



**COUNTY OF ARANSAS, TEXAS**

**ECONOMIC DEVELOPMENT POLICY**

**TAX ABATEMENT AND TAX REBATE POLICIES AND  
GUIDELINES AND CRITERIA**

**Approved and Adopted by  
The Aransas County Commissioners Court on January 24, 2022**

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## **Part 1: Policy Purposes, Guidelines, and Criteria for Economic Development Incentives**

### **A. Purpose of the Economic Development Policy:**

Aransas County is committed to the promotion of high-quality development in all parts of the County and to improving the quality of life for its citizens.

The purpose of Aransas County's Economic Development Policy (the "Policy") is to provide incentives for current and prospective property owners and leaseholders to invest in Aransas County, encourage economic growth, and create job opportunities in the County.

### **B. Establishment of an Economic Development Policy.**

This Policy shall constitute the Aransas County Economic Development Policy which is authorized under the laws of the State of Texas. The existence of this Policy does not create any property right, contract right, or other legal right in any party, including but not limited to an applicant, person, or business entity, for the Commissioners Court to consider, approve, or grant any economic development incentive.

### **C. The Role of the Aransas County Commissioners Court.**

1. All Incentives to be Considered as a Package. In the implementation and direction of this Policy, the Commissioners Court shall take into consideration incentives provided by the County or other taxing jurisdictions in order to ensure that the overall incentive package offered to prospective beneficiaries achieves the objectives of the Policy and is in the best interests of the citizens of Aransas County.

2. The Discretion of the Aransas County Commissioners Court. Nothing in this Policy shall imply or suggest that Aransas County is under any legal or equitable obligation to provide any incentive whatsoever to an applicant. All applications for any economic development incentives, including tax abatements and/or rebates, shall be considered on an individual basis. The Commissioners Court will use its best business judgment to negotiate agreements, when it deems appropriate, on a case by case basis. The Commissioners Court of Aransas County has final approval or disapproval of any application or agreement and such decisions shall be made in its sole discretion.

### **D. The Aransas County Economic Development Evaluation Committee.**

Applications for economic development incentives will be evaluated by the Aransas County Economic Development Evaluation Committee which will provide its recommendation for approval or disapproval to the Aransas County Commissioners Court.

The Aransas County Economic Development Evaluation Committee (the “Committee”) is a committee comprised of at least seven (7) committee members who are appointed by the Aransas County Commissioners Court. The Committee serves as an evaluation committee to review applications for economic development incentives, to ensure that applications comply with this Policy, and to provide recommendations for approval or disapproval.

**E. Definitions:**

1. “Abatement” as used herein means the exemption of a specified percentage of taxation related to the increase in the value of real property and/or personal property, as authorized under Chapter 312 of the Tax Code, for a period of time not to exceed ten (10) years.<sup>1</sup>

2. “Applicant” the owner, lessor, lessee of a proposed project area.

3. “Attraction” or “Attracting” is used to describe the process of selecting and recruiting companies or businesses that will make significant capital investments and create new jobs to create sustainable growth for the area.

4. “Aransas County Economic Development Evaluation Committee” is a committee comprised of at least seven (7) committee members who are appointed by the Aransas County Commissioners Court that serves as an evaluation committee to review applications for economic development incentives, to ensure that applications comply with this Policy, and to provide recommendations for approval or disapproval.

5. “Base Year Value” as used herein means the assessed value of eligible property on the 1st day of January immediately preceding the date of the effective date of the tax abatement agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the effective date of the agreement, or the sales price of the property if it was conveyed after January 1, whichever amount is greater.

6. “Chapter 381” refers to Chapter 381 of the Local Government Code which authorizes the County to offer various incentives, including grants and loans, and to participate in tax rebate agreements.

7. “Competitive Market Wage” means the greatest of (a) the wage established through industry analysis, competitive markets and business financial evaluation, or prevailing wage rates; (b) an hourly wage of Fifteen Dollars (\$15.00) per hour; or (c) the minimum hourly wage in effect at the time for Aransas County employees.

8. “Economic Impact Analysis” is a study examining the effect of investment and/or job creation on the economy and measuring the cumulative effects of that economic activity.

9. “Economic Life” means the number of years that a property improvement is expected to be in service.

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<sup>1</sup> Ch. 312, Tax Code, §312.208

10. “Eligible Jurisdiction” means Aransas County (the “County”) and any municipality or other taxing jurisdiction eligible offer incentives under Texas law, which levies ad valorem taxes upon and provides services to property proposed to be included in an economic development agreement.

11. “Eligible Reinvestment Zone Property” is property that is located in an area that has been designated as a tax increment financing reinvestment zone under Chapter 311 of the Tax Code, a tax abatement reinvestment zone under Chapter 312 of the Tax Code, or an enterprise zone under Chapter 2303 of the Government Code.

12. “Employee” means a person who is employed on a permanent and full-time basis and who works for, and is an employee of the Owner, or an employee of a contract provider working for Owner, who works a minimum of Two Thousand (2,000) hours per year at the Owner’s property in Aransas County, who receives industry-standard benefits, and whose employment is reflected in the Owner’s quarterly reports filed with the Texas Workforce Commissioner (“TWC”). This term does not include employees that are employed by direct contract on a seasonal, part-time, or full-time equivalent basis.

13. “Enterprise Zone” is a type of reinvestment zone created pursuant to Chapter 2303 of the Government Code. An enterprise zone may be authorized for up to seven (7) years.

14. “Expansion” means the growth of an existing business which includes new capital investment and/or new job creation providing new capacity or capability.

15. “Median County Wage” or “MCW” is the fiftieth (50th) percentile wage estimate meaning that fifty percent (50%) of the workers earn less than the median and fifty percent (50%) of the worker earn more than the median.

16. “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, and fixed machinery, or equipment. It shall not include reconditioning, refurbishing, or repairing.

17. “Policy” refers to this document which is entitled the “Aransas County Economic Development Policy.”

18. “Public Purpose” is an expenditure with (1) the predominant purpose being to accomplish a public purpose, not to benefit private parties; (2) the public entity retains control over the funds to ensure that the public purpose is accomplished and to protect the public investment; and (3) the expense ensures that the political subdivision receives a return benefit.

19. “Rebate” as used herein means the reimbursement of a specified percentage of ad valorem taxes of certain real property and improvements and personal property located in Aransas County as authorized by Chapter 381, Local Government Code.

20. “Reinvestment Zone” as used herein means an area within Aransas County that meets the criteria for municipal or county reinvestment zones and that has been formally designated a reinvestment zone following the procedures set out in Chapter 312, Tax Code. An enterprise zone is one type of reinvestment zone.

21. “Revenue Gap” describes, in a typical financing scenario, when a business does not have sufficient revenue to support the debt service for a project.

22. “Tax Abatement Agreement” means a contractual agreement between a property owner and/or lessee (the “Owner”) and an eligible jurisdiction for the purposes of tax abatement as authorized under Chapter 312 of the Tax Code.

23. “Tax Rebate Agreement” means a contractual agreement authorized by Section 381 of the Local Government Code in which a taxing entity may agree to reimburse an individual or entity a portion of taxes paid in order to stimulate business and commercial activity in the County.

24. “TIF” means tax increment financing. It is a tool that local governmental entities can use to encourage development by financing needed improvements in a defined area. TIF agreements may only be initiated by cities. Once a city has initiated TIF, the other local entities, including counties and schools, may choose to participate.

25. “TIRZ” means Tax Increment Reinvestment Zone” is the area in which improvements may be financed through tax increment financing.

26. “Wage Requirement” is a requirement that the wage or salaries offered for new jobs be equal to or greater than the Aransas County Median Wage as computed annually by the United States Bureau of Labor Statistics and that employers provide health insurance benefits to employees for which the employer pays at least fifty percent (50%).

**F. Objectives of Economic Development Policy:**

This Policy, and its guidelines and criteria, are established in an effort to develop and expand the local economy by promoting and encouraging development and redevelopment projects that enhance the Aransas County economic base and a higher quality of life, diversify and expand job opportunities, or encourage projects that create additional revenue for the County without substantially increasing the demand on County services or infrastructure.

