

**Cameron County Commissioners' Court
Agenda Request Form**

201901001

No. 2-S

Date: 12/31/2018 Meeting Date Request: January 8, 2019
Deadline for Action: January 2019 Contact Person: Mark Yates
Department: PD&M - Economic Development Phone: (956) 544-0828 Fax: (956) 544-0891
Department Head Name: Mark Yates Signature: Mark Yates

Caption: Consent

DISCUSSION AND POSSIBLE AUTHORIZATION OF A RESOLUTION BY THE COMMISSIONERS COURT OF THE COUNTY OF CAMERON, TEXAS ADOPTING THE GUIDELINES AND CRITERIA GOVERNING THE TEXAS LOCAL GOVERNMENT CODE, CHAPTER 381 ECONOMIC DEVELOPMENT GRANT PROGRAM AND THE TEXAS TAX CODE CHAPTER 312, TAX ABATEMENT AGREEMENT IN CAMERON COUNTY.

Background: (Briefly summarize your request, if needed use separate sheet(s) or attach supporting documentation).

TEXAS TAX CODE, TITLE 3. LOCAL TAXATION, SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS, CHAPTER 312. PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT, SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.002. ELIGIBILITY OF TAXING UNIT TO PARTICIPATE IN TAX ABATEMENT.

- (a) A taxing unit may not enter into a tax abatement agreement under this chapter and the governing body of a municipality or county may not designate an area as a reinvestment zone unless the governing body has established guidelines and criteria governing tax abatement agreements by the taxing unit and a resolution stating that the taxing unit elects to become eligible to participate in tax abatement. The guidelines applicable to property other than property described by Section 312.211(a) must provide for the availability of tax abatement for both new facilities and structures and for the expansion or modernization of existing facilities and structures.
- (b) The governing body of a taxing unit may not enter into a tax abatement agreement under this chapter unless it finds that the terms of the agreement and the property subject to the agreement meet the applicable guidelines and criteria adopted by the governing body under this section.
- (c) The guidelines and criteria adopted under this section are effective for two years from the date adopted. During that period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths of the members of the governing body.
- (d) The adoption of the guidelines and criteria by the governing body of a taxing unit does not:
 - (1) limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;
 - (2) limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body 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 governing body consider or grant a specific application or request for tax abatement.
- (e) The guidelines and criteria adopted by the commissioners' court of a county may include a requirement that an application or request for tax abatement submitted to the county under this chapter must be accompanied by a reasonable application fee not to exceed \$1,000.

PLEASE FILL IN ALL BLANKS WITH REQUIRED INITIALS AND FISCAL DATA INFORMATION OR PLACE N/A IF IS NOT APPLICABLE:

County Judge N/A Auditor MPB Budget [Signature] Legal [Signature] Human Resources N/A Purchasing N/A
1295 Form _____

Fiscal Data: Dept. Name: _____ Fund No. _____
Funds Available: Yes No
Funds From: Department: Yes No Amt. Expended : \$ _____
General: Yes No Impact on future budget: Yes No
Grant: Yes No

Comments:

Action taken by Commissioners' Court
Approved _____ Tabled _____ Denied _____ Motion made by _____ Seconded _____

RECEIVED
DEC 31 2018
CAMERON COUNTY JUDGE

STATE OF TEXAS §
COUNTY OF CAMERON §

RESOLUTION NO. 2019R01001

A RESOLUTION OF THE COMMISSIONERS COURT OF THE COUNTY OF CAMERON, TEXAS ADOPTING THE GUIDELINES AND CRITERIA GOVERNING THE TEXAS LOCAL GOVERNMENT CODE, CHAPTER 381 ECONOMIC DEVELOPMENT GRANT PROGRAM AND THE TEXAS TAX CODE CHAPTER 312, TAX ABATEMENT AGREEMENTS IN CAMERON COUNTY.

