

**ORDER ADOPTING AMENDMENT TO GUIDELINES AND CRITERIA
FOR
GRANTING TAX ABATEMENTS
IN HIDALGO COUNTY, TEXAS**

WHEREAS, the Commissioners Court of Hidalgo County, Texas, adopted Guidelines and Criteria for Granting Tax Abatements in Hidalgo County, Texas, effective June 26, 2012, (the "Guidelines") to allow Hidalgo County, on a case-by-case basis, to give consideration to providing tax abatement as a stimulation for economic development in Hidalgo County pursuant to chapter 312 of the Texas Tax Code.

WHEREAS, the Commissioners Court of Hidalgo County desires to amend the Guidelines in order to better provide for the stimulation of economic development in Hidalgo County.

NOW, THEREFORE IT IS HEREBY ORDERED that the Commissioners Court of Hidalgo County, Texas, hereby adopts the Amendment to Guidelines and Criteria for Granting Tax Abatements in Hidalgo County, Texas, attached as Exhibit A.

PASSED, APPROVED, ADOPTED AND ORDERED this the 20th day of November, 2012, by the Commissioners Court of Hidalgo County, Texas.

SIGNED AND ENTERED ON THE ABOVE DATE BY THE FOLLOWING MEMBERS OF
THE HIDALGO COUNTY COMMISSIONERS COURT

RAMON GARCIA
County Judge

JOEL QUINTANILLA
County Commissioner, Pct. 1

HECTOR "TITO" PALACIOS
County Commissioner, Pct. 2

JOE M. FLORES
County Commissioner, Pct.3

JOSEPH PALACIOS
County Commissioner, Pct. 4

Attested to:

APPROVED AS TO FORM:
ATLAS AND HALL, L.L.P.

ARTURO GUAJARDO, JR.
County Clerk

By: _____
STEPHEN L. CRAIN

EXHIBIT A

AMENDMENT EFFECTIVE NOVEMBER 20, 2012 TO

JUNE 26, 2012

GUIDELINES AND CRITERIA FOR
GRANTING TAX ABATEMENTS
IN HIDALGO COUNTY, TEXAS
(AS AMENDED JULY 10, 2012)

1. Owner and Lessor/Lessee Tax Abatements Determined in Same Manner. Section III.G (1) and (2) of the Guidelines and Criteria for Granting Tax Abatements in Hidalgo County, Texas, effective June 26, 2012 (as amended through the date hereof, the “Guidelines and Criteria”) are amended to read in their entirety as follows:

- (1) An owner or a lessor and lessee, as the case may be, of real property where an eligible facility is prior to the inception of the project(s) subject to an agreement or on which an eligible facility will be constructed as part of the project, must agree to expend a designated sum of money as the Capital Cost of the project and/or provide a certain number of Jobs in order to qualify for an abatement and must expend at least the sum agreed to as the Capital Cost of the project and provide at least the agreed number of Jobs in accordance with the agreement in order to receive such abatement.
 - a. General. The percent of value to be abated is the greater percentage for which the project qualifies as set forth below determined by the Capital Cost expended by the owner or lessor and lessee, as the case may be, in the project or the number of Jobs created:

Percent of Increase in Property Value to be Abated	Capital Cost of the Project	Number of Jobs Created
0%	Less than \$1,500,001	0 – 25
25%	\$1,500,001 up to and including \$5,000,000	26 – 50
50%	Over \$5,000,000 up to and including \$10,000,000	51 – 100
80%	Over \$10,000,000	101 or more

- b. Extraordinary Impact Projects. The owner or lessor and lessee may, in lieu of the schedule set forth in subsection (a) above opt for the following provisions if the Capital Cost is at least equal to \$25,000,000.00 or the Project creates at least 500 Jobs:

**Percent of Increase in
Property Value to be Abated**

**During Year of
Abatement Period**

100%
90%
80%
70%
60%
50%
40%

Initial Period
First Year after Initial Period
Second Year after Initial Period
Third Year after Initial Period
Fourth Year after Initial Period
Fifth Year after Initial Period
Sixth and subsequent Years after
Initial Period

The “Initial Period” is the first one to four years of the tax abatement period, determined as follows: the Initial Period commences on the January 1 following execution of the tax abatement agreement (or such later January 1 as may be agreed to in the tax abatement agreement, provided such January 1 is not more than 3 years after execution of the tax abatement agreement) and ends on the earlier of the fourth December 31 occurring after such January 1 and the December 31 occurring after substantial completion of construction of improvements. Regardless of the length of the Initial Period, the tax abatement period shall not exceed ten years. The owner or lessor and lessee must make such election in the tax abatement agreement. In the event the parties have opted for this provision but it is later determined that the actual Capital Cost or Jobs do not qualify for this provision, the provisions of subsection (a) above will apply in lieu of the provisions of this subsection (b) and any taxes abated prior to the determination that this provision was inapplicable in excess of the amount that would have been abated pursuant to subsection (a) above shall be immediate recaptured and paid by owner or lessor and lessee.