The Commissioners Court of Aransas County has determined that it is in the best interest of the citizens for the County to pursue certain objectives.

For example, for incentives offered under Section 381 of the Local Government Code, the following objectives apply:

1. For state and 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;
5. To improve the extent to which women and minority businesses are awarded County contracts;
6. To support comprehensive literacy programs for the benefit of County residents;
7. For the encouragement, promotion, improvement, and application of the arts.

The Aransas County Commissioners Court supports the growth and retention of businesses in Aransas County and supports incentives that reduce business costs to encourage the creation and retention of quality jobs and capital investment. The Commissioners Court also supports efforts to increase educational opportunities to expand and improve the skills of local workers through education, training, and career development.

The ultimate goal and public purpose of this Policy is to protect and enhance the ability of Aransas County to provide high quality County governmental services for the safety, comfort, and enjoyment of Aransas County residents.

**G. Introduction to Aransas County Economic Development Incentives:**

While other types of incentives and programs may be available, here are short descriptions of programs that will be addressed in greater detail later in the policy:

1. Chapter 312 Tax Abatement Agreements. The Aransas County Commissioners Court developed and administers a program for granting tax abatement and entering into a tax abatement agreements with owners or lessees of a property interest subject to ad valorem taxation. The tax abatement agreements are governed by the provisions of Sections 312.204, 312.205, and 312.211, Tax Code.

In general, a tax abatement agreement between a taxpayer and a local taxing unit involves exempting all or part of the incremental increase in taxes for a period not to exceed ten (10) years. The property involved must be located within a reinvestment zone or an enterprise zone.

Chapter 312 Tax Abatement Agreements are utilized for various reasons, some of are (1) attracting business to locate in Aransas County and create jobs (2) encourage existing businesses to grow and (3) encourage businesses to increase capital investments in Aransas County.

Insofar as the enhancement and expansion of the local economy generally serves these objectives, Aransas County will, on a case-by-case basis, give consideration of economic incentives to applicants in accordance with this Policy, as authorized by Chapter 312 of the Tax Code, as amended from time to time.

2. Chapter 381 Tax Rebate Agreements. Chapter 381 of the Local Government Code authorizes counties to provide a grant or loan of county funds or services in order to promote economic development. Incentives may include, but are not necessarily limited to, tax rebates, fee reimbursements, fee waivers, and cash grants.

Insofar as the enhancement and expansion of the local economy generally serves the objectives identified in this Policy, Aransas County will, on a case-by-case basis, give consideration of economic incentives to applicants in accordance with this Policy, as authorized by Chapter 381 of the Local Government Code, as amended from time to time.

The Chapter 381 Economic Development Program is intended as an incentive for developers and businesses to address revenue gaps in development projects, defined as having insufficient revenues to support the project's debt service under a standard financing scenario.

The program can also apply to projects that have a development margin or rate of return that is below market. Any sources of public financing are not intended to substitute conventional debt and equity financing, and a project should generally be able to deliver the terms of most of its financing.

In order for a project to be approved, it will undergo an analysis of the development budgets, projected revenues and expenses, and sources and uses of funds for the project. These figures will be compared to industry standard measures. The Aransas County Commissioners Court will give preference to proposals that contribute public infrastructure investments and seek reimbursement through enhanced sales and property taxes generated from the project.

Each applicant granted economic incentives under Chapter 381 of the Local Government Code pursuant to this Policy must enter into an agreement with Aransas County containing all terms required by this Policy and by Texas law to protect the public interest of receiving a public benefit in exchange for public funds, assets and services.

3. PACE Program. In 2019, Aransas County established the "Aransas County PACE Program" under the Property Assessed Clean Energy Act, Chapter 399 of the Local Government Code.

This programs involves financing qualified projects through contractual assessments. Upon the property owner's request, the County may impose assessments on the property to repay PACE financing for qualified energy and water conserving projects. Eligible projects may include privately owned commercial, industrial, and large multifamily residential projects.

#### **H. The Effect of this Policy:**

1. The adoption of the Policy does not:
  - i. Limit the discretion of the Commissioners Court to decide whether to enter into a specific tax abatement or rebate agreement; or

- ii. Limit the discretion of the Commissioners Court to delegate its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or
- iii. Create any property, contract, or other legal right in any person or entity to have the Commissioners Court consider or grant a specific application or request for abatement or rebate.

2. Legal Compliance. Unless exemptions, variances, or waivers are granted by the Commissioners Court or other appropriate authority, facilities approved for tax abatement or tax rebates must be in compliance with all federal, state, county and municipal laws, rules and regulations, and other requirements approved by the Commissioners Court.

3. No Reduction in Current Ad Valorem Revenues. No tax abatement or rebate will be granted that will have the effect of reducing current ad valorem revenues.

4. Effective Term of Policy. This Policy and the guidelines and criteria adopted herein shall be effective for two (2) years from the date of adoption unless amended or repealed as described in the Tax Code §312.002.

**I. Contracts with Other Entities:**

The Aransas County Commissioners Court may choose to enter into agreements with other entities to assist with implementation of the Economic Development Policy. However, the Policy will be administered by County officers and employees under the direction of the Commissioners Court.<sup>2</sup>

**J. Tax Abatement and Tax Rebate Guidelines and Criteria:**

- 1. Eligibility. A project shall not be eligible for incentives under this Policy if:
  - i. a building permit or septic permit has been issued for the project, including conditional permits; or,
  - ii. if construction has commenced prior to submittal of an application in accordance with this Policy; or,
  - iii. the project does not align with the guidelines and criteria contained herein; or,
  - iv. there is a conflict of interest that prevents the Commissioners Court from entering into an agreement with an individual or a business.

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<sup>2</sup> Ch. 381, Local Gov't Code, §381.004

2. Tax Abatement for Owner of Real Property or Owner of Tangible Personal Property in a Reinvestment Zone.<sup>3 4</sup> The Commissioners Court may grant tax abatement to the owner of taxable real property located in a reinvestment zone, so long as it is not in 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 ten (10) years, on the condition that the owner of the property make specific improvements to the property, subject to the guidelines and criteria set out in this Policy.

3. Tax Abatement for Owner of a Leasehold Interest in Tax Exempt Real Property in a Reinvestment Zone.<sup>5 6</sup> 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, so long as it is not in 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 ten (10) 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 in this Policy.

4. Tax Rebate for Owner of Real Property or Owner of Tangible Personal Property in a Reinvestment Zone. The Commissioners Court may grant tax rebate to the owner of taxable real property located in Aransas County, so long as it is not in 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 ten (10) 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.<sup>7</sup>

5. Tax Rebate for Owner of a Leasehold Interest in Tax Exempt Real Property in a Reinvestment Zone. The Commissioners Court may grant tax rebate to the owner of a leasehold interest in tax-exempt real property that is located in Aransas County, so long as it is not in 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 ten (10) 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.<sup>8</sup>

6. Creation of New Value. Tax abatements or tax rebates may be granted for the new, additional value of eligible improvements subject to such limitations as the Commissioners Court may require and:

- i. Shall increase the appraised value of the improved property; and,

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<sup>3</sup> Ch. 312, Tax Code, §312.402

<sup>4</sup> Ch. 381, Local Gov't Code, §381.004 (g)

<sup>5</sup> Ch. 312, Tax Code, §312.402

<sup>6</sup> Ch. 381, Local Gov't Code, §381.004 (g)

<sup>7</sup> Ch. 381, Local Gov't Code, §381.004

<sup>8</sup> Ch. 381, Local Gov't Code, §381.004

ii. Shall promote increased employment opportunities based on the number of permanent jobs created and sustained in each year of the abatement or rebate period; and,

iii. 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,

iv. 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 or tax rebate, including inventory and supplies.