WHEREAS, Cameron County, Texas (County) is considered a distressed county due to a high incidence of poverty and unemployment and comparatively lower levels of educational attainment among its population; and

WHEREAS, as distressed county, Cameron County qualifies as an Enterprise Zone under Chapter 2303 of the Texas Local Government Code, which permits the County to enter into tax abatement agreements for economic development purposes subject to applicable state codes, including Chapter 312 of the Texas Tax Code; and

WHEREAS, Chapter 381 of the Texas Local Government Code authorizes counties to establish and administer one or more economic development program to make loans and grants of public monies and provide property tax abatement to businesses that promote economic growth and create jobs; and

WHEREAS, a taxing unit must establish guidelines and criteria governing tax abatement agreements entered into by such unit pursuant to Section 312 in order to participate in tax abatement; and

WHEREAS, the guidelines and criteria adopted under Section 312 are effective for two (2) years from the date adopted unless during that period they are amended or repealed by a vote of at least three fourths of the members of the governing body of the taxing unit; and

WHEREAS, the Cameron County Commissioners Court finds that it is in the best interest of the County to provide, as an incentive to encourage the development of a productive business environment, tax abatement to businesses that meet certain criteria and create jobs within the County;

NOW, THEREFORE IT RESOLVED that pursuant to Section 312 of the Texas Tax Code and to the extent permitted by law, the County hereby establishes guidelines and criteria governing any and all Chapter 381 tax abatement agreements entered into by the County, in connection with its designation as an Enterprise Zone, which shall be effective for two (2) years from the date of the adoption of this Resolution:

I. PURPOSE & POLICY

- A. Cameron County encourages business, commercial, manufacturing and industrial concerns to locate, remain, and expand in the County. As a form of economic development incentive, the County offers property tax abatement to qualified companies seeking to locate or expand in the area.
- B. Tax abatement is primarily offered to manufacturing or industrial operations, but other types of businesses may be considered on a case by case basis. Final decisions on whether a project will be considered for or will receive tax abatement will be made by the County's governing body, the Cameron County Commissioners Court.
- C. An applicant granted tax abatement under these Policies and Procedures must enter into a formal agreement with the County. The agreement shall contain all terms required by these Policies and Procedures and by state law to protect the public interest and ensure that an applicant that receives a public benefit in the form of tax abatement provides a corresponding capital investment that will stimulate economic development and generate job growth.

II. PROGRAM REQUIREMENTS

- A. To qualify for a Texas Local Government Code, grant program or a Texas Tax Code, Chapter 312 tax abatement program, a business, whether a sole proprietorship, a partnership, or corporation, must meet the following criteria:
 - 1. The business must be engaged in the active conduct of a trade or business in the County.
 - 2. Employees of the business must be residents of the County, at least thirty-five percent (35%) of which must be "economically disadvantaged individuals," as may be defined in the tax abatement or Chapter 381 agreement. For businesses that require a specialized and/or highly skilled labor force, there must be a requirement in the agreement for the business to work with the local workforce employment agency to develop educational and skills training programs in conjunction with local technical colleges. Additionally, the business must commit to using best efforts to fill employment positions with trainable county residents.
 - 3. Be located wholly within the County.
 - 4. Be and remain current on the payment of any and all taxes, of any nature, owed to the cities, school districts, and Cameron County and all remaining taxing entities within the County.
 - 5. Conform to the requirements of applicable city ordinances and all other applicable laws and regulations of the County, state, and federal government.
 - 6. Complete improvements including renovation, repairs, remodeling, or construction within a period of time to be approved by the County.

II. PROGRAM REQUIREMENTS

(continued)

B. The following general guidelines and criteria shall be applicable to all Chapter 381 economic development grant program agreement or Chapter 312 tax abatement agreements executed by the County:

1. The base value of real property and personal property is never eligible for an abatement of property tax. The base value is the market value as specified by the Cameron Appraisal District (CAD) of property January 1 of the base year.

2. Only the increase in property value above the base value is eligible for tax abatement. The percentage duration of the abatement will be determined by the County based on the expected economic impact of the performances planned and proposed by the business. In no case, however, will the duration of the abatement program exceed ten (10) years.

