%
2	60%	70%	100%	100%
3	40%	50%	70%	70%
4	20%	50%	50%	60%
5	0%	25%	25%	50%
6	0%	0%	0%	25%
7	0%	0%	0%	25%

2. Non-Standard Abatements (and PILOTs)

- a. Applicants earning more than 600 total incentive points, or who otherwise can demonstrate unique or extraordinary characteristics and/or benefits associated with their project, may be eligible for non-standard Tax Abatements subject to terms and conditions specifically negotiated between the applicant and the City of Palestine.
- b. Applicants eligible for non-standard Tax Abatements may qualify for the use of PILOT (Payments In Lieu of Tax) agreements as part of a negotiated Chapter 312 Tax Abatement Agreement incentive.

SECTION 5 – TAX ABATEMENT APPLICATION

1. **“Application.”** Any current or potential owner of taxable property, or lessee of taxable property, in the City may request a Tax Abatement by filing a written Application with the City Manager of the City of Palestine, Texas. The City Council of the City of Palestine may establish an application fee associated with each Application, which (if established) must be paid at the time the Application is submitted.
2. **“Review.”** All Abatement Application(s) will be individually reviewed by the City Council of Palestine and approved or disapproved based on the merits of the application and the guidelines and criteria set forth herein. In addition, in its discretion, the City may appoint a Tax Abatement Review Board to review and make recommendations to the Council regarding each application. If appointed, the Tax Abatement Review Board shall be made up of no less than three (3) and no more than five (5) members.
3. **“Included Items.”** The Application shall consist of a completed Application form, which shall provide detailed information on the factors set out in Section 3 hereof; a detailed site plan or appropriate plan illustrating layout and design for structures, landscaping, signage, parking, and internal circulation along with a legal property description; and a time schedule for undertaking and completing the planned improvements. In the case of modernization, a statement of the current 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 may require financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors regarding the Applicant.
4. **“Reinvestment Zone Notice to be Given.”** Prior to the adoption of an order designating a reinvestment zone or enterprise zone, the City shall give notice as

provided by the Tax Code consisting of (a) written notice to the presiding officer of the governing body of each taxing unit in which the property subject to the proposed tax abatement agreement is located not later than the seventh (7th) day before the public hearing and (b) publication of a newspaper of general circulation within such taxing jurisdiction not later than the seventh (7th) day before the public hearing. At the public hearing the City Council will receive comments on whether the area qualifies as a reinvestment zone under Section 312.201 of the Texas Tax Code.

5. **“90-Day Time Period.”** Not more than ninety (90) days after receipt of the completed Application, except in unusual circumstances, as may be defined by the City Council of the City of Palestine, the City shall by resolution either approve or disapprove the Application for Tax Abatement. The City shall promptly notify the applicant of approval or disapproval of its application. Failure to act by resolution within ninety (90) days shall not be construed as approval of Abatement, either expressed or implied. The approval of a Tax Abatement Application by the City Council shall be subject to the approval and execution of a written tax abatement agreement in accordance with the Texas Tax Code.
6. **“Timeliness of Actions.”** The City shall not enter into a Tax Abatement Agreement 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. Property eligible for abatement includes only the new improvements that occur after the completion of an abatement agreement with the City.
7. **“Confidentiality Required.”** Information that is provided to the City in connection with an Application or request for Tax Abatement and that describes the specific processes or business activities to be conducted or the equipment or other property for which Tax Abatement is sought, is **confidential and not subject to public disclosure until the Tax Abatement Agreement is approved and executed in accordance with the Texas Tax Code**. Information in the custody of a taxing unit after a tax abatement agreement is executed is not confidential.

SECTION 6 – TAX ABATEMENT AGREEMENT

- a. **“Notice to Jurisdictions.”** Not later than the seventh (7th) day before the date on which the City enters into the Abatement Agreement, the City shall deliver to the presiding officer of the governing body of each taxing unit in which the property is located a written notice that the City intends to enter into a tax abatement agreement. The notice shall include a copy of the proposed agreement.