7. Business Enterprises Eligible for Tax Abatement or Tax Rebate. Tax abatements or tax rebates may be considered if the location of a new business enterprise or the expansion of an existing business enterprise will create substantial capital improvements within the County and will result in increased employment opportunities. The following types of enterprises are eligible to apply for such incentives:

i. Aviation-related facilities;

ii. Corporate offices;

iii. Research and development industries including the biosciences;

iv. Marine-related facilities;

v. Information technology/emerging technology facilities;

vi. 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;

vii. Educational facilities including schools, training centers, and other such facilities offering educational and training opportunities to residents of the county;

viii. Retail developments will be considered on an individual basis - only retail developments that draw consumers from outside of the County or that provide needed public infrastructure will be considered for tax abatement or rebate;

ix. Major tourism and or entertainment venues; and,

x. Attainable Workforce Housing Developments of 50 or more units that will be available for rent below the market rate.

8. Priorities. In determining whether to grant a tax abatement or tax rebate, the Commissioners Court will consider priorities which include, but aren't necessarily limited to, the following:

- i. The location of the proposed development or expansion;
- ii. The development's provision for needed public infrastructure;
- iii. The number of new jobs created;
- iv. The expansion of businesses currently located in Aransas County;
- v. The increase to the appraised value of the improved property; and,
- vi. The increased sales tax and ad valorem dollars generated by the development or property.

9. Additional Considerations: The Aransas County Economic Development Evaluation Committee and the Aransas County Commissioners Court will carefully evaluate applications for economic development incentives on a case by case basis. When weighing the pros and cons of a particular application, the Commissioners Court should consider the following:

- i. Need. Applicants should not propose developments are located in areas of the County not requiring incentives for additional business stimulation or added commercial activity. Likewise, applicants should not propose developments or expansions when potential service needs would drastically increase public services.
- ii. Job Creation. The number and type of jobs to be created and/or retained and the average wages and benefits for workers. Applicants must make reasonable efforts to employ residents of Aransas County, provided such residents have the required skills and experience and are available at a competitive wages or salary, if applicable. Applicants should describe the types of jobs that will be created and the activities that have been, or will be, undertaken to employ residents.
- iii. Financial Capacity. The ability of the applicant to provide solid evidence that it is financially stable and will be able to undertake and complete the proposed project.
- iv. Public Infrastructure. Whether the project will necessitate and include improvements to public infrastructure and how such improvements will be funded.
- v. Market Conditions and Growth Potential. The overall business and economic environment and whether the applicant is proposing to undertake a project that is financially feasible and will lead to economic growth in Aransas County.

- vi. Compliance with the Law. The applicant, the business, and any entity or person associated with the project are operating in compliance with federal, state, and local laws and regulations.

**K. Maximum Allowable Tax Abatement or Tax Rebate:**

The Commissioners Court will assess each application for abatement or tax rebate and determine what incentive(s) may be appropriate, the amount of incentives, including the value of any abatement or rebate. The percentage abated or rebated and the length of an abatement or rebate agreement is determined on a case-by-case basis. No tax abatement or rebate will be granted for a period exceeding eight (8) years.<sup>9</sup>

While each individual tax abatement or tax rebate application may vary, the standard tax abatement or tax rebate will be for a period not to exceed eight (8) years and will not exceed an average annual abatement of Fifty Four Percent (56%) of the qualified increase in property value. The following are examples of abatement/rebate schedules per year depending on term of an agreement:

5 Years

Year	Rebate
1	90%
2	70%
3	55%
4	40%
5	25%
Average	56%

6 Years

Year	Rebate
1	85%
2	75%
3	65%
4	50%
5	35%
6	25%
Average	56%

7 Years

Year	Rebate
1	85%
2	75%
3	65%
4	55%
5	45%
6	35%
7	30%
Average	56%

Eight Years

Year	Rebate
1	85%
2	80%
3	70%
4	60%
5	50%
6	40%
7	35%
8	25%
Average	56%

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<sup>9</sup> See Ch. 312, Tax Code, §312.208 (Agreements are allowed for up to ten (10) years under Texas law)

**L. Procedures for Tax Abatement or Tax Rebate Applications:**

1. Required Forms. An application shall be made on forms supplied by Aransas County. *See Appendix A.* An applicant may be required to provide additional information to show that it meets requirements. If Aransas County staff determines that the minimum requirements have been met, a proposed agreement will be prepared and submitted to the Aransas County Commissioners Court for consideration.

2. Application Submittal and Application Fee.<sup>10</sup> Once the application is complete, the applicant must submit **one (1) original application and five (5) copies** of the completed application with all required information and supporting documentation, along with the application fee of One Thousand Dollars (\$1,000.00) in the form of a check payable to Aransas County, to the Office of the County Judge. The County Judge will ensure that the payment is transmitted to the Treasurer for deposit.

3. Distribution of Application and Supporting Materials. The Office of the County Judge will distribute a copy of the completed application and attached to each member of Commissioners Court for review. Copies will also be transmitted to the Aransas County Economic Development Evaluation Committee and to the County Attorney's Office for review.

4. Deficiency Notices and Supplemental Information. If the Committee, the County Attorney, or Commissioners Court deems the application deficient for lacking required information and/or documentation, the County Judge's office will transmit a notice to the Applicant with an explanation of what additional information or documentation is needed. Any additional information must be submitted within the timeframe provided in the deficiency notice.

5. Closed Session. If the Commissioners Court chooses to, and such choice is permitted by the Texas Open Meetings Act, some of the deliberation concerning the application may be discussed by Commissioners Court and staff in a closed session during a meeting of the Commissioners Court.

6. Public Notice Required. Any and all tax abatement or rebate agreements must be approved by the Commissioners Court in open session following at least thirty days (30) prior notice to the public.<sup>11</sup> Tax Abatement or Tax Rebate Agreements shall be considered at a regularly scheduled meeting following a public hearing.

7. Requirements for Approval. Tax Abatement and Tax Rebate Agreements will only be approved when a majority of the Commissioners Court votes to approve the application and staff confirms that all procedures have been followed and all applicable notices have been provided to the public and to other taxing units.

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<sup>10</sup> Ch. 312, Tax Code, §312.002(e)

<sup>11</sup> Ch. 312, Tax Code, §312.207

8. Confidentiality of Proprietary Information. Under Section 312.003, information that is provided to the County in connection with an application or request for tax abatement under Chapter 312 which describes the specific processes 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 a tax abatement agreement is executed. Information in the custody of the County after the agreement is executed is not confidential.<sup>12</sup>

**M. Economic Development Agreement Terms:**

The Terms of Economic Development Agreements will vary. Aransas County may require terms in an economic incentive agreement that are different than terms it requires in similar agreements or any other County contract. Further, the terms required by Aransas County may be different from terms required by other taxing jurisdictions.

1. Any economic development agreement that the County enters into shall contain, at a minimum, the following provisions:

- i. Project Summary. A description of the proposed improvements listing the kind, number, and location of all proposed improvements, an estimate of the total cost of said improvements, an estimate of Applicant's total investment, the estimated increase in appraised value, and the number of jobs to be created<sup>13</sup>;
- ii. Pre-Agreement Value of Property. The appraised value of the subject property without the proposed improvements;
- iii. Schedule of Incentives and Values. The tax abatement or tax rebate schedule, including the commencement date of tax abatement<sup>14</sup> or tax rebate, the termination date of tax abatement or tax rebate, the estimated total value to be abated or rebated, and a cap on the value to be abated or rebated;
- iv. Term of the Agreement and Schedule of Project. The commencement date and termination date of the Agreement and the construction or modernization time schedule;
- v. Inspection and Access Provision. A provision that the applicant will provide access to, and authorize inspection by, County officers and employees to ensure that the improvements are being made according to the conditions and specifications of the Agreement<sup>15</sup>;
- vi. Record Keeping. A provision that the Applicant shall collect and maintain all relevant records related to information provided in the Application and each of

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<sup>12</sup> Ch. 312, Tax Code, §312.003

