

RESOLUTION NO. 017-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, REAUTHORIZING THE TAX ABATEMENT GUIDELINES AND CRITERIA; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 312.002 of the Tex. Tax Code authorizes the governing body of municipality to enter into tax abatement agreements under established tax abatement guidelines and criteria; and

WHEREAS, the governing body is required under Ch. 312 to reauthorize these guidelines and criteria every two years following a public hearing; and

WHEREAS, the City Council held a public hearing regarding the above-described guidelines and criteria at a regular meeting on June 11th, 2024 ; and

WHEREAS, the City Council wishes to renew the City's eligibility to participate in tax abatement and; therefore, reauthorizes these Tax Abatement Guidelines and Criteria;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BIG SPRING, TEXAS, THAT:

SECTION 1. The City Council hereby amends the Tax Abatement Guidelines, attached as Exhibit A, and incorporated herein as if copied verbatim.

SECTION 2. The Tax Abatement Committee shall ensure that these guidelines and criteria are implemented.

SECTION 3. Any prior resolution that is inconsistent with this Resolution is hereby repealed and declared to be of no further force or effect.


SECTION 4. This Resolution shall take effect immediately after passage in accordance with the provisions of the Charter of the City of Big Spring.

PASSED AND APPROVED on first reading at a regular meeting of the City Council on the **11th** day of **June, 2024** with all members of the Council present voting "aye" for the passage of same.

PASSED AND APPROVED on second and final reading at a regular meeting of the City Council on the **25th** day of **June, 2024** with all members of the Council present voting "aye" for the passage of same.

ATTEST:

Tami L. Davis, City Secretary


Robert H. Moore, III, Mayor

**CITY OF BIG SPRING, TEXAS
TAX ABATEMENT GUIDELINES AND CRITERIA**

The purpose of this document (these “Guidelines and Criteria”) is to establish guidelines, criteria, and a uniform policy of tax abatement for owners or lessees of eligible facilities willing to execute tax abatement contracts 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 the event of a conflict or inconsistency between the provisions of these Guidelines and Criteria and those of Chapter 312 of the Texas Tax Code, the terms of the Texas Tax Code shall control.

Notwithstanding the criteria set forth herein, the Big Spring City Council reserves the right to negotiate the terms of any Abatement Agreement in order to compete favorably with other communities and may include provisions that are more or less restrictive than these Guidelines and Criteria if deemed necessary.

Only that increase in the fair market value of the property that directly results from the development, redevelopment, or 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.

This policy is effective as of June 25, 2024 and shall at all times be kept current with regard to the needs of the City and reflective of the official views of the Big Spring City Council.

TAX ABATEMENT COMMITTEE-SECTION 1

A. A Tax Abatement Advisory Committee exists which is composed of at least, but not limited to, one representative of the City of Big Spring City Council, one representative of the Howard County Commissioner’s Court, one representative of Howard College Board of Trustees, and three members appointed by the Big Spring Economic Development Corporation which shall include a Certified Public Accountant, a Developer, and a representative of the financial community. The Chief Appraiser of the Howard County Tax Appraisal District and the Executive Director of Big Spring Economic Development Corporation serve as ex-officio members of the Committee. Members are appointed for terms of one year to run from July 1 to June 30. The Committee will make recommendations regarding contract terms and adoption or rejection of all tax abatement applications that are submitted to the City. No action or recommendation of the Tax Abatement Advisory Committee shall limit the discretion of the Council to consider, adopt, modify or decline any request for the creation of a Reinvestment Zone or tax abatement request.

B. It is within the purview of the Council to grant tax abatement on the same or similar terms and conditions as the other taxing units having jurisdiction over a property. However, nothing

Exhibit A

herein shall limit the discretion of the City Council to consider, adopt, modify or decline any tax abatement request.

- C. The adoption of these guidelines and criteria by the Council does not:
- (1) limit the discretion of the Council to decide whether to enter into a specific tax abatement agreement;
 - (2) limit the discretion of the Council to delegate to City employees the authority to determine whether the Council should consider a particular application or request for tax abatement; or
 - (3) create any property, contract, or other legal right in any person to have the Council consider or grant a specific application or request for tax abatement.

