

**IN THE
POTTER COUNTY COMMISSIONERS COURT
POTTER COUNTY, TEXAS**

RESOLUTION and

GUIDELINES FOR TAX ABATEMENT AGREEMENTS

10-14-2019

On the 14th day of October, 2019 the Potter County Commissioners Court met in regular session and passed this RESOLUTION, DECLARATION, and ORDER by unanimous vote of a quorum of the court:

IT IS HEREBY RESOLVED, DECLARED, and ORDERED by the Potter County Commissioners Court that Potter County elects to become eligible to participate in tax abatements, and establishes the following guidelines for the approval of tax abatement requests pursuant to Chapter 312 of the Texas Tax Code and Chapter 381 of the Texas Local Government Code.

A. Definitions

(a) "Abatement" means the full or partial exemption from ad valorem taxes on certain real or personal property located in Potter County for economic development purposes.

(b) "Base Year Value" means the assessed value of an applicant's existing property, for which a tax abatement is approved, as of the date the tax abatement agreement is signed.

(c) "Economic Life" means the number of years a property improvement or project is expected to remain in service or in operation.

(d) "Expansion" means the addition of buildings and other structures, fixed machinery and equipment, and other fixed personal property, for the purpose of increasing production or distribution capacity.

(e) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

(f) "Project" means the proposed creation or expansion of a business enterprise in Potter County, Texas.

B. Reinvestment Zones

(a) The designation of any area as a reinvestment zone, and the granting of any tax abatement in such a zone, shall be governed by the provisions of Chapter 312 of the Texas Tax Code, as well as these guidelines.

(b) Designation of any area as a reinvestment zone requires a showing that the designation will contribute to the retention or expansion of employment opportunities, or the attraction of major investment, within the reinvestment zone.

(c) Designations of reinvestment zones expire five years following the date of designation, and may be renewed for periods not to exceed a total of five additional years.

C. Conditions for Consideration of Requests for Tax Abatements

Consideration and approval of a request for tax abatement is subject to a finding by the Potter County Commissioners Court (the Court) that the proposed project will, in reasonable probability, meet the following conditions and criteria, provided that the court may waive or modify one or more of these conditions upon a finding that the overall benefits of a particular project, to Potter County and its citizens, outweigh strict adherence to one or more of these conditions.

(a) The applicant shall not be indebted to or delinquent in payment of any obligation to Potter County;

(b) The applicant has sufficient resources, access to financing, and expertise to complete the project, with or without a tax abatement from Potter County, but will not proceed with the project *in Potter County* without the benefit of the proposed abatement.

(c) The proposed project will increase the aggregate appraised value of the property upon which it is situated, including taxable improvements added to the property by the project, in an amount acceptable to the Court, and in no event less than 30 percent as of the date of expiration of the abatement period.

(d) The proposed project will generate no significant adverse environmental impacts on the property upon which it is situated, or adjoining property, or the community at large.

(e) The project and resulting business activities will utilize Potter County businesses for a minimum of 25 percent of the total costs of construction contracts for the project, and for annual supply and service contracts and trade accounts going forward.

(f) The project owner or operator will hire Potter County residents for a minimum of 25 percent of new full-time jobs created by the project.

(g) The project owner or operator will at all times offer a high quality health benefit plan to its full-time employees and their dependents with premium allocations, deductibles, and co-pays that are affordable for participating employees.

(h) The economic life of the project and improvements will exceed the life of the abatement agreement.

D. Terms

(a) Abatement will apply only to property identified in the abatement agreement as eligible for the abatement. The following categories of property are not eligible for abatement: (1) land, (2) inventory, supplies, and consumables, (4) tools of trade, office furnishings and other forms of movable personal property, (4) trucks, vehicles, aircraft, and other transportation equipment and devices.

(b) Abatement will apply only to increases in appraised value, above the base year value, during the term of the abatement. During the term of the abatement taxes will be levied and collected on: (1) the full value of property not specifically identified in the agreement as eligible for the abatement, (2) the *base year value* of property that is subject to the agreement, and (3) the full value of existing property that is currently on Potter County tax rolls and is moved from another location and made part of the project. Upon expiration of the abatement period, the full value of all taxable property shall become fully taxable.

(c) If an abatement is granted for a facility under lease, the abatement agreement must be signed by both the lessor and the lessee.

(d) Abatement is effective with the signing of the abatement agreement unless otherwise specified. The granting of an abatement, and the amount of the abatement, if granted, is solely within the discretion of the Potter County Commissioners Court applying the conditions, criteria, and terms stated herein.

E. Agreement.

Upon approval of a request for tax abatement, the County will prepare a tax abatement agreement, or join in a tax abatement agreement prepared by another taxing entity, which must be approved by order of the Court, and which shall include the following information, in addition to meeting the other terms and conditions stated herein:

- (a) Identification of the property covered by the agreement;
- (b) The base year values of property covered by the agreement;
- (c) The percent of value to be abated each year on such property;
- (d) The beginning and ending dates of the abatement period;
- (e) The nature of the project and its business operations, with a description of improvements to be constructed and installed, and a time-line for construction and installation;
- (f) The amount of capital investment into the project, and the number of jobs that will be created by the project; and

- (g) A description of the health benefit plan that will be offered to employees and their dependents.