<sup>13</sup> Ch. 312, Tax Code, §312.205

<sup>14</sup> Ch. 312, Tax Code, §312.007

<sup>15</sup> Ch. 312, Tax Code, §312.205

the economic development considerations, incentives, and performance requirements, and shall allow the County reasonable access to review and audit any necessary records;

vii. Property Uses. 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 of the reinvestment zone during the time that Property Tax Abatement Agreement is in effect<sup>16</sup>;

viii. Recapture Provision; Guarantee. A provision for recapturing property tax revenue lost as a result of the Agreement if the Applicant fails to make the improvements as provided by the Agreement or otherwise violates or breaches the terms of the Agreement. The County may require a bond, letter of credit, third party guarantee, or another form of security acceptable to the County Attorney, in an amount and for a term to be determined and approved by the Commissioners Court<sup>17</sup>;

ix. Definitions and Formulas. Definitions and formulas necessary for proper implementation and administration of the economic development agreement;

x. Annual Reports. A requirement that the Applicant report to the Commissioners Court annually to provide a summary of activities completed in the previous year and a summary of plans for the upcoming year no later than April 1st of each year;

xi. Annual Certificate of Compliance. Any individual or business participating in an economic development incentive agreement shall complete and submit an Annual Certificate of Compliance (*See Appendix B*) by April 1st of each year<sup>18</sup>;

xii. Public Improvements. A complete list of the public improvements that will be needed for the project(s) which indicates how and when the improvements will be constructed, the cost of the improvements, and how the improvements will be funded;

xiii. Milestones. A provision providing a tangible means for measuring whether the applicant and other responsible parties have met their obligations under the agreement;

xiv. Calculations of Incentives and Funding Sources. A provision identifying the method for calculating any incentive and identifying the source of any funding, if applicable.

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<sup>16</sup> Ch. 312, Tax Code, §312.205

<sup>17</sup> Ch. 312, Tax Code, §312.205

<sup>18</sup> Ch. 312, Tax Code, §312.205

xv. Insurance. Provisions expressing the minimum insurance coverage that must be maintained and what must be insured. The insurance limits for general liability and other policies should also be stated in addition to the requirement that Aransas County be named as an additional insured on any policy for public improvements, for the life of the agreement. Proof of insurance must be provided on at least an annual basis or upon the County's request.

xvi. Duty to Request Exemption. A provision that the Applicant must submit an Application for Property Tax Abatement Exemption to the Aransas County Appraisal District by April 30th of each year of the abatement period;

xvii. Termination, Cancellation, and/or Nonpayment of Incentives. A provision that the Commissioners Court may terminate, cancel, or modify the Agreement, in its sole discretion, if the Applicant fails to comply with the Agreement<sup>19</sup>;

xviii. Amendments. At any time prior to the expiration or termination of an agreement, it may be amended by the parties to include other provisions that could have been included in the original agreement or to remove provisions that were not necessary to the original agreement. Any such amendment must be made using the same procedures used when the original agreement was approved and executed.<sup>20</sup> Agreements may not be amended to extend the term beyond ten (10) years from the date of the original agreement.<sup>21</sup>

xix. Termination by Mutual Consent of the Parties. An agreement made under Chapter 312 may be terminated by the mutual consent of the parties in the same manner that the original agreement was approved and executed.<sup>22</sup>

xx. Map or Plat Required. As an attachment, a map or approved plat of the subject property and a legal description of the property;

xxi. Assignment. An assignment clause that states no Applicant may assign its interest in the Agreement without the Commissioners Court providing its advance consent in the form of a Resolution or an approved amendment and that any such assignment must include all rights, duties, obligations, and liabilities under the agreement are assigned;

xxii. Additional Clauses. Such other provisions as the County Attorney shall deem appropriate; and,

xxiii. Review Period. The County Attorney's Office and the Applicant shall each have an opportunity to review any proposed Agreement for at least seven (7)

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<sup>19</sup> Ch. 312, Tax Code, §312.205

<sup>20</sup> Ch. 312, Tax Code, §312.208

<sup>21</sup> Id.

<sup>22</sup> Ch. 312, Tax Code, §312.208

business days prior to it being placed on the Commissioners Court agenda for review.

2. Upon the request of the Commissioners Court, the County Attorney's Office will work with an applicant to prepare a draft agreement.

**N. Administration of Agreement:**

1. Annual Appraisals. The Aransas County Appraisal District will determine an annual assessment of all property associated with any economic development agreement involving tax abatement or tax rebate. The company or individual receiving the incentive shall furnish all information requested by the Aransas County Appraisal District in a timely manner and will also provide any information requested by County officials and employees to confirm compliance with the agreement. Once the value has been established in a given year, the County Appraiser will notify the County Judge.

2. Project Inspection/Evaluation. Upon completion of any construction or upgrades to property, the County will designate a representative to evaluate each facility/property receiving a tax abatement or tax rebate to ensure compliance with the agreement and that representative shall make a formal report to the Aransas County Commissioners Court.

3. Appraiser's Duties. The Aransas County Appraiser shall timely file all necessary information with the Texas Department of Economic Development and the State Property Tax Board.

4. Quarterly Meetings. Until all improvements are completed, the owner, lessee, and/or general contractor shall meet with a County designee on at least a quarterly basis for onsite inspections to ensure continued compliance with the agreement. The owner, lessee, and/or general contractor will be responsible for paying any costs the County may incur as a result of such monitoring.

5. Terms and Conditions. All provisions of any agreement entered into shall apply to the owner, lessee, contractors, subcontractors, and any and all other parties involved in the project. It shall be the owner, lessee, contractor, subcontractor, or any other contracting party to ensure that any contracts related to the project include appropriate language to satisfy this requirement. It shall also be their responsibility to take all actions necessary to ensure compliance with such provisions.

**O. Default and Recapture:**

1. Breach and Termination. In the event of default or breach of any term or condition of the Application for Tax Abatement or Tax Rebate, or of the Tax Abatement Agreement or Tax Rebate Agreement, by the Applicant or the Applicant's successor or assign, the Commissioners Court shall have the right to unilaterally terminate any Agreement and cease the abatement or rebate of taxes.

2. Payment of Taxes Upon Termination or Expiration of Abatement Agreement. Taxes based on the appraised value of the subject property with improvements will be due and payable for the year in which any tax abatement agreement or rebate agreement is terminated or expires.

3. Continuous Operation Required. 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 tax abatements or tax rebates shall terminate and no amount of taxes shall be abated or rebated for any calendar year during which the facility does not produce goods and services.

4. Effect of Expiration or Termination of Agreement. In the event that the Applicant fails to pay ad valorem taxes owed to Aransas 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, 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 or rebated during the calendar year in which the termination occurs and any amount of taxes abated or rebated during prior years.

5. Recapture Possible. In the event that the Applicant, during the abatement or rebate period and for a period of four (4) years following the abatement or rebate period, ceases to operate the facility for which abatement or rebate was granted, or moves the facility for which abatement or rebate was granted to a location outside of Aransas County, the Commissioners Court shall have the right to use all available legal remedies to recapture taxes abated or rebated during any previous years.

**P. Sunset Provision for Tax Abatements:**

1. This Policy and its guidelines and criteria are effective upon the date of adoption and remain in force for two (2) years from the date of adoption, unless amended or repealed as described below. Prior to the expiration of this Policy, the Commissioners Court shall review the Policy and its guidelines and criteria and either adopt the guidelines and criteria for another two (2) year period, adopt revised guidelines and criteria, or terminate the Policy.

2. During the two (2) year period following adoption of this Policy, the guidelines and criteria may be amended or repealed only by a vote of three-fourths (3/4) of the members of the Commissioners Court.<sup>23</sup>

3. Before this Policy may be amended, repealed, or reauthorized, the Commissioners Court shall hold a public hearing regarding the proposed action at which members of the public are given the opportunity to be heard.<sup>24</sup>

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<sup>23</sup> Ch. 312, Tax Code, §312.002

<sup>24</sup> Id.

## Part 2: Chapter 312 Policy Guidelines and Criteria Specific to Chapter 312 Incentives

1. Statutory Authorization under the Tax Code. The Aransas County Commissioners Court is authorized<sup>25</sup> to develop and administer a program for granting tax abatement and entering into tax abatement agreements with owners or lessees of a property interest that is subject to ad valorem taxation, the terms of a tax abatement agreement being governed by the provisions of Sections 312.204, 312.205, 312.211, and 312.2041, Tax Code. The availability of tax abatement under Chapter 312 shall expire, unless it is extended, on September 1, 2029.<sup>26</sup>

2. Term of Agreements and Location of Property. In general, a tax abatement agreement between a taxpayer and a local taxing unit involves exempting all or part of the incremental increase in taxes for a period not to exceed ten (10) years.<sup>27</sup> The property involved must be located within a reinvestment zone or an enterprise zone located within Aransas County.

