

TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF SEGUIN AND TYSON FARMS, INC.

1. PARTIES

This Tax Abatement Agreement ("Agreement") is made and entered into between the City of Seguin ("City") and Tyson Farms, Inc. ("Owner").

2. AUTHORIZATION AND FINDINGS

a. This Agreement is entered into pursuant to the following:

i. Texas Tax Code Chapter 312.

ii. City of Seguin Ordinance No. 21-138, designating Owner's real property as within a reinvestment zone.

iii. City of Seguin Resolution No. 2020R-15, establishing guidelines and criteria for tax abatements.

iv. This Agreement was approved by Resolution 2021- ____, passed on October 19, 2021, by the City Council of Seguin, Texas.

b. The City, by approval of this Agreement, hereby finds the terms of this Agreement and the property subject to it, to meet the "Guidelines and Criteria" as adopted, and further finds that (a) there will be no long-term adverse effect on the provision of City services of tax base; and (b) the planned use of the property will not constitute a hazard to public safety, health, or morals.

3. PROPERTY

a. The real and tangible personal property subject to this Agreement, described as follows, will be located at 1200 West Kingsbury Street, Seguin, Texas. That property shall include:

i. All manufacturing equipment that was brought onto the 1200 West Kingsbury Street facility after October 19, 2021.

ii. Any real property improvements to the existing facility constructed on or after the effective date of this Agreement.

b. Abatements approved will be based on the rolls of the Guadalupe County Appraisal District for each year of the abatement period.

4. OWNER'S REPRESENTATIONS

a. Owner represents that, to the best of its knowledge, the property subject to this agreement will be located wholly within a duly designated reinvestment zone.

b. Owner represents that it is or will be the owner of the personal properties listed in Section 3(a) as set forth above.

c. Owner represents that it has complied with the required application procedures as adopted by the Seguin City Council.

d. Owner represents that the real and personal property subject to this agreement constitutes an investment of approximately FIFTY-EIGHT MILLION DOLLARS (\$58,000,000.00) and that the reinvestment set forth herein constitutes a “capital intense” investment pursuant to the City of Seguin Tax Abatement Guidelines and Criteria.

e. Owner represents that the reinvestment set forth herein is expected to help to retain at least FIVE HUNDRED FORTY-SIX (546) full time employees within the City of Seguin as of each measurement date during the Commencement Date through December 31, 2027.

f. Owner represents that the reinvestment set forth herein and consisting of the purchase and installation of the personal property set forth above is currently expected to be completed by May 1, 2023.

5. TERMS OF THE AGREEMENT

a. Owner agrees to purchase and install the real and personal property subject to this agreement at its Seguin facility by May 1, 2023.

b. Owner agrees to retain at least FIVE HUNDRED FORTY-SIX (546) full time employees within the City of Seguin as of each measurement date during the Commencement Date through December 31, 2027.

c. Owner agrees to remain current in ad valorem tax payments to all local taxing entities during the abatement period except those that may be subject to good faith dispute.

d. Owner agrees to maintain the property in good repair during the abatement period.

e. Owner agrees to furnish the Chief Appraiser of Guadalupe County Appraisal District with such information as may be necessary for the abatement and for appraisal purposes.

f. Owner agrees to provide access to and inspection of the property and proposed improvements by City agents to insure that improvements are made in accordance with the requirements and conditions of this Agreement. The City of Seguin is required to give Owner reasonable notice of all inspections conducted pursuant to this Agreement and such inspections shall be conducted with a representative of the Owner so as not to interfere or interrupt the operation of the facility.

g. Owner agrees to remain a City of Seguin utility customer (electric, water and sewer) and remain current in its City utility payments for the period of the abatement.

h. Owner agrees that the use of the property subject to this Agreement shall be limited to those uses consistent with the general purpose of encouraging redevelopment of the facility during the period that this Agreement is in effect.

i. Owner agrees to annually certify in writing its compliance with the terms of this agreement, which certification shall be filed with the City of Seguin by January 15th of each year during the term of the abatement, and January 15th of the year following the term of the abatement.

j. Failure to abide by the terms of this Agreement may result in the early termination of this Agreement and the abatement established herein.

6. TAX ABATEMENT

a. Provided that Owner complies with the terms of this agreement throughout the five-year abatement period:

i. In the first year of the abatement period (beginning January 1, 2023) FIFTY PERCENT (50%) of the entire assessed value of the real and tangible personal property listed in Section 3(a) of this Agreement shall be exempt from the City of Seguin ad valorem taxes.

ii. For the year beginning January 1, 2024, FIFTY PERCENT (50%) of the entire assessed value of the real and tangible personal property listed in Section 3(a) of this Agreement shall be exempt from the City of Seguin ad valorem taxes.

iii. For the year beginning January 1, 2025, FIFTY PERCENT (50%) of the entire assessed value of the real and tangible personal property listed in Section 3(a) of this Agreement shall be exempt from the City of Seguin ad valorem taxes.

iv. For the year beginning January 1, 2026, FIFTY PERCENT (50%) of the entire assessed value of the real and tangible personal property listed in Section 3(a) of this Agreement shall be exempt from the City of Seguin ad valorem taxes.

v. For the year beginning January 1, 2027, FIFTY PERCENT (50%) of the entire assessed value of the real and tangible personal property listed in Section 3(a) of this Agreement shall be exempt from the City of Seguin ad valorem taxes.

b. The period of abatement will be five (5) years, commencing on January 1, 2023 (the "Commencement Date"), and expiring after the fifth anniversary of the Commencement Date (January 1, 2027).

c. The base year for determining the value of the existing real property shall be the appraised value determined January 1, 2022.