DEFINITIONS-SECTION 2

“Abatement” means tax abatement, or the full or partial exemption from ad valorem taxes of certain property in a Reinvestment Zone designated in the City of Big Spring, Texas.

“Abatement Agreement” means a contractual agreement between a property owner and/or lessee and the City of Big Spring for tax abatement.

“Base year value” means the assessed value of any eligible Real Property or Tangible Personal Property as of January 1 of the year in which an Abatement Agreement for that Real Property or Tangible Personal Property is executed.

“Council or City Council” means the City Council of Big Spring, Texas.

“City” means Big Spring, Texas.

“Deferred Maintenance” means improvements necessary for continued operation which do not improve productivity or alter the process technology.

“Eligible Property” means new, expanded, or modernized buildings, facilities, structures, fixed machinery and equipment, site improvements, and other forms of Tangible Personal Property, that are reasonably likely as a result of granting Abatement to contribute to the retention or expansion of primary employment or to attract investment that would be a benefit to, and contribute to the economic development of, the City of Big Spring. The term, “Eligible Property” shall not include property described by Section 312.211(a) of the Texas Tax Code.

“Expansion” means the addition of buildings, structures, machinery, equipment, Tangible Personal Property, or payroll for purposes of increasing production capacity.

Exhibit A

“Modernization” means a complete or partial demolition of existing facilities and the complete or partial reconstruction or installation of new facilities of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, or equipment, or both.

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

“Real Property” means any piece of land or condominium interest.

“Reinvestment Zone” is Real Property designated as a Reinvestment Zone under Chapter 312 of the Texas Tax Code or other Texas law.

“Tangible Personal Property” is any personal property, including, without limitation, any piece of machinery or equipment or any appliance that is used in any improvements or placed on any Real Property.

ABATEMENT AUTHORIZED - SECTION 3

A. **Eligibility.** Upon application, Eligible Property may be considered for 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 and specified in an Abatement Agreement between the City of Big Spring and the property owner or lessee, subject to such limitations as the Council may require.

C. **Eligible Property.** Subject to the limitations hereof, Abatement may be extended to the value of Eligible Property.

D. **Ineligible Property.** The following types of property shall be fully taxable and ineligible for Abatement: Deferred Maintenance; property to be rented or leased (except as provided in this Section 3; and property which has a productive life of less than two times the term of the Abatement Agreement.

E. **Owned/Leased Facilities.** If taxes are abated on leased Eligible Property, the Abatement Agreement shall be executed by both the lessor and lessee of such property. This does not apply to the lease of individual units of a multi-family residence or a shopping center.

F. **Economic Qualification.** In order to be Eligible Property and considered for Abatement, Tangible Personal Property or Real Property:

- (1) Must be reasonably expected to have an increase in positive net economic benefit to the City over the life of the Abatement. This includes but is not limited to new

Exhibit A

payroll and/or capital improvements. The creation of new jobs will also factor into the decision to grant an Abatement; and

- (2) Must not be expected to solely or primarily have the effect of transferring employment from one part of Howard County to another without a super-majority vote of approval from the Council.

G. Standards for Tax Abatement. The following factors, among others, shall be considered in determining whether to grant Abatement:

- (1) Value of existing improvements, if any;
- (2) Type and value of proposed improvements;
- (3) Productive Life of proposed improvements;
- (4) Number and term of existing jobs to be retained by proposed improvements;
- (5) Number, term 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 jurisdictions;
- (8) Amount of local sales taxes and/or hotel-motel taxes to be generated directly;
- (9) Amount that the property tax base valuation will be increased during the term of Abatement and after Abatement;
- (10) The costs to be incurred by the City to provide facilities or services directly resulting from new improvements;
- (11) The amount of ad valorem taxes to be paid to the City during the Abatement period considering (a) existing values, (b) the percentage of new value abated, (c) the Abatement period, and (d) property value after expiration of the Abatement period;
- (12) The population growth of the City that occurs directly as a result of new improvements;
- (13) The types and values of public improvements, if any, to be made by an applicant seeking Abatement;

Exhibit A

- (14) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (15) The impact on existing business;
- (16) The attraction of other new businesses to the area;
- (17) The overall compatibility with any zoning ordinances or comprehensive plan for the area;
- (18) Whether the project has obtained any necessary permits from applicable environmental agencies;
- (19) Whether the requesting entity is receiving federal or state tax credits or subsidies.
- (20) Whether the abatement would establish a competitive disadvantage to existing businesses in the taxing area.