3. Chapter 312 Policy Objectives. Chapter 312 Tax Abatement Agreements are utilized to:

- i. Attract business to locate in Aransas County and create jobs;
- ii. Encourage existing businesses to grow; and,
- iii. Encourage businesses to increase capital investments in Aransas County.

4. How to Apply. Interested parties should complete an application (*see Appendix A*) and follow the procedures in *Part 1, Section L*, above.

5. Procedures. Once the application and all supporting information and materials are submitted, the first official review will be completed by the Aransas County Economic Development Evaluation Committee which will make a recommendation to the Commissioners Court. Once the Committee has met and given a recommendation to the Commissioners Court, a public hearing will be held, and the application will be considered at a public meeting.

6. Public Notice. At least thirty (30) days prior to the consideration of an agreement at a Public Hearing, notice must be provided to the public. The notice should include all information that is not proprietary and must include, at a minimum, the following:

- i. The name of the property owner(s) and lessee(s);
- ii. Name of the applicant and property interest (owner, lessee, etc.);

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<sup>25</sup> Ch. 312, Tax Code, §312.402

<sup>26</sup> Ch. 312, Tax Code, §312.006

<sup>27</sup> Ch. 312, Tax Code, §312.208

- iii. Name and location of reinvestment zone in which property is located;
- iv. General description of the nature of the planned improvements or repairs;
- v. An estimated cost of planned improvements or repairs.<sup>28</sup>

7. Notice to Taxing Entities Required. At least seven (7) days prior to entering into an agreement, the County must deliver, by registered or certified mail, written notices to the presiding officers of the other taxing entities in which the subject property is located. This notice must include a copy of the proposed agreement.<sup>29</sup>

8. Public Hearing. The proposed agreement will be presented to the Commissioners Court and the public and the public shall have an opportunity to be heard prior to the agreement being presented for action. A public hearing shall be held at least thirty (30) days prior to the meeting at which the agreement is presented for action. If the County chooses to hold more hearings, those hearings may be held within the thirty (30) day period so long as the first hearing occurred at least thirty (30) days prior to the agreement being presented for action.

9. Consideration at a Regularly Scheduled Public Meeting. Following a public hearing, the Commissioners Court will consider the proposed agreement, receive the recommendation of the Committee and of County staff, and determine whether the project meets the guidelines and criteria for an incentive under Chapter 312. In order to be effective, the agreement must be approved by a majority of the Commissioners Court at a regularly scheduled meeting.<sup>30</sup>

10. Reports to Texas Comptroller.<sup>31</sup> Upon the approval of a tax abatement under Chapter 312, the Texas Comptroller must be notified by the County Appraisal District. Further, the County Appraisal District is responsible for submitting reports on appraised values of property for expired abatement agreements. The first report is due on the first anniversary of expiration and two more reports are due on the following second and third anniversaries of expiration.

11. Internet Website Posting Required.<sup>32</sup> The County shall post the current version of the guidelines and criteria governing Chapter 312 agreements on the County's website.

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<sup>28</sup> Ch. 312, Tax Code, §312.207

<sup>29</sup> Ch. 312, Tax Code, §312.2041

<sup>30</sup> Ch. 312, Tax Code, §312.207

<sup>31</sup> Ch. 312, Tax Code, §312.005

<sup>32</sup> Ch. 312, Tax Code, §312.002 (c)(2)

## **Part 3: Chapter 381 Policy**

### **Guidelines and Criteria Specific to Chapter 381 Incentives**

1. Statutory Authorization for Economic Development Activities under the Local Government Code. The Aransas County Commissioners Court is authorized under Section 381.004 of the Local Government Code to create programs to stimulate business and commercial activity to promote the County's Economic Development Objectives.

2. Affordable Housing. Section 381.003 of the Local Government Code authorizes the County to administer or otherwise engage in community and economic development projects under Title I of the Housing and Community Development Act of 1974 or under any other federal law creating community and economic development. It also grants the County the power to impose assessments on real property and the owners of the property to recover all or part of the cost of a public improvement under the Cranston-Gonzalez National Affordable Housing Act. The County may use County funds as matching funds as may be necessary to obtain grants or financial assistance. Further the County may obtain grants and financial assistance under any other federal law creating housing and community development programs.<sup>33</sup>

3. Workforce Investment Act. The County may provide services under the Workforce Investment Act, Chapter 2308 of the Government Code, if the Commissioners Court enters into a contract with a local workforce development board for the provision of services authorized and may collect fees for the services performed and for unreimbursed costs associated with the provision of the services unless: (i.) State law prohibits the collection of the fee or unreimbursed costs; or (ii.) The service provided is service described by Subsections (a) and (b), 29 U.S.C. Section 49f.<sup>34</sup>

3. Term of Agreements and Location of Property. In general, a tax rebate agreement between a taxpayer and a local taxing unit involves the taxing unit reimburses a portion of the taxes paid related to the incremental increase in taxes due to a qualified project, for a period not to exceed ten (10) years.<sup>35</sup> The property involved must be located within Aransas County.

4. Chapter 381 Economic Development Objectives. The Commissioners Court has determined that it is in the best interest of the citizens of the County for the County to pursue the following objectives:

- i. Encourage business development for small or disadvantaged businesses
- ii. Stimulate, encourage, and develop business location and commercial activity.

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<sup>33</sup> Ch. 381, Local Gov't Code, §381.003

<sup>34</sup> Ch. 381, Local Gov't Code, §381.003

<sup>35</sup> Ch. 312, Tax Code, §312.208

- iii. Improve the extent to which women and minority businesses are awarded contracts.
- iv. Support comprehensive literacy programs for the benefits of citizens.
- v. Encourage and promote the arts.<sup>36</sup>

5. Authorized Economic Development Incentives. The Commissioners Court may consider applications for economic development incentives as requested by an eligible applicant. The Commissioners Court has the lawful authority to consider such applications and will do so at its sole discretion. The Commissioners Court may consider all incentives authorized by Chapter 381 of the Texas Local Government Code, including tax abatement.

6. Guidelines and Criteria for Qualified Projects. To be considered for incentives under the Chapter 381 Policy, the applicant's project shall fulfill at least one of the following:

- i. Result in a minimum increased taxable value for Aransas County of Ten Million Dollars (\$10,000,000.00) in real and/or business personal property for a new facility or a minimum increase in taxable value of Five Million Dollars (\$5,000,000.00) for an existing business (excluding inventory and supplies); or
- ii. Result in a minimum increased taxable value to Aransas County of Five Hundred Thousand Dollars (\$500,000.00) in real and business personal property (excluding inventory and supplies) in the area defined as the Rockport Cultural Arts District; or
- iii. Generate an amount of County sales tax with a single location that, on an annual basis, ranks the facility in the top quartile of the top Twenty Five (25) sales tax generators in Aransas County as determined by the most recently available sales tax report; or
- iv. Provide employment opportunities for Aransas County residents where a majority of the available positions are offered at an average hourly wage that is at least Ten Percent (10%) greater than the Metropolitan Statistical Area ("MSA") average wage as determined by the Bureau of Labor Statistic's most recently available Metropolitan and Nonmetropolitan Area Occupational Employment and Wage Estimates for the Corpus Christi MSA; or
- v. Is specifically determined by resolution of Aransas County Commissioners Court to bring benefit to the Aransas County consistent with this Policy and is one of the targeted business sectors prioritized for the area.

7. Findings. In addition, Aransas County shall determine in the Resolution adopting an agreement with an applicant that the project:

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<sup>36</sup> Ch. 381, Local Gov't Code, §381.004

- i. Will make a unique or unequaled contribution to development or redevelopment efforts in Aransas County, due to its magnitude, significance to Aransas County, and/or aesthetic quality; or
- ii. Makes a significant contribution to any Aransas County priorities as identified in the County's strategic plan for economic development; or
- iii. Will enhance Aransas County's fiscal ability to provide high quality County services for the safety, comfort, and enjoyment of Aransas County residents.

