

TYLER COUNTY COMMISSIONERS COURT  
SPECIAL MEETING  
November 10, 2011 ---- 1:25 p.m.

THE STATE OF TEXAS                      ON THIS THE 10th day of November, 2011 the  
Commissioners' Court in and for Tyler County, Texas convened in a Special Meeting at  
the Commissioners' Courtroom in Woodville, Texas, the following members of the Court  
present, to wit:

JACQUES L. BLANCHETTE	COUNTY JUDGE, presiding
MARTIN NASH	COMMISSIONER, PCT. #1
RUSTY HUGHES	COMMISSIONER, PCT. #2
MIKE MARSHALL	COMMISSIONER, PCT. #3
JACK WALSTON	COMMISSIONER, PCT. #4
DEAN RIVERS	CHIEF DEPUTY CO. CLERK, EX OFFICIO

The following were absent: none    thereby constituting a quorum. In addition to the  
above were:

DAN HUNT	ASST. CRIMINAL DIST. ATTORNEY
AUDREY PELLY	COURT COORDINATOR

A motion was made by **Commissioner Nash** and seconded by **Commissioner Walston**  
to adopt the **amended tax abatement guidelines**. All voted yes and none no. SEE  
ATTACHED GUIDELINES

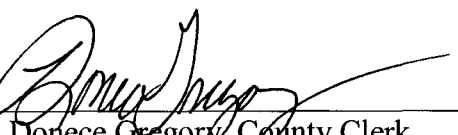
Commissioner Nash motioned the meeting adjourned. Commissioner Walston seconded  
the motion. All voted yes and none no.

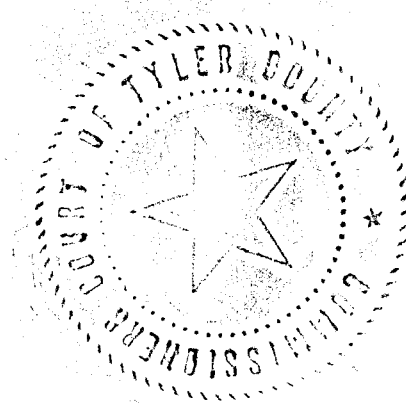
THERE BEING NO FURTHER BUSINESS, THE MEETING ADJOURNED: 1:30 p.m.

I, Donece Gregory, County Clerk and ex officio member of the Tyler County  
Commissioners Court, do hereby certify to the fact that the above is a true and correct  
record of the Tyler County Commissioners Court session held on November 10, 2011.

Witness my hand and seal of office on this the 14th day of November, 2011.

Attest

  
Donece Gregory, County Clerk  
Tyler County, Texas



# TAX ABATEMENT GUIDELINES

## *County of Tyler*

TEXAS

As Amended and Adopted by Commissioners Court  
November 10, 2011

### **OBJECTIVE:**

The objective of this tax abatement program is to create new jobs, new capital investment and a broadened tax base for our community by:

1. Providing an incentive for already established businesses to expand and/or modernize; and
2. Providing an incentive to attract businesses that might not locate in our community otherwise.

### **CANDIDATE QUALIFICATIONS:**

1. Produces products/services primarily for markets *outside* our community; and
2. Compliments existing businesses and/or increases the diversity of our community's economy; and
3. Does not endanger existing businesses via direct competition; and
4. Creates new jobs and capital investment.

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## SECTION I

### TAX ABATEMENT GUIDELINES DEFINITIONS

- a) **Abatement:** means the full or partial exemption from ad valorem taxes of certain real and personal property in a reinvestment or enterprise zone designated by Tyler County for economic development purposes.
- b) **Agreement:** a contractual agreement between a property owner and/or lessee and Tyler County for the purposes of tax abatement.
- c) **Base Year Value:** the assessed value of eligible property January 1 preceding the execution of the agreement made after January 1 but before the execution of the agreement.
- d) **Deferred Maintenance:** improvements necessary for continued operations which do not improve productivity or alter the process technology.
- e) **Distribution Center Facility:** buildings and structures, including fixed machinery and equipment, used or to be used, primarily to receive, store, service, and distribute goods or materials.
- f) **Economic Life:** the number of years a property improvement is expected to be in service in a facility.
- g) **Entertainment Facility:** buildings and structures, including fixed machinery and equipment used, or to be used, to provide entertainment through the admission of the general public.
- h) **Expansion:** the addition of buildings, structures, fixed machinery or equipment for the purposes of increasing production capacity.
- i) **Facility:** property improvements completed or in the process of construction which together comprise an integral whole.
- j) **Manufacturing Facility:** buildings and structures, including machinery and equipment, the primary purpose of which will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- k) **Modernization:** the replacement and upgrading of existing facilities which increases the production input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery or equipment. It *shall not* be for the purpose of reconditioning, refurbishing or repairing.
- l) **New Facility:** means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- m) **Other Basic Industry:** buildings and structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside the Tyler County area and result in the creation of new permanent jobs and brings new wealth.
- n) **Personal Property:** means personal property, as designated by the Tyler County Appraisal District, which includes but is not limited to any tangible thing (including gasses, steams, and other non-solid state things) that can be removed from real property without destroying or changing such real property.
- o) **Productive Life:** means the number of years a property improvement is expected to be in service in a facility.
- p) **Real Property:** means real property improvements, as designated by the Tyler County Appraisal District, which includes but is not limited to any buildings, buildings built on skids, portable buildings, parking areas, and fences attached to land.
- q) **Research Facility:** building and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop and production processes thereto.
- r) **Service Facility:** buildings and structures, including fixed machinery and equipment, used or to be used to service goods.

