

**DICKENS COUNTY  
STATE OF TEXAS**

**TAX ABATEMENT GUIDELINES AND CRITERIA**

The purpose of this document is to establish guidelines, criteria, and a uniform policy of tax abatement for owners or lessees of eligible facilities willing to execute tax abatement agreements designed to provide long term significant positive economic impact to the community by utilizing the area contractors and work force to the maximum extent feasible, and by developing, redeveloping, and improving property.

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

1. Must be reasonably expected to have a total positive net economic benefit to Dickens County of at least \$1,000,000.00 over the life of the abatement, computed to include (but not limited to) new sustaining payroll, estimated direct tax revenue/cost, permanent capital improvement, community investment, other consequential economic impact, or any combination thereof. The creation of new jobs, including the number and type of jobs created, will also factor into the decision to grant an abatement, but the number/type of jobs created or absence thereof will not prejudice the discretion of the Dickens County Commissioners Court in deciding whether to enter into any given agreement; and
2. Must not be expected to solely or primarily have the effect of transferring employment from one part of Dickens County to another.

In addition to the criteria set forth above, the Dickens County Commissioners Court reserves the right to negotiate a tax abatement agreement in order to compete favorably with other communities.

Only that increase in the fair market value of the property directly resultant from the development, redevelopment, and improvement specified in the contract will be eligible for abatement and then only to the extent that such increase exceeds any reduction in the fair market value of the other property of the applicant located within the jurisdiction creating the reinvestment zone.

All abatement agreements will be for a term as set forth in the agreement, but in no case longer than allowed by law.

It is the goal of Dickens County to grant tax abatements on the same terms and conditions as the other taxing units having jurisdiction of the property. However, nothing herein shall limit the

discretion of the Dickens County Commissioners Court to consider, adopt, modify or decline any application for tax abatement.

These guidelines and criteria are effective as of \_\_\_\_\_, 2023 and shall at all times be kept current with regard to the needs of Dickens County and reflective of the official views of the County Commissioners Court and shall be reviewed every two (2) years.

The adoption of these guidelines and criteria by the Dickens County Commissioners Court does not:

1. Limit the discretion of the governing body to decide whether or not to enter into a specific tax abatement agreement;
2. Limit the discretion of the governing body to delegate to its officials and employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement;
3. Create any property, contract, or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement;

#### Section 1 Definitions

- A. "Abatement" means the full or partial exemption from ad valorem taxes of certain property in a reinvestment zone designated by Dickens County or a school district within Dickens County for economic development purposes.
- B. "Agreement" unless otherwise indicated, means a Tax Abatement Agreement executed between a property owner or lessee and Dickens County.
- C. "Base year value" means the assessed value on the eligible property as of January 1 preceding the execution of the agreement.
- D. "Maintenance" means improvements necessary for continued operation which do not improve productivity or alter the process technology.
- E. "Eligible facilities" means Improvements meeting the definition provided in Chapter 312 of the Texas Tax Code and consisting of new, expanded, or modernized buildings and structures, including fixed machinery and equipment, which is reasonably likely as a result of granting abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development of Dickens County, but does not include facilities which are intended to be primarily to provide goods or services to residents for existing businesses located in Dickens County,

such as, but not limited to, restaurants and retail sales establishments. Eligible facilities may include, but shall not be limited to wind turbines, solar panels, hotels and office buildings.

- F. “Expansion” means the addition of building structures, machinery, equipment, or payroll for purposes of increasing production capacity.
- G. “Facility” means property improvement completed or in process of construction which together comprise an interregional whole.
- H. “Modernization” means a complete or partial demolition of facilities and/or the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, or equipment, or both.
- I. “New facility” means property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- J. “Productive life” means the number of years a property improvement is expected to be in service in a facility.

Section 2  
Abatement Authorized

- A. Eligible facilities. Upon application, eligible facilities shall be considered for tax abatement as hereinafter provided.
- B. Creation of new values. Abatement may only be granted for the additional value of eligible property improvements made subsequent to the execution of and specified in an abatement agreement between Dickens County and a property owner or lessee, subject to such limitations as Dickens County may require.
- C. New and existing facilities. Abatement may be granted for the additional value of eligible property improvement(s) made subsequent to and specified in an abatement agreement between Dickens County and the property owner or lessee, subject to such limitations as Dickens County may require.
- D. Eligible property. Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements 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 tax abatement: land, supplies, tools, furnishings, and other forms of movable personal property, housing, deferred maintenance, property to be rented or

leased except as provided in Section 2 F, property which has a productive life of less than ten years.