F. Compliance Monitoring and Reporting

The agreement shall stipulate that the Potter County Judge or his or her designee shall at all reasonable times have access to the project site or reinvestment zone during the term of the abatement to inspect projects to determine if the terms and conditions of the agreement are being met. The agreement shall require annual reporting, on or about the anniversary date(s) of the agreement, regarding the following as of the date of the report:

- (a) Number of full-time and part-time employees and gross total payroll;
- (b) The appraised value of the property and improvements;
- (c) A summary of any notices, complaints, citations, fines, or litigation alleging adverse environmental conditions or activities on the property;
- (d) Documentation to confirm utilization of Potter County businesses for a minimum of 25 percent of the total costs of construction contracts for the project, and for annual supply and service contracts and trade accounts going forward;
- (f) Documentation to confirm the employment of Potter County residents for a minimum of 25 percent of full-time jobs created by the project; and
- (g) Documentation of the health benefit plan offered to full-time employees and their dependents.

G. Recapture.

The Potter County Commissioners Court reserves the right to review compliance for full or partial recapture of abatements in the event that applicant fails to perform in good faith. If a project is not completed as specified in the tax abatement agreement, the County has the right to cancel the abatement agreement and declare that abated taxes are immediately due to the County and other affected taxing units. If benchmarks stated in the abatement agreement are not met, the County shall have the right to adjust the terms of abatement, suspend the abatement pending compliance, or cancel the abatement agreement in its entirety.

H. Miscellaneous Conditions

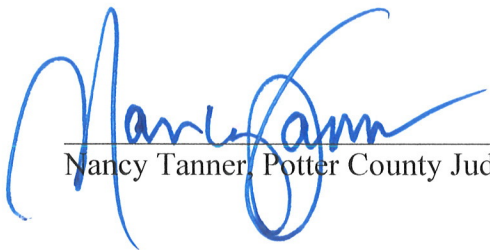
- (a) Pursuant to section 312.003 of the Texas Tax Code, confidential information identified as such by the applicant, shall remain so until the tax abatement is executed, or release of the information is approved by the Attorney General of the State of Texas or ordered by a court having jurisdiction regarding same.

(b) The County will not participate in establishment of a reinvestment zone, or in an abatement, if it finds that the application for same was filed after the commencement of construction, modification, or installation of improvements related to the project for which the abatement is sought.

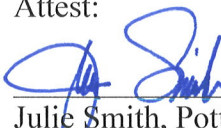
I. Assignment.

Tax abatement agreements may be assigned to a new owner or lessee only with the written consent of the Court, which consent shall not be unreasonably withheld. An assignment must provide that the assignee irrevocably and unconditionally assumes all duties and obligations of the assignor upon the same terms and conditions as set out in the agreement.

ADOPTED and ORDERED on October 14, 2019 by unanimous vote of a quorum of the Potter County Commissioners Court.



Nancy Tanner, Potter County Judge

Attest:


Julie Smith, Potter County Clerk



EXHIBIT A
TO POTTER COUNTY GUIDELINES
FOR TAX ABATEMENT AGREEMENTS

APPLICATION FOR CONSIDERATION OF TAX ABATEMENT REQUEST

1. Name and business address of applicant requesting abatement:
2. Location in Potter County for which tax abatement is requested. Please provide street address, legal description, and survey map.
3. Addresses of applicant's other business operations in the Texas Panhandle (top 26 counties)
4. Name, position, telephone number, and e-mail address for applicant's point of contact
5. Summary description of proposed improvements and anticipated time-line for the project.
6. Current appraised value of land for which abatement is requested, and of existing improvements located thereon. Please provide the most recent appraisal of same from the Potter-Randall Appraisal District.
7. Please state: (a) number of current employees and amount of current payroll, if any, (b) projected number of new full-time and part-time jobs that will be created by the project, and (c) total payroll anticipated at 12 months, 18 months, 24 months, 36 months, 48 months, and 60 months into the abatement period.
8. Please provide a complete financial statement for the applicant, including the applicant's most recent balance sheet, P & L statement, and cash flow statement.
9. Applicant represents, to the best of applicant's knowledge and belief, that:
 - (a) The applicant has sufficient resources, access to financing, and expertise to complete the project, with or without a tax abatement from the County.
 - (b) The proposed project will generate no significant adverse environmental impacts on the property upon which it is to be situated, or adjoining property, or the community at large.
 - (c) If applicant is a business entity, applicant affirms that the entity is authorized to do business in the State of Texas and that all tax accounts and public information filings required by the Texas Comptroller and the Texas Secretary of State have been paid and filed, and that the entity is in good standing with the Texas Comptroller and the Texas Secretary of State. Applicant further acknowledges that applicant is current on all federal, state, and Potter County tax obligations, assessments, licensing fees, and any other governmental levies, fees, or and

assessments required of applicant, and that there are no delinquencies with respect to same at this time.

Signed this _____ day of _____, 20____.

Name of Applicant

By:

(Signature)

Printed Name

Capacity