- s) **Total Facility:** all buildings and structures, including fixed machinery and equipment at the site(s) where the “abatement facility” is located.

## SECTION II

### ABATEMENT TO PROMOTE ECONOMIC DEVELOPMENT

- a) **Authorized Facility:** a facility may be eligible for abatement under this section if it is a manufacturing facility, production facility, research facility, distribution center, service facility, entertainment facility or other basic industry.
- b) **Creation of New Value:** abatement may only be granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between Tyler County and the property owner and/or lessee, subject to such limitations as Tyler County may require.
- c) **New and Existing Facilities:** abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.
- d) **Eligible Property:** property eligible for abatement of all or a portion of such property’s value includes improvements and increased value on real property after the execution of the tax abatement agreement, and tangible personal property located on the real property after the execution of the tax abatement agreement.
- e) **Ineligible Property:** Any property for which abatement is prohibited by state law or pursuant to these guidelines or the tax abatement agreement.
- f) **Leased Facility:** If a leased facility is granted abatement, the agreement shall be executed with lessor and the lessee.
- g) **Value and Term of Abatement:** Value and Term of Abatement. Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the Agreement. The value of new eligible properties shall be abated according to the approved Agreement between applicant and the governing body. The governing body, in its sole discretion, shall determine the amount of any abatement. The term of any abatement may not exceed ten (10) years. The abatement may be extended through an initial agreement and a subsequent agreement as may be required to comply with state law regarding the term of the reinvestment zone. If a modernization project includes facility replacement, the abated value shall be the value of the new unit less the value of the old unit(s).
- h) **Construction in Progress.** If a qualifying facility has not been placed in service as of January 1 following execution of the abatement Agreement, the tax payer may apply for a one year extension of the term of abatement, to be granted or denied in accordance with the Agreement. Said extension must be applied for prior to the end of the calendar year in which the abatement Agreement is executed.
- i) **Local Employment Requirement:** a property owner asking for tax abatement under this policy shall agree, if available, to hire 25% of construction employees and 25% of permanent employees from Tyler County.
- j) **Economic Qualifications:** in order to be eligible to receive tax abatement, the planned improvement
1. Must not be expected to solely or primarily have the effect of transferring employment from one part of Tyler County to another; and
  2. Must be necessary because capacity cannot be provided efficiently utilizing existing improved property when reasonable allowance is made for necessary improvements; and
  3. Must create a net increase of permanent jobs at the total facility of the applicant; and
  4. The property owner seeking tax abatement shall insure that its construction contractor and the operating manager of the facility granted tax abatement shall pay all affected employees a fair and equitable wage during the construction period of the abated project. In addition, the construction

contractor and the operating manager of the facility agree to utilized area contractors and work force to the maximum extent feasible.

5. Must be expected to have an increased appraised ad valorem tax value of at least \$500,000 for existing qualifying facilities or \$1,000,000 for new qualifying facilities based upon the Tyler County Appraisal District's assessment of the eligible property.
  6. Must have no serious adverse effect on jurisdictions.
  7. Must have a significantly positive result from the economic impact analysis performed as part of the application process (*i.e.*, the local economic benefit must significantly exceed the amount of anticipated tax revenues foregone by the Agreement).
- k) **Taxability:** from the execution of the abatement to the end of the agreement period, taxes **shall** be payable as follows:
1. The base year value of existing eligible property as determined each year shall be fully taxable;
  2. The value of ineligible property shall be fully taxable; and
  3. The additional value of new eligible property shall be taxable in the manner described in Section II (g) or Section III (a) (b).
- l) **Denial of Abatement.** No Abatement Agreement shall be authorized if it is determined that:
1. There would be substantial adverse affect on the tax base or costs associated with the providing of government services.
  2. The applicant has insufficient financial capacity, which reasonably could be expected to jeopardize the success of the undertaking.
  3. The planned or potential use of the property would constitute a hazard to public safety, health or morals.
  4. The area considered for abatement lies within the taxing jurisdiction of an incorporated city or town, unless the city or town has already granted abatement to the concerned entity and ninety (90) days have not passed since the granting of such abatement.
  5. Granting abatement might lead to the violation of other codes or laws.
  6. For any other reason deemed appropriate by Commissioners' Court.