- F. Owned/leased facilities. If a leased facility is granted abatement, the agreement shall be executed with the Lessor and the Lessee.
- G. Economic qualifications. In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:
1. Must be reasonably expected to have a positive net benefit to Dickens County of at least \$1,000,000.00 over the life of the abatement, computed to include (but not limited to) new sustaining payroll, estimated direct tax revenue/cost, permanent capital improvement, community investment, other consequential economic impact, or any combination thereof. The creation of new jobs, including the number and type of jobs created, will also factor into the decision to grant an abatement, but the number/type of jobs created or absence thereof will not prejudice the discretion of the Dickens County Commissioners Court in deciding whether to enter into any given agreement; and
  2. Must not be expected to solely or primarily have the effect of transferring employment from one part of Dickens County to another.
- H. Criteria for tax abatement. The following factors, among others, shall be considered in determining whether to grant a tax abatement:
1. Value of existing Improvements, if any;
  2. Type and value of proposed Improvements;
  3. Productive life of proposed Improvements;
  4. Number of existing jobs to be retained by proposed Improvements;
  5. Number and type of new jobs to be created by proposed Improvements;
  6. Amount of local payroll to be created;
  7. Whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdiction;
  8. Amount which the long-term property tax base valuation will be increased during the term of abatement and after abatement, which shall include a definitive commitment that such long-term valuation shall not, in any case, be less than \$1,000,000.00;
  9. The costs to be incurred by Dickens County to provide facilities or services directly resulting from the new Improvements;
  10. The amount of ad valorem taxes to be paid to Dickens County 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.

11. The population growth of Dickens County that occurs directly as a result of new Improvements;
12. The types and values of public improvements, if any, to be made by Applicant seeking abatement;
13. Whether the proposed Improvements compete with existing businesses to the detriment of the local economy;
14. The impact on the business opportunities of existing businesses;
15. The attraction of other new businesses to the area;
16. The overall compatibility with the zoning ordinances and comprehensive plan for the area;
17. Whether the project obtains all necessary permits from the applicable environmental agencies.

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

1. There would be substantial adverse effect on the provision of government services or tax base;
2. The applicant has insufficient financial capacity;
3. Planned or potential use of the property would constitute a hazard to public health, safety or morals;
4. Violation of other codes or laws; or
5. Any other reason deemed appropriate by Dickens County.

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 2 E shall be fully taxable; and
2. The base year value of existing eligible property as determined each year shall be fully taxable.

The additional value of new eligible property shall be fully taxable at the end of the abatement period.

### Section 3 Application

A. Any present or potential owner of taxable property in Dickens County may request the creation of a reinvestment zone and tax abatement by filing a written application with the County Judge.

B. Form. The Application is not required to be in any particular form, but shall include all other relevant information enabling Dickens County to evaluate the Application according to the criteria set forth in Section 2 G above, and in addition shall specifically include:

1. A general description of the new improvements to be undertaken;
2. A descriptive list of the improvements for which an abatement is requested;
3. A list of the kind, number and location of all proposed improvements of the property;
4. A map and property description; and
5. A time schedule for undertaking and completing the proposed improvements.

In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the Application. The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the Applicant, to be attached to the Application.

C. Fee. The completed Application must be accompanied by the payment of a non-refundable application fee for administrative costs associated with the processing of the tax abatement request. All checks in payment of the administrative fee shall be made payable to Dickens County. For abatement applications for improvements with a planned value equal to or in excess of \$1,000,000.00 the fee shall be One Thousand and No/100 Dollars (\$1,000.00), accompanied by the agreement that the Applicant shall pay attorney and consulting fees as may be incurred by Dickens County in the examination of the application as well as the preparation and negotiation of any tax abatement and road use agreement.

D. Dickens County shall give notice as provided by the Property Tax Code, i.e. written notice, to the presiding officer of the governing body of each taxing unit in which the property to be subject of the agreement is located not later than the seventh day before the public hearing and publication in a newspaper of general circulation within such taxing jurisdiction not later than the seventh day before the public hearing. Before acting upon application, Dickens County shall, through public hearing, afford the Applicant and the designated representative of any governing body referenced hereinabove opportunity to show cause why the abatement should or should not be granted.

E. If a city within Dickens County designates a reinvestment zone within its corporate limits and enters into or proposes to enter into an abatement agreement with a present or potential owner of taxable property, such present or potential owner of taxable property may request tax abatement by Dickens County by following the same application process described in Section 3 A hereof. No other notice or hearing shall be required except in compliance with the Open Meetings Act, the Texas Tax Code, or other applicable law,

unless the Dickens County Commissioners Court deems them necessary in a particular case.

