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RESOLUTION ELECTING TO BECOME ELIGIBLE TO PARTICIPATE IN TAX ABATEMENT AND ORDER ADOPTING GUIDELINES AND CRITERIA FOR GRANTING PROPERTY TAX ABATEMENTS IN THE JURISDICTION OF TOM GREEN COUNTY, TEXAS

STATE OF TEXAS }
}
COUNTY OF TOM GREEN }

WHEREAS, the Property Redevelopment and Tax Abatement Act (the "Act"), Chapter 312 of the Texas Tax Code authorizes counties, cities and other taxing units to provide temporary property tax abatement for limited periods of time as an inducement for the development or redevelopment of a property; and,

WHEREAS, the Act further requires that in order to become eligible to participate in tax abatement, a county or other taxing unit must adopt a resolution stating its election to do so and adopt guidelines and criteria for property tax abatement agreements; and,

WHEREAS Tom Green County desires to affirm its eligibility to participate in tax abatement; and,

WHEREAS, the Commissioners Court of Tom Green County desires to adopt Guidelines and Criteria for Property Tax Abatement.

NOW, THEREFORE, BE IT ORDERED, by the Commissioners Court of Tom Green County, that the County is eligible to participate in tax abatement and further ORDERS adoption of the Guidelines and Criteria attached hereto as Exhibit A in accordance with the requirements of the Act.

The foregoing Resolution was lawfully moved by Rick Bacon, **duly seconded by** Steve Floyd, **and duly adopted by the Tom Green County Commissioner's Court, the** 15th **day of** September **2015.**

Judge Stephen C. Floyd

Commissioner Ralph Hoelscher, Pct. 1

Commissioner Aubrey deCordova, Pct. 2

Commissioner Rick Bacon, Pct. 3

Commissioner Bill Ford, Pct. 4

ATTEST:

Elizabeth McGill, County Clerk

Exhibit A

Guidelines and Criteria

Guidelines & Criteria for Granting Tax Abatements In the Unincorporated Areas of Tom Green County, Texas

Preamble

Pursuant to Chapter 312 of the Texas Tax Code, in the unincorporated areas, Tom Green County may consider an application for tax abatement, designate a reinvestment zone, and enter into a tax abatement agreement in accordance with these Guidelines and Criteria. It is the express intent of the Tom Green County Commissioners Court to promote economic development, but not at the expense of the County's natural resources or services provided to the general public. No application submitted under the following schedule deemed to have a substantially adverse effect on natural resources in the County or on County infrastructure (including roads and bridges) will be approved, unless the application can demonstrate just cause for such an exception.

I. Abatement Application Procedure

(a) Who may apply. Any present or potential owner of taxable real property in Tom Green County may submit an application for tax abatement conforming to the requirements herein.

(b) Eligible Property. Abatement may be granted for the following property: new expanded or modernized buildings and structures, fixed machinery and equipment; site improvements; other tangible items necessary to the operation and administration of the project or facility; and all other real and tangible personal property permitted by Chapter 312 of the Texas Tax Code. Taxes on real property may be abated only to the extent the property's value for a given year exceeds its value for the year in which the agreement is executed. Tangible personal property located on the real property at any time before the period covered by the agreement is not eligible for abatement. Tangible personal property eligible for abatement shall not include inventory or supplies. Property in a reinvestment zone that is owned or leased by a member of the County Commissioners Court is excluded from property tax abatement.

(c) Application provisions. The application shall consist of a completed Tom Green County Tax Abatement Application Form, which shall contain the following:

(1) information showing how the project meets the requirements of the criteria outlined in Section II below;
(2) a map and description of the property;
(3) a time schedule for completing the planned improvements;
(4) the estimated taxable value or range of values of the project or facility; and
(5) basic financial information about the applicant sufficient to enable evaluation of the application's financial capacity.

(d) Procedure for Consideration of Application. The procedure for consideration by the County of a Tax Abatement Application is as follows:

(1) An applicant may request a Tax Abatement Application from the County Clerk.
(2) File application with a fee of $1,000.00.
(3) After an applicant completes the Tax Abatement Application, the applicant must provide a copy to each member of the Tom Green County Commissioners Court and the County Clerk;
(4) The Commissioners Court shall issue a determination at any time before the expiration of forty-five (45) days from the date of receipt of the application regarding how to proceed with the application.
   (a) *Denial of Application.* If the Commissioners Court chooses to deny the application, it shall make a finding by majority vote at a regularly scheduled meeting that, after balancing the criteria described below in Section II, it is the judgment of the Commissioners Court that the application should be denied.
   (b) *Consideration of Application.* If the County determines that the application should be further considered, the Commissioners Court must hold a public hearing to obtain public input on the application. Not later than the seventh (7^{th}) day before the date of the hearing, notice of the hearing must be: (1) delivered in writing to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, and (2) published in a newspaper of general circulation in the County. At the hearing, the Commissioners Court evaluates the application against the criteria in Section II and decides by majority vote whether to designate the property for which the abatement is sought as a reinvestment zone. If the reinvestment zone is designated, the Commissioners Court shall pass an order to that effect. An order designating an area as a reinvestment zone is valid for five years from the date of designation. Once the area is designated as a reinvestment zone, the Commissioners Court may then arrange to consider for approval of the tax abatement agreement between the applicant and the County at its next regularly scheduled meeting. At least seven days prior to entering into a tax abatement agreement, the County must give written notice of its intent to do so to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, along with a copy of the proposed tax abatement agreement. At the regularly scheduled meeting, the Commissioners Court may finally vote by simple majority to enter into the tax abatement agreement, or to decline. An approved tax abatement agreement may be executed in the same manner as other contract made by the County. A tax abatement agreement that is declined by the County may be amended and resubmitted to the County.
   (c) *Confidentiality.* As required by Chapter 312.003 of the Texas Tax Code, information that is provided to Tom Green County in connection with an application or request for tax abatement under this chapter and that 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 the tax abatement agreement is executed and public disclosure will be made.