C. An eligible business will be considered for a tax abatement program based on its expected economic impact. The following factors and the corresponding points assigned to each factor will be used to establish economic impact and determine the amount or percentage of tax abatement a business will receive.

1. Number of permanent jobs created and maintained: assign 1 point per 5 jobs.

2. Number of construction jobs created: assign 1 point per 5 jobs.

3. Annual wages paid: assign 1 point per \$50,000 in annual payroll including benefits.

4. Value of real property improvements: assign 1 point per \$100,000 of new improvement value.

5. Value of personal property added: assign 1 point per \$100,000 of value added.

6. Amount of annual sales taxes paid: assign 1 point per \$1,000 in value.

7. Building permit fee revenue: assign 1 point per \$1,000 in value.

8. International Toll Bridge crossings assign 1 point per 100 crossings

D. The following point table shall be used to determine the amount or percentage of abatement a business will receive on an annual basis during the abatement program.

Points for tax abatement

Year	0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%	Pts/%
1st	2	22	42	61	81	101	121	141	160	180	200	1.98
2nd	24	45	66	87	108	129	149	170	191	212	233	2.09
3rd	46	68	90	112	134	157	179	201	223	245	267	2.21
4th	68	91	114	138	161	184	207	230	254	277	300	2.32
5th	90	114	139	163	187	212	236	260	284	309	333	2.43
6th	112	138	163	189	214	240	265	291	316	342	367	2.55
7th	134	161	187	214	240	267	294	320	347	373	400	2.66
8th	156	184	211	239	267	294	320	350	378	405	433	2.77
9th	178	207	236	265	294	323	351	380	409	438	467	2.89
10th	200	230	260	290	320	350	380	410	440	470	500	3.00

II. PROGRAM REQUIREMENTS

(continued)

- E. Each agreement shall contain all provisions required by state law, including, but not limited to, provisions for monitoring performance and for recapturing property tax revenue lost as a result of the agreement if the business enterprise fails to perform as promised.
- F. Even if a business is deemed eligible for tax abatement, the County is under no obligation to execute an agreement. All tax abatement requests will be considered on a case by case basis.
- G. A business requesting tax abatement that is relocating from one part of the County to another will not be considered.
- H. The abatement of taxes will be based upon the impact of the creation of jobs and revenues to the County and the importance of the same to the community. Individual agreements with a business shall be structured to specifically define the methods of securing abatements in the event jobs are created throughout the operational years included in the program. Such abatement shall be in the form of an exemption from taxes or a refund of taxes paid equal to the percentages determined by the County, as applied to the valuation set by CAD for the subject real and personal property.
- I. The County will be responsible for monitoring employment and all other applicable performance records assuring that the business complies with the terms of the agreement. Monitoring will start when the construction begins and will continue for each operational year during the term of the tax abatement agreement. The business shall be responsible for providing all information necessary for the County to adequately monitor.
- J. In the event that the business facility is completed and begins production or services, but subsequently discontinues production or service for any reason except fire, explosion or other casualty or accident or natural disaster for a period of one year during the abatement period, then the agreement shall terminate and the abatement of the taxes for the calendar year shall be paid to the County within sixty (60) days from the date of termination.
- K. Should the County determine that the business is in default according to the terms and conditions of its tax abatement agreement, the County shall notify the business in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days from the date of such notice, then the agreement may be terminated.
- L. In the event that the business violates any of the terms and conditions of the abatement agreement and the agreement is terminated then all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.
- M. All tax abatements, exemptions, and refunds set forth herein are subject to the provisions of outstanding bond issues of the County. To the extent that a tax abatement or exemption conflicts with any of the provisions of such bond issues, such bond issues and the attendant documents thereto shall control.

III. ADDITIONAL CONSIDERATIONS

- A. Additional factors may be considered by the County in determining whether to authorize a tax abatement agreement for incentives as a Chapter 381 economic development program, including the following.
1. The financial capacity of the business to undertake and complete the proposed project.
 2. Other incentive programs for which the business applicant has applied or is qualified for.
 3. Current market conditions and growth potential for the business activity.
 4. Any other factors the County finds helpful and relevant to accomplishing the County's economic development objectives.
- B. Nothing contained in these Policies and Procedures shall prevent the County from clarifying, defining, or negotiating provisions of an agreement with a business.