- (2) The applicable percentage set forth in subsection (G) (1) of this Section III (based on whether the Capital Cost of the project or Job creation results in a higher percentage and whether, if applicable, the Extraordinary Impact provision was opted for in the tax abatement agreement) is applicable only to the newly created value of real property at the eligible facility and of personal property owned by the owner or the lessor and lessee at the eligible facility as determined by the Hidalgo County Appraisal District and these Guidelines and Criteria.

2. Changes to Timing Provisions, including Limited Commencement of Construction Allowed Prior to Execution of Tax Abatement Agreement Section IV.C of the Guidelines and Criteria is amended to read in its entirety as follows:

C. Timing Provisions.

- (1) Notwithstanding any provision to the contrary in Sections IV or V of these Guidelines and Criteria, to the extent allowable under applicable law, the Commissioners Court in its discretion may:
 - (i) allow additional time for compliance with the requirements in Sections IV and V of these Guidelines and Criteria with respect to any applications received after October 1 of the calendar year and may consider, approve and enter into an agreement during the calendar year in which the application was received after October 1 if the Commissioners Court in its discretion determines the County had adequate time to review and consider the application and the agreement, and
 - (ii) consider and approve a tax abatement and enter into an agreement prior to receipt of all required information, provided that if such abatement is granted the agreement requires the owner or lessor and lessee to comply with any such provisions within thirty days of the date of the agreement and allows the County to terminate the agreement in the event any conditions in the agreement are not timely met.

- (2) Provided commencement of construction as defined in Section IV.A.(1) above has not occurred prior to submission of the complete application as set forth herein, the commencement of construction by (x) the taking of actions specified in Section IV.A.(1)(a-c) above by the owner, lessor and/or lessee or (y) the taking of any of the actions specified in Section IV.A.(1)(a-e) above by the owner, lessor and/or lessee after approval by the Commissioners Court of a tax abatement agreement but prior to execution of the tax abatement agreement shall not be a bar to the County subsequently executing the tax abatement agreement based on these Guidelines and Criteria and the terms approved by the Commissioners Court with the owner or lessor and lessee, as applicable; provided that (i) with respect to any such activity undertaken prior to Commissioners Court granting of a tax abatement that the tax abatement may not be granted at the discretion of the Commissioners Court and (ii) that the applicant, owner, lessor and lessee, as the case may be, commence activity related to the project at their own risk, and with respect to (y) above, in the event, prior to execution of the agreement, any discrepancy or dispute over the terms of the agreement arise that the Commissioners Court retains its discretion to not enter into such agreement. For purposes of this subsection (2), a complete application is an application that, in the opinion of the County, meets all of the requirements of the Guidelines and Criteria excluding only any additional materials requested by the County but not expressly specified in the Guidelines and Criteria.

3. Definitions and Miscellaneous Provisions.

- a. Changes to Section II. Definitions. In each case, the specified subsection in Section II of the Guidelines and criteria is deleted and replaced with the new subsection set forth below.

i. Subsection II.B. Agreement:

B. "Agreement" means a contractual agreement for the purpose of tax abatement during a tax abatement period between (i) a property owner or a lessor and a lessee and (ii) a taxing authority.

ii. Subsection II.D. Capital Cost:

D. "Capital Cost" means the amount expended by the owner, lessor or lessee, as the case may be, on eligible improvements to real property or acquisition of eligible personal property needed to commence a project or operations on or after the date of the applicable tax abatement agreement. Capital Cost expressly excludes amounts expended by the County or other governmental entities and any amounts expended with respect to ineligible property.

iii. Subsection I. Eligible facility.

"Eligible facility" means a new, expanded or modernized building or structure, 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 the County, but does not include a facility, other than a utility, which is intended primarily to provide goods or services to residents or existing businesses located in the County such as, but not limited to, a restaurant or a retail sales establishment.

iv. The following new Subsection II.Y. is added before the existing Subsection II.Y, which existing Subsection is renumbered as II.Z.

Y. "Tax abatement period" means the period not exceeding ten years commencing on the January occurring after execution of the tax abatement agreement or such later time as is specified in the tax abatement agreement.

- b. Section III.G (4) of the Guidelines and Criteria is amended to read in its entirety as follows:

(4) The length of an agreement may be for a period not to exceed ten (10) years from the start of the tax abatement period, which shall start not later than the third January 1 occurring after the successful completion of the development,

redevelopment or improvement of the project as specified in the agreement. The abatement of the real and personal property during the tax abatement period shall only be received to the extent its taxable property value for that year exceeds its taxable property value for the year in which the agreement is executed such that only newly created value will be abated.

- c. The fourth sentence of Section V.F of the Guidelines and Criteria is amended to read in its entirety as follows: “Except as otherwise specified in these Guidelines and Criteria, the abatement in each agreement shall take effect on January 1 of the next tax year after the date the improvements or repairs are substantially completed.”

4. Except as expressly amended hereby, the Guidelines and Criteria are hereby ratified and confirmed. The full text of the Guidelines and Criteria, as amended hereby, is attached below.