7. DEFAULT AND RECAPTURE

a. Default, Termination, and Recapture of Tax Savings

i) If Owner refuses or neglects to comply with any of the terms of this Agreement, or if any representation is made by Owner in the tax abatement application is false or misleading in any material respect when made, this Agreement shall be in default.

ii) In the event that City determine Owner to be in default of this Agreement, the City will notify Owner in writing at the address stated in Section 8 of this Agreement.

iii) If default occurs Owner shall forgo any tax benefit under this Agreement during the year the default occurs. If Owner cures the default following notice by City, Owner shall not be liable to repay prior year tax savings, and shall be entitled to the benefits under this Agreement for any future year in which it is not in default.

iv) If the default is not cured within sixty (60) days from the date of such notice, this Agreement may be terminated by the City of Seguin. The City of Seguin may recapture up to 100 percent of the tax savings received by the Owner prior to the date of termination.

b. Recapture in Event of Closure, Relocation, or Discontinuation of Operations

(i) If during the abatement period established by this Agreement Owner discontinues, closes, or relocates its operations in Seguin, Texas then this agreement shall immediately terminate and the City of Seguin may recapture up to 100 percent of the tax savings received by the Owner prior to the date of termination.

(ii) For purpose of this section, the following definitions shall apply:

i. **“Business Activities”** means the business operations of Owner, affiliates, and lessees at site, not limited to, the assembly, manufacturing, storage, distribution of products.

ii. **“Closure”** means the permanent cessation of all Business Activities at the site, with no foreseeable or anticipated commencement of Business Activities.

iii. **“Discontinuation of Activities”** means the temporary cessation of all Business Activities at the site for a continuous period of six (6) months or more during the term of this Agreement, subject to Force Majeure, as defined in Section 7(d) of this Agreement.

iv. **“Relocation”** means the complete movement, transfer, or establishment of a new location for all of the Business Activities outside of current corporate city limits and reinvestment zone.

c. Process for Recapture of Tax Savings. A bill for recaptured taxes will be sent to the Owner, and Owner agrees to pay the total amount within sixty (60) days of receipt. Interest at the rate of six percent (6%) per annum on unpaid amounts will begin to accrue on all amounts that remain unpaid following sixty (60) days after receipt of the bill.

d. Force Majeure. Owner shall not be deemed to be in default or otherwise responsible for delays or failures in performance resulting from acts of God; acts of war or civil disturbance; fires; earthquakes; unavailability of materials, power or communication; or other causes beyond Owner’s reasonable control.

8. NOTICES

All notices shall be in writing, addressed to Owner or City at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail, certified mail, return receipt requested, postage prepaid and properly packaged for delivery. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To **Owner**, via mail or personal delivery:

Attn: Tax Dept.
Tyson Foods, Inc.
2200 W. Don Tyson Parkway
Springdale, AR 72762

With a copy to:

Attn: Law Dept.
Tyson Foods, Inc.
2200 W. Don Tyson Parkway
Springdale, AR 72762

To **City**, via mail or personal delivery:

City Manager
City of Seguin
205 N. River Street
Seguin, Texas 78155

9. AGREEMENT APPROVED BY CITY COUNCIL

The City represents that this Agreement has been approved by affirmative vote of a majority of the members of the Seguin City Council at a regularly scheduled meeting.

10. ASSIGNMENT

This Agreement may be assignable to a new owner only with the approval of the Seguin City Council as reflected in a duly adopted City Resolution or Ordinance. However, this Agreement shall continue to apply to any successor of Owner due to corporate restructuring, including but not limited to absorption into the corporate parent or a brother/sister corporation.

11. SEVERABILITY

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or word herein is held invalid, illegal, or unenforceable, the balance of the Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all time to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word.

12. COUNTERPARTS

This Agreement may be signed in one or more counterparts, and each counterpart will be considered an original Agreement. All of the counterparts will be considered one document and become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other.

13. DATE

This Agreement has been executed by the parties in multiple originals, each having full force and effect on the Commencement Date of the abatement period.

Tyson Farms, Inc.

By: _____

Printed Name:

Title

City of Seguin:

By: _____

Steve Parker

City Manager

Form Approved: _____

Andrew Quittner

City Attorney