IV. APPLICATION PROCESS

- A. An application for consideration as a tax abatement program shall be made on forms supplied by the County. An applicant may be required to provide additional information to show compliance with minimum program requirements. If the County determines minimum program requirements have been met, the applicant may present a formal request to the County for consideration by the Cameron County Commissioners Court.
- B. After a formal request is made, the Cameron County Commissioners Court may take action on the proposal as it deems appropriate. Nothing in these Policies and Procedures and nothing in the application form and process shall create any vested property interest, contract, or other legal right for a business to receive approval of program incentives.

V. AGREEMENT TERMS AND CONDITIONS

- A. A tax abatement agreement established under Chapter 312 of the Tax Code or for a Chapter 381 Program must include:
1. A timetable and list of improvements or development that the program will include.
 2. A complete legal description of the location of the proposed project or projects included in the program.
 3. A schedule of the expected business performances by year of operation.
 4. A provision establishing the duration the agreement and amount of tax abatement for each operational year included in the program.
 5. A provision for benchmarks or other tangible means for measuring whether the business meets its obligations under the agreement.

V. AGREEMENT TERMS AND CONDITIONS

(continued)

6. A provision providing for access to and authorizing inspection of property and the applicant's pertinent business records by County employees in order to determine compliance with the agreement.
7. A provision for termination or cancellation of the agreement and/or suspension of incentives if the business is determined not to be in compliance with the agreed terms.
8. A provision for recapturing County funds abated or refunded, if the business does not meet its duties and obligations under the terms of the agreement.
9. A provision that allows assignment of the agreement with prior written approval of the County, provided that:
 - (a) all rights, duties, obligations and liabilities under the agreement are assigned from the assignor to the assignee; and
 - (b) the assignment is made subject and subordinate to the agreement and the Chapter 381 Policies and Procedures; and
 - (c) the assignment document is in a form and contains content acceptable to the Cameron County Civil Division Office.
10. Provisions relating to administration, delinquent taxes and reporting requirements.
11. A provision that the agreement may be amended by the parties to the agreement by using the same procedure for approval as is required for entering into the agreement.
12. A provision for the auditing of the program, incentives, performances, and pertinent business records and information.
13. Such other provisions that the County may deem appropriate.

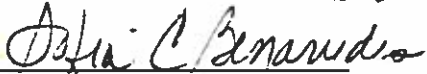
VI. SPECIAL TERMS AND CONDITIONS REGARDING INDUSTRIES WITH SIGNIFICANT INVESTMENT

- A. For large investment industries, in the event that the Commissioners Court finds that a project (i) is significantly impactful to the County, and (ii) has the potential to exceed an aggregate investment of \$100 million, the Commissioners Court may deviate from the requirements of these tax abatement guidelines and criteria contained in Sections II.A., II.I., II.J., II.K., II.L. and V., so long as the deviations uphold the spirit and intent of the guidelines and the goal of promoting economic development in the County.

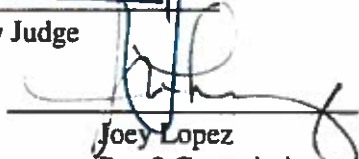
PASSED AND APPROVED BY A THREE-FOURTHS VOTE OR MORE THIS 8th
DAY OF JANUARY, 2019, BY THE COMMISSIONERS COURT OF CAMERON
COUNTY, TEXAS



Eddie Treviño, Jr. County Judge



Sofia C. Benavides
Pct. 1 Commissioner



Joey Lopez
Pct. 2 Commissioners

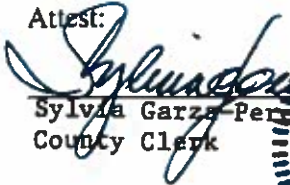


David A. Garza
Pct. 3 Commissioner



Gus Ruiz
Pct. 4 Commissioner

Attest:



Sylvia Garza-Perin
County Clerk