All applications for Abatement shall be reviewed on their merits utilizing the factors provided above, among others. After such review, Abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

H. **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) The planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- (4) The planned or potential use of the property would be likely to cause a violation of any local, state or federal code or law; or
- (5) The Reinvestment Zone or Abatement Agreement is deemed inappropriate for any other reason by the Council.

I. **Taxability.** Notwithstanding the terms of any Abatement Agreement, taxes shall be payable as follows:

- (1) The value of any Real Property or Tangible Personal Property not subject to Abatement shall be fully taxable;

Exhibit A

- (2) Ineligible property as provided in Section 3 hereof shall be fully taxable;
- (3) The base year value of property comprising the Eligible Property but existing before any Abatement Agreement is executed shall be fully taxable; and
- (4) The additional value of new Eligible Property shall be fully taxable at the beginning of the first tax year after the Abatement ends.

The Big Spring City Council, as a part of the approval of Abatement or during the duration of Abatement, may at its discretion require the entity or entities requesting or receiving Abatement to provide a performance bond naming the City as the recipient. Should the entity or entities requesting or receiving Abatements default on its contractual obligation to perform as agreed in the Abatement Agreement, City personnel will use the performance bond to offset any or all property taxes that would have been collected had the Abatement not been in place.

REINVESTMENT ZONE - SECTION 4

No Real Property or Tangible Personal Property is eligible for Abatement unless such Real Property or Tangible Personal Property is located in a Reinvestment Zone designated in accordance with Chapter 312 of the Texas Tax Code or other relevant Texas law.

APPLICATION - SECTION 5

A. **Applicant.** Any present or potential owner or lessee of taxable property in the City limits may request the creation of a Reinvestment Zone and/or tax abatement by filing with the City Manager a written application in a form substantially similar to that attached hereto as Exhibit A.

B. **Application.** At a minimum, the application shall consist of: a general description of the new improvements to be undertaken; a descriptive list of the improvements for which tax abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; and 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 Council may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant to be included with the application. The completed application must be accompanied by the payment of a non-refundable application fee of ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00), although that fee may be waived by the Council. All checks in payment of the administrative fee should be made payable to the City of Big Spring.

C. **Notice.** City personnel shall provide written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to a proposed Abatement Agreement is located, along with notice published in a newspaper of general circulation within such taxing

Exhibit A

jurisdiction, not later than the thirtieth day before a public hearing relating to a proposed Abatement Agreement. Before acting upon the application, the Council 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.

D. **Joint Application.** If any other taxing entity within the City limits designates a Reinvestment Zone within its boundaries and enters into or proposes to enter into an Abatement Agreement with a present or potential owner of a taxable property, such present or potential owner of taxable property may request Abatement from the City by following the same application process described herein.

AGREEMENT - SECTION 6

A. After application approval, the Council shall formally pass a resolution and execute an Abatement Agreement with the owner of the Eligible Property and lessee as required which shall:

- (1) include a list of the kind, number, and location of all proposed improvements to the property;
- (2) provide access to and authorize inspection of the property by the taxing unit to ensure compliance with the Abatement Agreement;
- (3) limit the use of the property as allowed under Chapter 312 of the Texas Tax Code;
- (4) provide for recapturing property tax revenues that are lost if the owner fails to make the improvements as provided by the Abatement 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 Abatement Agreement to each taxing unit; and
- (6) allow the taxing unit to cancel or modify the Abatement Agreement at any time if the property owner fails to comply with the terms of that agreement.

RECAPTURE - SECTION 7

Any Abatement Agreement made pursuant to these Guidelines and Criteria shall provide for the recapture of all taxes previously abated in the event the applicant breaches the terms that agreement.