8. Incentives Depend on Revenue and Public Benefit. Incentives provided in accordance with this Policy will be provided only to the extent that the revenue realized by Aransas County and attributable to a project exceeds a minimum amount established by the Agreement. The public benefit or amount of revenue realized by Aransas County and attributable to the project must be commensurate with the value of any incentives granted under this Policy.

9. How to Apply. Interested parties should complete an application (*see Appendix A*) and follow the procedures in *Part I, Section L*, above.

10. Procedures. Once the application and all supporting information and materials are submitted, the first official review will be completed by the Aransas County Economic Development Evaluation Committee which will make a recommendation to the Commissioners Court. Once the Committee has met and given a recommendation to the Commissioners Court, the application will be considered at a public meeting.

11. Public Notice. At least thirty (30) days prior to the consideration of an agreement at a Public Hearing, notice must be provided to the public. The notice must include, at a minimum, the following:

- i. The name of the property owner(s) and lessee(s);
- ii. Name of the applicant and property interest (owner, lessee, etc.);
- iii. Location of property;
- iv. General description of the nature of the planned improvements or repairs;
- v. An estimated cost of planned improvements or repairs.<sup>37</sup>

12. Notice to Taxing Entities Required. At least seven (7) days prior to entering into an agreement, the County must deliver, by registered or certified mail, written notices to the presiding officers of the other taxing entities in which the subject property is located. This notice must include a copy of the proposed agreement.<sup>38</sup>

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<sup>37</sup> Ch. 312, Tax Code, §312.207

<sup>38</sup> Ch. 312, Tax Code, §312.2041

13. Public Hearing. The proposed agreement will be presented to the Commissioners Court and the Public and the public shall have an opportunity to be heard prior to the agreement being presented for action. A public hearing shall be held at least thirty (30) days prior to the meeting at which the agreement is presented for action. If the County chooses to hold more hearings, those hearings may be held within the thirty (30) day period so long as the first hearing occurred at least thirty (30) days prior to the agreement being presented for action.

14. Consideration at a Regularly Scheduled Public Meeting. Following a public hearing, the Commissioners Court will consider the proposed agreement, receive the recommendation of the Committee and of County staff, and determine whether the project meets the guidelines and criteria for an incentive under Chapter 381. In order to be effective, the agreement must be approved by a majority of the Commissioners Court at a regularly scheduled meeting.<sup>39</sup>

15. Reports to Texas Comptroller.<sup>40</sup> Not later than fourteen (14) days after the approval, amendment, or renewal of an economic development agreement under Chapter 381, the Texas Comptroller must be notified of such action by Aransas County. The County shall submit all of the information described in Section 403.0246 (c) of the Government Code and any other necessary information.

16. Information to be Made Available on County Website. Any County agreement under Chapter 381 shall be subject to the requirements of Section 381.005 of the Local Government Code. A direct link to the Texas Comptroller's website and the information published about the agreement shall be available on the County's website.

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<sup>39</sup> Ch. 312, Tax Code, §312.207

<sup>40</sup> Ch. 381, Local Gov't Code, §381.005

## Part 4: The PACE Program

1. Purpose. On December 9, 2019, Aransas County adopted Resolution Number R-42-2019 and established the Aransas County PACE Program. Aransas County and its citizens benefit when older existing buildings are modified with new technology and equipment that increases energy efficiency and reduces water consumption. The PACE Program is an innovative financing program that is offered to property owners on a strictly voluntary basis that does not require the use of any public funds or resources. It enables private sector property owners to obtain low cost, long term loans to pay energy efficiency improvements, renewable energy retrofits, and water conservation improvements, with PACE loans covering up to One Hundred Percent (100%) of financing of all project costs with little or no upfront out of pocket cost to the owner.

2. Qualified Projects. The PACE Program may be available for the projects that involve:

- i. the installation or modification of a permanent improvement fixed to privately owned commercial, industrial, or multi-family residential real properties with five (5) or more dwelling units, and,
- ii. are intended to decrease energy usage or water consumption or demand.

3. Qualified Improvements. The installation or modification of a permanent improvement may involve a product, device, or interacting group of products or devices on the developer's side of the meter that uses energy technology to generate electricity, provide thermal energy, or regulate temperature. The following list may constitute Qualified Improvements under the PACE Program:

- i. High efficiency heating, ventilating and air conditioning ("HVAC") systems;
- ii. High efficiency chillers, boilers, and furnaces;
- iii. High efficiency water heating systems;
- iv. Energy management systems and controllers;
- v. Distributed generation systems;
- vi. High efficiency lighting system upgrades;
- vii. Building enclosure and envelope improvements;
- viii. Water conservation and wastewater recovery and reuse systems;
- ix. Combustion and burner upgrades;

- x. Heat recovery and steam traps;
- xi. Water management systems and controls (indoor and outdoor);
- xii. High efficiency irrigation equipment.

4. Eligible Properties. Properties eligible for the PACE Program are privately owned properties used for commercial, industrial, and multi-family residential uses with five (5) dwelling units or more.

5. Ineligible Properties. Properties owned by the government, used for residential purposes with fewer than five (5) dwelling units, undeveloped lots or lots undergoing development at the time the assessment, or the purchase or installation of products or devices not permanently affixed to real property.

6. Geographic Area. Projects within the boundaries of Aransas County may be eligible for the PACE program.

7. Third-Party Financing. Financing for qualified projects under the PACE Program will be provided by qualified third-party lenders chosen by the property owner(s). Such lenders will execute written contracts with the County's Authorized Representative to service the debt through assessments, as required by the PACE Act. The contracts will provide for the lenders to determine the financial ability of the owner(s) to fulfill the financial obligations to be repaid through assessments, advance the funds to owner(s) on such terms as are agreed between the lenders and the owner(s) for the installation or modification of qualified projects, and service the debt secured by the assessments, directly or through a servicer, by collecting payments from the owner(s) pursuant to financing documents executed by the lenders and the owner(s). Aransas County will maintain and continue the assessments for the benefit of such lenders and will enforce the assessment lien for the benefit of a lender in the event of a default by owner(s). Aransas County will not provide financing of any sort for the PACE Program.

8. Authorized Representative. The Aransas County Commissioners Court has designated the Texas PACE Authority, a non-profit organization, to act as the Authorized Representative with authority to enter into written contracts with record owners of real property in Aransas County to impose assessments pursuant to the PACE Act to repay the financing of qualified projects on the owner(s)' property, to enter into written contracts with the parties that provide third-party financing for such projects to service debt through assessments, and to file written notice of each contractual assessment in the real property records of the Aransas County Clerk, all on behalf of Aransas County. The Authorized Representative may make technical and conforming updates as necessary so long as the changes are consistent with the Aransas County Resolution No. R-42-2019 which established the Aransas County PACE Program and consistent with the PACE Act. The County Judge or his designee will be the liaison between the Authorized Representative and Aransas County.

9. PACE Assessments. The PACE Program assessments on property follow the title of the property from owner to owner. Each owner is responsible only for payment of the assessments accruing during that owner's period of ownership. When the property is sold, the payment obligation for the remaining balance of the assessment is transferred automatically to the next owner.

10. Enforcement. Aransas County will enforce the collection of past due assessments and may contract with a qualified law firm to assist in collection efforts.