- b. **“Public Notice.”** Consistent with Texas Tax Code 312.207 (c) and (d), at least thirty (30) days prior to holding a meeting to consider approving an Abatement Agreement, the City must provide public notice of such meeting in the manner required by Chapter 551, Government Code. No newspaper publication is required. The notice must contain:
- (1) the name of the property owner and the name of the Applicant for the Tax Abatement agreement;
 - (2) the name and location of the reinvestment zone in which the property subject to the agreement is located;
 - (3) a general description of the nature of the improvements or repairs included in the Abatement Agreement;
 - (4) the estimated cost of the improvements or repairs.
- c. **“Agreement Contents.”** After approval, the City Council of the City of Palestine shall formally pass a Resolution authorizing the execution of an Agreement with the property owner 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 4.B.
 - (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 the Application for Tax Abatement.
 - (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration, and assignment as provided in Sections 3,7, and 8.
 - (6) Size of investment and average number of jobs involved.

SECTION 7 – TAX ABATEMENT RECAPTURE

- a. **“Termination.”** In the event the company or individual receiving tax abatement relief (1) allows its ad valorem taxes owed to the City of Palestine 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 shall be recaptured and paid within thirty (30) days of the termination.

- b. **“Cure Notification.”** Should the City Council of the City of Palestine determine that the company or individual receiving tax abatement relief is in default according to the terms and conditions of its tax abatement agreement, the City Council shall notify the company or individual receiving tax abatement relief in writing at the address stated in the Tax Abatement Agreement, and if such default is not cured within thirty (30) days from the date of such notice (“Cure Period”), then the Tax Abatement Agreement may be terminated.

SECTION 8 – TAX ABATEMENT ADMINISTRATION

- a. **“Assessment Determination.”** The Chief Appraiser of the Anderson County Appraisal District will annually determine an assessment of the real and personal property covered under the tax abatement. Each year, the company or individual receiving tax abatement relief shall furnish the Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser will notify the City Council of the City of Palestine of the amount of the assessment.
- b. **“Access Guaranteed.”** The tax abatement agreement shall stipulate that employees and/or designated representatives of City of Palestine will have access to the abated property during the term of the abatement to inspect the Facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after giving the property owner and/or lessee at least twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the Facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- c. **“Annual Assessment Reports.”** Upon completion of construction, the designated representative of the City of Palestine shall annually evaluate each Facility receiving abatement to ensure compliance with the agreement, and a formal report shall be made to the City Council.
- d. **“Timely Filing.”** The City shall timely file with the Texas Department of Economic Development and The State Comptroller’s Office all information required by the Tax Code, if any.

SECTION 9 – AGREEMENT ASSIGNMENT

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 City Council of the City of Palestine subject to the financial capacity of the assignee. Any assignment shall provide that all conditions, terms, and obligations in the original Abatement

Agreement are guaranteed by the execution of an additional contractual agreement with the City of Palestine as an addendum to the abatement agreement. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to any jurisdiction for outstanding taxes or other obligations. Approval of the transfer and assignment shall not be unreasonably delayed or withheld.

SECTION 10 – SUNSET PROVISION

This Policy, Guidelines and Criteria for Granting Tax Abatement Relief is effective upon the date of their adoption and will remain in force as written unless otherwise amended by three-quarters vote of the City Council of the City of Palestine, at which time all reinvestment zones and/or Tax Abatement Agreements created pursuant to these provisions may be reviewed to evaluate agreement compliance and/or determine whether the goals have been achieved. Notwithstanding the foregoing, this Policy, Guidelines and Criteria for Granting Tax Abatement Relief will expire on the two (2) year anniversary from the date first adopted unless otherwise renewed in accordance with state law.

SECTION 11 – DISCRETION OF THE CITY

The adoption of these guidelines and criteria by the City does not:

- a. Limit the discretion of the Palestine City Council to decide whether to enter into a specific Tax Abatement Agreement.
- b. Limit the discretion of the Palestine City Council to delegate to its employees the authority to determine whether or not the Palestine City Council should consider a particular application or request for Tax Abatement.
- c. Create any property, contract, or other legal right in any person, partnership, corporation or other entity to have the City Council consider or grant a specific application or request for Tax Abatement.

SECTION 12 – RECONCILIATION WITH STATE LAW

In the event these Guidelines and Criteria should ever conflict with Texas state law (e.g., Texas Tax Code Ch. 312) regarding the consideration and approval of tax abatement relief, then these Guidelines and Criteria shall be interpreted to conform to the applicable law and shall be applied in accordance therewith.

PASSED, APPROVED AND ADOPTED this 13th day of June, 2022.



Vickey Chivers, Mayor Pro Tem
City of Palestine, Texas

ATTEST:



April Jackson, City Secretary

/s/ Gary Landers

Gary Landers, City Attorney