ADMINISTRATION - SECTION 8

Exhibit A

- A. The Chief Appraiser of the Howard County Appraisal District will annually determine an assessment of the real and personal property comprising the Eligible Property located in a 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 City Manager of the amount of the assessment.
- B. The City may execute a contract with any other jurisdiction(s) to inspect the Eligible Property 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 the City will have access to the Eligible Property during the term of the Abatement to determine whether the terms and conditions of the Abatement 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 manner as to not unreasonably interfere with the construction and/or operation of an affected facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- C. A designated representative of the City shall annually evaluate property subject to Abatement to ensure compliance with the Abatement Agreement.
- D. The City of Big Spring shall notify the Chief Appraiser of Howard County of the establishment of any Reinvestment Zone or approval of any Abatement Agreement.
- E. The Chief Appraiser of Howard County shall deliver to the State Comptroller before July 1 of the year following the year in which a Reinvestment Zone is created or an Abatement Agreement is executed a general description of the zone, the relevant Guidelines and Criteria, and a copy of each Abatement Agreement to which the City is a party.
- F. For each of the first three tax years following the expiration of an Abatement Agreement, the chief appraiser shall deliver to the comptroller a report containing the appraised value of the property that was the subject of that agreement.

ASSIGNMENT - SECTION 9

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same Eligible Property only upon the approval by resolution of the City Council subject to the financial capacity of the proposed assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new agreement with the City. No assignment or transfer shall be approved if the parties to the existing Abatement Agreement, the new owner or new lessee are liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably delayed or withheld.

SUNSET PROVISION - SECTION 10

Exhibit A

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 Big Spring City Council, 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 that review, the Guidelines and Criteria will be modified, renewed, or eliminated.

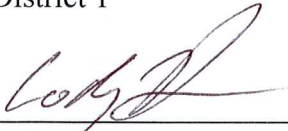
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Adopted June 25, 2024

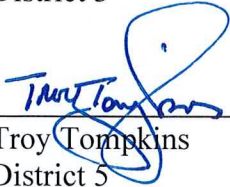
Big Spring City Council:



Nick Ornelas
District 1



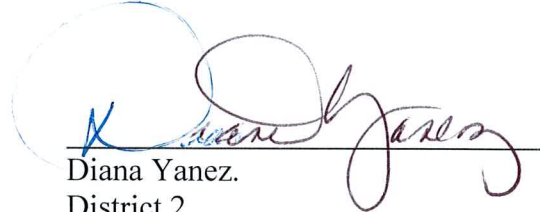
Cody Hughes
District 3



Troy Tompkins
District 5



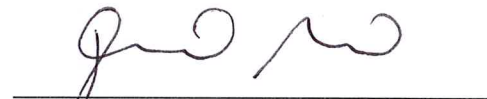
Robert H. Moore, Mayor



Diana Yanez.
District 2



Homer Wilkerson
District 4



Danfel Moreno
District 6

Exhibit A
Application
for
Tax Abatement

Application for Tax Abatement

City of Big Spring, Texas

**Property Redevelopment & Tax Abatement Act
(Tex. Tax Code Chapter 312)**

I. APPLICABLE INFORMATION

Application Date: _____

Is \$1000 application fee included? Yes _____ No _____

Applicant Company: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Applicant's Representative for contact regarding abatement request:

Name: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

II. PROPERTY AND PROJECT DESCRIPTION

This application is for a: New facility _____ Expansion _____ Modernization _____

Number of jobs expected to be filled by local residents:

Number of jobs that will be transferred from other locations in Howard County:

IV. FISCAL IMPACT OF PROJECT

A. PROPERTY IMPROVEMENTS

Estimated Value of Eligible Property for ad valorem tax purposes: \$ _____

B. NET ECONOMIC BENEFIT

Estimated net economic benefit to the City of Big Spring: \$ _____

C. INFRASTRUCTURE IMPROVEMENTS

Will any infrastructure improvements be requested of the City of Big Spring for this project?

Yes ____ No ____

V. CERTIFICATION

I certify the information contained in this application (including all exhibits and addendum) to be true and correct to the best of my knowledge. I further certify that I have read the "Tax Abatement Guidelines and Criteria" for the City of Big Spring and agree to comply with the guidelines and criteria stated therein.

Signature

Title

Printed Name

Date

Exhibit A

Legal Description of Property to be considered for
Reinvestment Zone/Tax Abatement

Exhibit B

Proposed Improvements to be considered for
Tax Abatement