## Part 5: Other Incentives and Programs

1. The State of Texas is a friendly environment for business. There are a variety of State incentive programs that may be available to encourage development and expansion in Texas. Here is a non-exclusive list of State programs:

- i. Texas Enterprise Fund. This fund offers cash grants as financial incentives for projects that offer significant projected job creation and capital investment when a single Texas site is competing with another viable out of state location for business expansion or relocation. Enterprise funds may be used for infrastructure development, community development, job training, and business incentives.
- ii. Manufacturing Exemptions. The State offers some exemptions from state sales and use taxes for taxpayers who manufacture, fabricate, or process property for sale. It general applies when a business is manufacturing tangible personal property.
- iii. Natural Gas and Electricity. Manufacturing companies may be exempt from paying state sales and use tax on natural gas and/or electricity used in manufacturing, processing, or fabricating tangible personal property.
- iv. Data Center Incentives. Data centers meeting certain qualifications may qualify for exemptions from state sales and use tax on certain items necessary and essential to the data center operation.
- v. Research and Development. Companies may choose a state sales tax exemption for property purchased, stored, or used for qualified research or a franchise tax credit.
- vi. Skills Development Fund. Businesses and trade unions can partner with a community or technical college, the Texas Engineering Extension Service, or a community-based organization working with one of these establishments, to provide customized job training. A business arranging such specialized training may be eligible to receive a grant to help cover associated costs.
- vii. Product Development and Small Business Incubator Fund. This is a revolving loan program designed to aid in the development, production, and commercialization of new or improved products and to foster and stimulate small business growth in the state. Loan proceeds may be used for a variety of capital and/or operating expenses.

For more information about the programs described above and several others, please visit <https://gov.texas.gov/uploads/files/business/IncentivesOverview.pdf>

*Appendix A: Application Instructions and Application Form*

**APPLICATION FOR TAX ABATEMENT OR TAX REBATE  
IN ARANSAS COUNTY, TEXAS**

**INSTRUCTIONS**

Applicants and projects must meet the requirements established by the Aransas County Commissioners Court in its Economic Development Policy and the guidelines and criteria established therein for Tax Abatements and Tax Rebates (the “Guidelines”).

The Guidelines provide details on eligible properties, eligible and ineligible improvements, job creation/retention, governing regulations, and economic qualifications. Depending upon the type of proposed facility, an application may also require inclusion of a market study, business plan, or other materials. Conformance with all sections is the basis for determination of initial eligibility and for favorable consideration by Commissioners Court. Nothing in the Guidelines shall imply or suggest, or be construed to imply or suggest, that Aransas County is under any obligation to provide any abatement or rebate to any applicant.

Applications shall not be considered complete until all required information and supporting documentation is submitted. Aransas County reserves the right to request additional information and documentation as needed to complete a complete and thorough review of the application.

All applications for tax abatements or tax rebates shall be considered on an individual basis with two of those considerations being the qualification of the tax abatement or tax rebate and the amount of the incentive requested. Applications must be submitted with application fee and all documentation necessary at least sixty (60) days prior to Commissioners Court formal consideration and action, if any.

The Aransas County Economic Development Evaluation Committee (the “Committee”) will review the application. The Committee will then provide its recommendation for approval or disapproval to the Aransas County Commissioners Court.

If additional information is necessary or the application is incomplete, the Commissioners Court reserves the right to reject the application and to require the applicant to file a new application, which may require submittal of a new application fee.

**APPLICANT INFORMATION**

1. Financial Information. Whether an applicant will be able to complete the project is an important consideration and the application must include adequate financial information.

a. Established and/or Publicly Owned Companies. Established companies for which public information is available, or a wholly owned subsidiary or operation division of such a company, must include with the application a copy of the latest annual report to stockholders.

b. Privately Owned Companies or New Companies. Privately owned and/or newly formed companies are to provide a copy of the most recent audited financial statements, documentation of the date and location of incorporation, bank references (including officer name and telephone number), along with any accountant and any attorney references (names of firms and contact telephone numbers). Newly formed companies must also furnish a copy of the business plan and substantiation of financing commitments from a lender and/or venture capitalist.

2. Authorized Representative Information. All applicants are to provide information regarding name, title(s), and physical and mailing addresses of the authorized officers who will execute any documents on behalf of the applicant (and owner, operator, lessor, lessee, where applicable).

### **PROJECT INFORMATION**

1. Physical Property Information. Applicant shall provide detailed information on the proposed project site, to include but not be limited to, physical location address, key map reference, plat survey with metes and bounds legal description, a list of all taxing entities, a list of all associated tax accounts, a description and photographs of the current site conditions and any existing improvements.

2. Proposed Project Information. Applicant shall submit a detailed description of the proposed project, including but not limited to: the purpose of the project; the intended market; proposed site and site improvements; description of construction or remodeling of improvements; a detailed line item budget that illustrates applicants investment in the project including estimated values of improvements and identifying improvements for which abatement is requested; market analyses and studies; business plans; and all other documents demonstrating that the project will serve the purposes required by the Aransas County Tax Abatement and Rebate Program.

3. Property Ownership or Lease Information. Applicant shall provide legal documents regarding property ownership, such as purchase agreements, lease agreements, and deeds.

### **ECONOMIC IMPACT INFORMATION (for use in completing Part III of Application)**

1. Permanent Job Creation/Retention. In estimating permanent job creation, include the total number of new jobs created at this site as a result of the new investment as well as known permanent jobs of service contractors required for operation. In determining whether the project qualifies as job retention project, provide information documenting what jobs would be terminated or lost to the Aransas County economy but for the abatement or rebate. Be sure to describe how many jobs will be filled with part time workers, full time workers, and full time equivalents.

2. Base Year Value. The Base Year Value is the assessed value of eligible property on the 1st day of January immediately preceding the date of the effective date of the tax abatement, plus the agreed upon value of eligible property improvements made after January 1 but before the

effective date of the agreement, or the sales price of the property if it was conveyed after January 1, whichever amount is greater.

2. Estimated Appraised Value On Site. Projections of value for the project if completed should be the “best estimate” based on taxability in Texas. The projection of project values not abated should include personal property and ineligible project-related improvements such as office space in excess of that used for plant administration, housing, etc.

## THE NARRATIVE

In addition to the completed application form, the applicant shall attach a narrative containing all required information. At a minimum, the narrative shall contain all of the following:

### Section I. Introduction of the Company

a. Describe the history of the Company, including the date and location of its formation, its corporate structure, and background regarding who formed the company and why the company was formed;

b. Summarize the most recent financial statement and annual report that are attached to the application;

b. Describe the Company’s operations, business activities, locations, primary markets, locations, parent and/or subsidiary companies, and include a diagram showing the relationships between companies.

c. List the names of Company’s Chief Officers and their titles along with information regarding legal authorization for those officers to legally bind the company, for example, a power of attorney. At a minimum, such documentation must be produced authorizing the individual signing the application to bind the company.

### Section II. Additional Project Information

a. Describe the company’s reasons for seeking economic incentives. Include any special considerations. Describe how project will benefit Aransas County. If your company is unable to provide all of the information required in the application, explain what cannot be provided, request a waiver of the requirement, and provide the justification for the request.

b. Describe the Project in Detail.

1. Facts about the proposed site (e.g., acreage, cost, location, ownership).

2. Whether the proposed site is located in an economically disadvantaged or distressed area (e.g., a Reinvestment Zone or Opportunity Zone).

3. Type and value of proposed improvements (construction budget in line item form, list of fixed in place equipment to be included in the project).
4. Project timeline, including construction start date and end date.
5. Environmental impact information must be provided, noting any anticipated impacts of the project on the environment, including, but not limited to: water quality; storm water and runoff; floodplain and wetlands; solid waste disposal; noise levels; and air quality. Further, include history of environmental compliance by company. Describe any environmental permits that may be required and how the company will acquire such permits.
6. All other governmental assistance/incentives being requested or already approved for the project (e.g., incentives from the State of Texas or from local cities and towns).
  - c. Provide information on alternative site considerations and incentives being offered to the Company. State who the Company has visited outside of Aransas County concerning tax abatements in another city, county, state, or country, and provide copies of any letters of intent from any governmental entities offering incentive.
  - d. If leasing property, attach copies of all leases. If the company owns or is purchasing land, attach copy of deed or executed contract for an option to purchase. (The contract for purchase must have an “out clause” listed in special provisions stating that if tax abatement is not granted, applicant will not be held to the terms of the contract with lessor/owner.)
  - e. Describe how this project is appropriate when considering the priorities set by the Aransas County Commissioners Court as expressed in the Aransas County Economic Development Policy.