II. Criteria for Designating a Reinvestment Zone and Evaluating Tax Abatement Agreement

(a) Minimum requirements. To be designated a reinvestment zone, County Commissioners must find a majority vote that the designation would contribute to the retention or expansion of primary employment or would attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the County.

(b) Criteria. In determining whether to designate a reinvestment zone and whether to enter into a tax abatement agreement, the Commissioners Court shall consider the following factors, among other determined appropriate by the Court:

(1) the current value of land and existing improvements, if any;
(2) the type, value, and purpose of proposed improvements, if any;
(3) the productive life of proposed improvements, if any;
(4) the impact of proposed improvements and any other proposed expenditures on existing jobs;
(5) the number and type of new jobs, if any, to be created by proposed improvements and expenditures;
(6) any costs to be incurred by Tom Green County, if any, to provide facilities or services directly resulting from the new improvements;
(7) the types and values of public improvements, if any, to be made by applicant seeking abatement;
(8) an estimate of the amount of ad valorem property taxes to be paid to Tom Green County after expiration of the abatement agreement;
(9) the impact on the business opportunities of existing businesses and the attraction of new businesses to the area, if any;
(10) the overall compatibility with the zoning ordinances and comprehensive plan, if any, for the area;
(11) whether the applicant's proposed facility or improvement or modernization is an industry which is new to Tom Green County;
(12) the impact upon County infrastructure including roads, bridges, and the use of County Services;
(13) Financial, managerial and historical record of the applicant and its principals.

III. Format for Tax Abatement Agreement

(a) Required Provisions. If the Tom Green County Commissioners Court designates a reinvestment zone, it may consider and execute a tax abatement agreement with the owner of the designated property as outlined above. Any tax abatement agreement shall include at least the following provisions:

(1) the kind, number and location of all proposed improvements of the property;
(2) provisions allowing for reasonable access to the property for initial and intermittent inspection purposes by County employees or designated representatives to ensure improvements are made in compliance with the agreement;
(3) provisions limiting the use of the property consistent with the general purpose

of encouraging development or redevelopment of the area during the period of the abatement;

(4) provisions for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided in the agreement;
(5) each term agreed to by the recipient of the abatement;
(6) a requirement that the abatement recipient certify its compliance with the agreement annually to each taxing unit that is party to the agreement;
(7) provisions allowing the County to cancel or modify the agreement if the recipient fails to comply with the agreement.

(b) Optional Provisions. The tax abatement agreement may also contain any or all of the following items, in addition to any others deemed appropriate by the contracting parties:

(1) the estimated taxable value or range of values for which taxes are to be abated;
(2) the percent of value to be abated each year;
(3) the commencement and termination dates of the abatement;
(4) the proposed use of the property;
(5) a time schedule, map, and property description;
(6) contractual obligations in the event of default or violation of terms or conditions;
(7) the size of investment and number of temporary and permanent jobs involved, if any;
(8) provisions for dispute resolution.

(c) Duration and portion of abatement. A tax abatement agreement granted by Tom Green County shall be up to but not exceeding ten (ten) years in duration and up to but not exceeding 100 percent (100%) in portion of ad valorem property taxes abated. At any time before the expiration of the agreement, the parties may agree to modify the agreement or to delete the provisions that were not necessary to the original agreement. The same procedural prerequisites for approval of the original agreement apply to modification of the agreement.

(d) Time Limit. Such Agreement shall be executed within 30 days after the passage of the resolution approving the agreement, unless the County and applicant agree otherwise.

IV. General Provisions

These guidelines and criteria in no way require the County to enter into any specific tax abatement agreement. The County maintains the discretion to reject any application for tax abatement as it deems appropriate.

V. Sunset and Amendment of Guidelines and Criteria

The guidelines and criteria are effective upon the date of their adoption and will remain in force for two years, unless amended by a three-fourths vote of the Tom Green County Commissioners Court.

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VI. Variances from Guidelines and Criteria

The Commissioners Court shall have the authority to enter into an abatement agreement with terms and conditions that vary from the terms and conditions in these guidelines and criteria so long as the Commissioners Court determines that such variances are in the best interests of the County. Any terms or conditions contained in a Tax Abatement Agreement approved by the Commissioners Court that vary from the terms and conditions in these guidelines and criteria shall automatically be deemed to have been granted an approved variance by the Commissioners Court and shall be binding and enforceable as agreed to in the Tax Abatement Agreement.