#### Section 4 Agreement

- A. After approval, the Commissioners Court of Dickens County shall formally pass a Resolution and execute an agreement with the owner of the facility and Lessee as required which shall:
1. Include a list of the kind, number, location of all proposed Improvements to the property;
  2. Provide access to and authorize inspection of the property by the taxing unit to insure compliance with the agreement;
  3. Limit the use of the property consistent with the taxing unit's developmental goals;
  4. Provide for recapturing property tax revenues that are lost if the owner fails to make improvements as provided by the agreement;
  5. Include each term that was agreed upon with the property owner and require the owner to annually certify compliance with the terms of the agreement to each taxing unit;
  6. Allow the taxing unit to cancel or modify the agreement at any time if the property owner fails to comply with the terms of the agreement; and
  7. Provide for open access to substations and transmission lines in Dickens County by including in the abatement agreement a section in substantial conformity with Exhibit "A".
- B. The Owner of the facility and its Contractors shall also agree to the following:
1. A specified number of permanent full time jobs at facility shall be created, and the Owner and its Contractors shall make reasonable efforts to employ persons who are residents of Dickens County in such jobs, provided, however, that there shall be no obligation to employ residents who are not:
    - a. equally or more qualified than nonresident applicants;
    - b. available for employment on terms and/or salaries comparable to those required by nonresident applicants; or
    - c. able to become qualified with 72 hours training provided by Owner.
  2. Each person employed in such job shall perform a portion, if not all, of their work in Dickens County.
  3. Owner shall agree that it and its contractors, if any, will use reasonably commercial efforts to maximize its use of goods and services available through Dickens County businesses in the construction, operation, and maintenance of the improvements and the project; provided, however, that there shall be no requirement to use goods and services provided by Dickens County residents that are not:

- a. of similar quality to those provided by nonresidents; or
  - b. made available on terms and conditions (including pricing) comparable to those offered by nonresidents. Comparable price shall be defined as less than or equal to 105% of the nonresident price for equivalent quality, conditions and terms.
4. Owner or its construction contractor, if any, shall designate a coordinator of local services who will act as liaison between any individuals, businesses, and contractors residing or doing business in Dickens County who are interested in obtaining information about providing goods or services related to the construction of the project. Additionally, Owner or its construction contractor, if any, shall advertise in local newspapers in Dickens County for local contractors to perform work on the construction, maintenance, repair or operation of the project prior to filling the positions. The Abatement Agreement shall provide that Owner will pay Dickens County a sum equal to 20% of the gross salary of any position that was filled without compliance with the notice.
5. Owner shall agree to maintain a viable presence (as below defined) within the Reinvestment Zone for a period of time, as set by the Dickens County Commissioners Court, not to exceed twenty (20) years from the date that the abatement agreement first takes effect. For purposes hereof, "Maintain a Viable Presence" means (i) the operation of the Eligible Facilities, as the same may from time to time be expanded, upgraded, improved, modified, changed, remodeled, repaired, restored, reconstructed, reconfigured and/or reengineered, and (ii) the retention of not fewer than three (3) Qualifying Jobs as defined by Texas Tax Code Section 313.021(3)(E) to be located and performed within the County.
6. Owner shall have the right to use such County roads as may be designated by the Dickens County Commissioners but only upon such terms and conditions as may be required by the County., which at a minimum shall consist of: (i) no County road may be used in a manner that does not allow other traffic access over the roadway without the County's prior consent; (ii) Owner shall promptly repair, to the satisfaction of the County, any damage to County roads caused by Owner or Owner's agents, contractors or suppliers during the course of constructing, repairing, maintaining or operating the Improvements; and (iii) all repairs by Owner, including the widening or improvement of County roadways shall have the prior approval of the County.
7. Owner shall maintain in full force and effect, starting with the commencement of construction of the Eligible Facilities and continuing throughout the term of the Abatement Agreement the following insurance coverage issued by insurance companies authorized to conduct business in the State of Texas:
- a. Commercial general liability coverage (including coverage for all equipment and vehicles) with aggregate limits of not less than \$5,000,000.00;
  - b. Worker's compensation coverage for all full-time employees to the extent required by Texas law; and



- c. Casualty insurance in an amount equal to the full insurable value of the Eligible Facilities.
8. The lease, easement or other agreement between Owner and the owners of the land upon which a wind energy or solar project is to be constructed shall contain minimum standards for the removal of the project improvements and a bond for removal of the project improvements as contained in Schedule I attached hereto.
9. On May 1<sup>st</sup> of each year that the abatement agreement shall be in effect, Owner shall certify to the County Judge of Dickens County, and to the governing body of each taxing unit, that Owner is in compliance with each applicable term set forth above.