### **SECTION III. Job Retention and/or Job Creation**

- a. Provide information on current level of employment, including: (1) current payroll; and (2) breakdown of current employment by zip code. Attach a copy of the company’s most recent filing with the Texas Workforce Commission from the last four (4) quarters and other supporting documentation that can be used to determine actual employment level at time of application.
- b. Provide information on the projected job creation associated with the project, including (1) new employee needs; e.g., skilled vs. non-skilled, level of education, experience, etc.; (2) proposed pay scale; (3) any training which the company will provide to its new employees; (4) upward mobility opportunities, career tracks, etc. available to less educated and experienced workers; (5) if this is a consolidation, information on number of “new hires” vs. “transfers;” and (6) describe how many jobs will be filled with part time workers, full time workers, and full time equivalents. Provide information on construction jobs to be created by the project.

**SECTION IV. Project Impact**

a. List any competition or similar businesses in the area and describe how an abatement or rebate will impact competition with other similar businesses in the area.

b. Describe how will this project attract new businesses or increase the quality of products and services available in Aransas County.

c. Describe potential impact to local taxes, including sales tax, property tax, hotel/motel tax, and use tax.

**APPLICATION FOR TAX ABATEMENT AND/OR REBATE  
IN ARANSAS COUNTY, TEXAS**

Prior to any public expression of a decision or any commitment (legal or financial) to the proposed project by applicant, **one (1) original of this application and at least five (5) copies** of this application, including supporting documentation of competitive siting and narrative impact statement shall be submitted to the Office of the County Judge at 2840 Hwy 35N, Rockport, Texas, 78382. In addition, the non-refundable application fee One Thousand Dollar (\$1,000.00) must be made out to Aransas County and submitted to the County Judge at the same time as the application.

In the event that the Aransas County Commissioners Court chooses to proceed to negotiate an agreement with the applicant, this application will ultimately become part of the Tax Abatement or Tax Rebate Agreement (the "Agreement").

Any false representations in this application or any supporting documentation will be grounds for terminating the application process and, if an Agreement is in effect, in voiding the Agreement.

**PART I – APPLICANT INFORMATION**

Date of Application \_\_\_\_/\_\_\_\_/\_\_\_\_

Company Name: \_\_\_\_\_

Headquarters Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zipcode: \_\_\_\_\_

Local Address: \_\_\_\_\_

Local Phone Number: \_\_\_\_\_ State and Year of Formation: \_\_\_\_\_

Local Contact: \_\_\_\_\_ Title: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Years in Aransas County: \_\_\_\_\_ Total Employees in Aransas County: \_\_\_\_\_

Total Employees in Texas: \_\_\_\_\_ Total Employees Worldwide: \_\_\_\_\_

Year Company became authorized to do business in Texas: \_\_\_\_\_

**PART II – PROJECT INFORMATION**

Project Name: \_\_\_\_\_

Project Location (street address): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zipcode: \_\_\_\_\_

Property Legal Description: \_\_\_\_\_

Taxing Entities for the Property:

School Districts: \_\_\_\_\_ Cities: \_\_\_\_\_

Special Districts: \_\_\_\_\_ Other: \_\_\_\_\_

Project Description:  New Construction  Expansion  Redevelopment

\_\_\_\_\_  
\_\_\_\_\_

**PART III – ECONOMIC DEVELOPMENT**

Type of Facility:

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Aviation-Related                    | <input type="checkbox"/> Corporate Offices   | <input type="checkbox"/> Marine-Related     |
| <input type="checkbox"/> Tourism/Entertainment               | <input type="checkbox"/> IT/Emerging Tech  | <input type="checkbox"/> Retail development |
| <input type="checkbox"/> Medical facilities                  | <input type="checkbox"/> Education facilities                                      |   |
| <input type="checkbox"/> Research and Development Industries | <input type="checkbox"/> Workforce housing (50+ units) with rent below market rate |   |

Describe products or services to be provided and the purpose of providing them:

\_\_\_\_\_  
\_\_\_\_\_

**PART IV – WAIVER REQUESTED**

Is the applicant asking Aransas County to waive any requirements from the Aransas County Guidelines and Criteria? \_\_\_\_\_

If so, attach a letter identifying the variance requested, justifying the need for the variance, and providing any supplemental information that should be considered when evaluating the request for variance.

**PART V – ECONOMIC INFORMATION**

**Construction Estimates:**

Start Date: \_\_\_\_\_ Construction Cost: \_\_\_\_\_

Completion Date: \_\_\_\_\_ Peak Construction Jobs: \_\_\_\_\_

Construction Man-Years to complete project: \_\_\_\_\_

If the project involves modernization:

Estimated remaining economic life of structure/equipment: \_\_\_\_\_ years

Added economic life from modernization: \_\_\_\_\_ years

**Permanent Job Creation or Job Retention:**

Current employees in Aransas County: \_\_\_\_\_

*Attach: Texas Workforce Commissioner "Employer's Annual Report" for the last four quarters.*

Number of Jobs to be Retained: \_\_\_\_\_ Number of Jobs to be Created: \_\_\_\_\_

<b>Estimated Appraised Value on Site</b>	<b>Land</b>	<b>Improvements</b>	<b>Total</b>
Value on January 1 preceding application	\$	\$	\$
Estimated value of new investment: buildings		\$	\$
Estimated value of new abatable fixed-in- place machinery and equipment		\$	\$
Estimated value not subject to abatement (e.g. inventory)		\$	\$
Estimated value of property subject to ad valorem tax at the end of the abatement or rebate period		\$	\$

**PART VI – UNDOCUMENTED WORKER CERTIFICATION**

Chapter 2264, Subchapter A, Government Code requires that any public agency or economic development corporation shall require a business that submits an application to receive a public subsidy to include a statement certifying that the business does not and will not knowingly employ an undocumented worker. By signing and submitting this application, the Company certifies that its operation within Aransas County, Texas, does not and will not knowingly employ an undocumented worker, as defined in Chapter 2264, Subchapter A, Government Code, as amended (the “Act”). Pursuant to the Act, if the Company is convicted of a violation under 8 U.S.C. Section 1324a(f), after receiving any public subsidy, the Company shall promptly give the County written notice of such violation and the Company shall repay the amount of the payment with interest, at a rate of 6.75% per annum not later than the 120th day after the date the Company notifies the County of the violation.

**PART VII – AUTHORIZATION AND CERTIFICATION**

**By signing below, I hereby assert that I am the authorized representative for the Company for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application is true and correct to the best of my knowledge and belief.**

**I hereby certify and affirm that the Company I represent is in good standing under the laws of the state in which the Company was organized, and the State of Texas, and that no delinquent taxes are owed to the State of Texas.**

*Authorized Company Official:*

Authorized Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**I have attached proof of my authorization to sign on behalf of the Company.**

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

**MUST ATTACH NARRATIVE**

**Appendix B: Annual Certificate of Compliance**

Any company or individual participating in an economic development incentive agreement is required to complete and submit an Annual Certificate of Compliance in the form of an Affidavit.

**STATE OF TEXAS** )  
 ) **ss.**  
**COUNTY OF** \_\_\_\_\_ )

**BEFORE ME**, the undersigned Notary Public, on this day personally appeared \_\_\_\_\_, who being by me duly sworn upon his/her oath, deposed and said:

1. My name is \_\_\_\_\_. I am of sound mind and capable of making this Affidavit, I have personal knowledge of the facts stated herein, and the contents of this Affidavit are true and correct;
2. I have been employed as \_\_\_\_\_ (job title) for \_\_\_\_\_ years and work for \_\_\_\_\_ (employer name).
3. I have personal knowledge of the *Economic Development Agreement/Tax Abatement Agreement/Tax Rebate Agreement* (the "Agreement") between my employer and Aransas County and am familiar with the responsibilities of the parties.
4. As of the date of this Affidavit, I certify that my employer has satisfied all of its obligations under the terms of the Agreement including the submittal of the *Annual Report*.

**FURTHER AFFIANT SAYETH NOT.**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

**SUBSCRIBED AND SWORN TO BEFORE ME** on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to certify which, witness my hand and official seal.

(SEAL)

\_\_\_\_\_  
Notary Public