Such agreement shall normally be executed within sixty (60) days after the Applicant has forwarded all necessary information and documentation to the Commissioners Court.

#### Section 5 Recapture

- A. In the event that the Owner or its assignee:
  1. Allows its ad valorem taxes owed Dickens County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
  2. Violates any of the terms and conditions of the abatement agreement and fails to cure during the cure period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within thirty (30) days of the termination.
- B. Should Dickens County determine that the Owner or its assignee is in default according to the terms and conditions of its agreement, Dickens County shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days from the date of such notice (cure period) then the agreement may be terminated.

#### Section 6 Administration

- A. The Chief Appraiser of the Dickens County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser will notify the Commissioners Court of Dickens County of the amount of the assessment. The value of Eligible Facilities without regard to the abatement shall be used to compute the amount of the abated taxes that are required to be

recaptured and paid to the County in the event of recapture of such taxes is required by the abatement agreement or applicable law.

- B. Dickens County may execute a contract with any other jurisdictions to inspect the facility to determine if the terms and conditions of the abatement agreement are being met. The abatement agreement shall stipulate that employees and/or designated representatives of Dickens County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- C. Upon completion of construction, the designated representative of Dickens County shall annually evaluate each facility receiving abatement to insure compliance with the agreement. A formal report shall be made to the Commissioners Court.

#### Section 7 Assignment

So long as no default or breach of the abatement agreement exists, the 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 Commissioners Court of Dickens County subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with Dickens County. 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 shall not be unreasonably withheld; however, the County may withhold its consent to a proposed assignment which will not be considered to be unreasonable if: (i) the proposed assignee cannot demonstrate that it reasonably can expect to have, during the term of the abatement agreement, annual revenues sufficient to comply with the Agreement as well as to timely pay its other obligations; (ii) the proposed assignee does not have the capability and reliability to perform the requirements of the abatement agreement; (iii) the proposed assignee has a record of violations or defaults with respect to its operation of other projects; or (iv) the proposed assignee fails to provide information requested by the County; or the proposed assignee is exempt from taxation under applicable law.

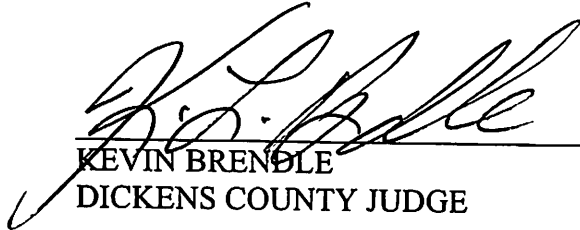
#### Section 8 Sunset Provision

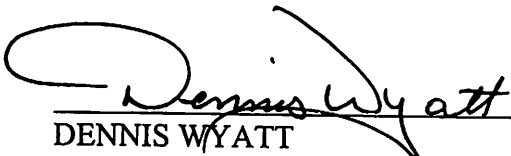
These guidelines and criteria are effective upon the date of their adoption and will remain in force for two years unless amended by three quarters vote of the Commissioners Court of Dickens County, at which time all reinvestment zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been

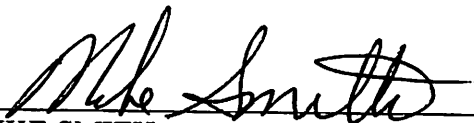
achieved. Based on the review, the guidelines and criteria will be modified, renewed, or eliminated.

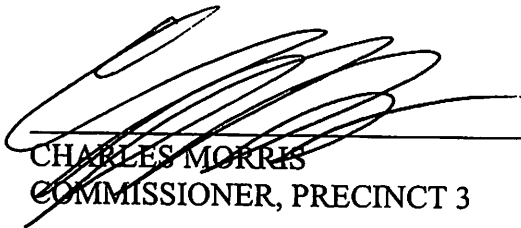
ADOPTED AND EFFECTIVE THIS 26<sup>TH</sup> DAY OF JUNE, 2023


DICKENS COUNTY COMMISSIONERS COURT


  
\_\_\_\_\_  
KEVIN BRENDLE  
DICKENS COUNTY JUDGE

  
\_\_\_\_\_  
DENNIS WYATT  
COMMISSIONER, PRECINCT 1

  
\_\_\_\_\_  
MIKE SMITH  
COMMISSIONER, PRECINCT 2

  
\_\_\_\_\_  
CHARLES MORRIS  
COMMISSIONER, PRECINCT 3

  
\_\_\_\_\_  
GREG ARNOLD  
COMMISSIONER, PRECINCT 4

ATTEST:   
\_\_\_\_\_  
DANAY CARNES, COUNTY CLERK



## **EXHIBIT "A"**

Each Tax Abatement Agreement executed by Dickens County after the date of approval of these amended Guidelines and Criteria shall contain provisions assuring open access to Transmission Infrastructure in substantial conformity with the following:

### **Assuring Open Access to Transmission Infrastructure**

- (a) The Parties acknowledge that this Agreement is meant to enhance the development of wind, solar and other electricity generating facilities in Dickens County. The Owner further acknowledges that the County hosts certain critical transmission infrastructure ("Public Infrastructure"), including substation(s) and transmission lines which have been planned and approved by the Texas Public Utilities Commission and funded by the ratepayers of Texas. The existence of this infrastructure creates the potential for future transmission line development ("Competing Lines") in support of additional wind and other electricity generating facilities in the County by other project sponsors/owners ("Competing Line Owners").
- (b) The Owner agrees to reasonably accommodate the planning, construction and operation of such Competing Lines, including the interconnection of such lines to substations. Owner also agrees to cooperate reasonably with Competing Line Owners to facilitate access to Public Infrastructure. Such cooperation may include: i) attempting to agree with a Competing Line Owner on mutually satisfactory arrangements for the siting and operation of a Competing Line, including exchanging respective lease or easement rights to avoid line crossings; and ii) allowing a Competing Line to cross the Owner's leased area, provided Competing Line Owner and Owner execute a crossing agreement reasonably acceptable to both parties.
- (c) The Owner agrees not to seek unreasonable compensation, limit Competing Line Owner transmission line or generating facility capacity, perverse termination clauses or insurance requirements.
- (d) In the spirit of maintaining a fair, competitive and robust environment in Dickens County for electricity generating projects in Dickens County, the County agrees that any future abatement agreement between the County and Competing Line Owners will contain provisions substantially similar to this Section.

## SCHEDULE I

### BOND LANGUAGE AND REMOVAL STANDARDS

On or before the tenth (10<sup>th</sup>) anniversary of the commencement of the Operations Term of the Project, or earlier in the event Owner elects to terminate operations of the Project during the Operations Term, Owner shall provide security to cover the estimated removal costs associated with the Project and other above-ground improvements on the Property in accordance with the removal standards below. The security shall be, at Owner's option, either a surety bond from an issuer reasonably acceptable to Landowner, a corporate guarantee (from a financially responsible entity that is reasonably acceptable to Landowner and whose credit rating is investment grade), a letter of credit issued by a financial institution reasonably acceptable to Landowner, a cash deposit, or other security reasonably acceptable to Landowner (the selected security being herein referred to as the "**Removal Bond**"). The amount of the Removal Bond shall be the estimated cost of (i) removing the Project improvements, as estimated by a construction company selected by Lessee and reasonably acceptable to Landowner, and (ii) restoration of the Property in accordance with the below standards. The amount of the Removal Bond shall be updated every five (5) years after the initial estimate based on a new estimate by a construction company selected by Lessee and reasonably acceptable to Landowner.

**Removal Standards.** Within twelve (12) months following the expiration of the surface leases for the Project, or within six (6) months of the earlier termination of the Project, Owner shall (i) remove from the Property included within the Project any Project Facilities owned, installed or constructed by Owner thereon, with the exception of any roads, building foundations or utility installations that the Landowner asks remain in place, (ii) fill in and compact all trenches or other borings or excavations made by Owner on the Project Property, (iii) leave the surface of the Property free from debris caused by Owner's activities, and (iv) to reclaim the areas of the Property disturbed or utilized by Owner by leveling, grading or terracing all portions thereof, to the extent caused by Owner, at Owner's own cost and expense if and to the extent requested by Landowner within six (6) months of the termination of the Project. Notwithstanding anything herein, Owner shall only be required to remove any Project Facilities located beneath the surface of the land (such as, without limitation, footings and foundations) to a depth three feet (3') below the surface of the land. Any roads and any operations and maintenance building on the Project Property may be left in place provided the Landowner of the land upon which they exist provides Owner with a written request that such not be removed.