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## SECTION III

### ABATEMENT TO FINANCE INFRASTRUCTURE

- a) **Authorized Use:** In addition to abatements granted under Section II, an entity may grant tax abatement on additional value of property improvements to encourage agreements to finance construction of necessary infrastructure for the economic development of an area including, but not limited to, school facilities, streets, thoroughfares and utilities.
- b) **Value and Term of Abatement:** The amount and length of abatement contracts under this section shall be determined by the entity considering the value of the infrastructure to be constructed and effect on additional development potential.
- c) **Prior to entering into a tax abatement agreement,** every taxing entity affected by the county, school district and city having taxing jurisdiction over the proposed tax abatement shall be provided a draft of the proposed abatement contract created in accordance with these guidelines and compliance with Chapter 312 of the Texas Property Tax Code for consideration and input.
- d) **In order to enter into a tax agreement,** the entity must find that the terms of the proposed agreement meet these guidelines and criteria and that:
  - 1. There will be no substantial adverse effect on the provision of the entity's service or tax base;
  - 2. The planned use of the property will not constitute a hazard to public safety, health, or morals;
  - 3. The tax abatement will not adversely affect the competitive position of existing companies in Tyler County; and
  - 4. Where the applicant for abatement lies within extraterritorial jurisdiction (ETJ) of a city within the county, the applicant will be encouraged to seek information of the reinvestment zone through the city.

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## SECTION IV

### APPLICATION

- a) Any present or potential owner of taxable property in Tyler County may request abatement by filing a written request with the entity.
- b) The application shall consist of a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; a time schedule for undertaking and completing the proposed improvements of the property; the number of permanent jobs to be created. 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 application form may require such financial and other information as Tyler County deems appropriate for reevaluating the financial capacity and other factors of the applicant.
- c) After receipt of an application for tax abatement, Tyler County, through its designated officer or employee, shall prepare a feasibility study setting out the impact of the proposed tax abatement. The feasibility study shall include, but not be limited to, an estimate of the economic effect of the abatement of taxes and the benefit to the eligible jurisdiction and the property to be included in the zone.
- d) Upon receipt of a completed application and prior to acting on the application, the County Judge shall (1) notify in writing the presiding officer of the legislative body of each taxing unit in which the property to be subject to the Agreement is located not later than the seventh day before the public hearing and (2) publish in a newspaper of general circulation within such taxing jurisdiction not later than the seventh day before the public hearing. Before acting upon the application, Tyler County shall through public hearing afford the applicant and the designated representative of any affected jurisdiction, and any other interested person, opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on Commissioners' Court agenda to be posted at least seven (7) days prior to the hearing.
- e) Tyler County, not more than 60 days after receipt of the application, shall by order either approve or disapprove the application for tax abatement at a regularly scheduled meeting by a majority vote. The county judge shall notify the applicant of approval or disapproval. If disapproved, a Commissioner may request a second review, in which case a new application and hearing shall be required.
- f) Tyler County shall not establish a reinvestment zone for the purpose of abatement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization, expansion, or construction of new facility.
- g) Confidentiality Required. Information that is provided to the County in connection with an application or request for Tax Abatement 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. That information in the custody of a taxing unit after the Agreement is executed is Public Record, and not confidential.

## **SECTION V**

### **AGREEMENT CONTRACT**

- a) Notice to Jurisdictions. Not later than the seventh day before the date on which Tyler County enters into the Abatement Agreement, the County shall deliver to the presiding officer of the governing body of each other taxing unit in which the property is located a written notice that the County intends to enter into the Agreement, along with a copy of the proposed agreement.
- b) After approval, Tyler County shall formally pass an order and execute an Agreement with the owner of the facility and lessee as required which shall include:
  - 1. Estimated value to be abated and the base year value;
  - 2. Percent of value to be abated each year as provided in Section II ;
  - 3. The commencement date and the termination date of abatement;
  - 4. The proposed use of the facility; nature of construction, time schedule, map, property description and improvements list as provided in the abatement application.
  - 5. Provision for access to and authorization for inspection of the property by Tyler County to ensure that the improvements or repairs are made according to the specifications and conditions of the Agreement.
  - 6. Limitations on the uses of the property, consistent with the general purpose of encouraging development or redevelopment of the zone during the abatement period.
  - 7. Contractual obligations in the event of default, violations of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by State law and;
  - 8. Size of investment and average number of jobs involved for the period of Abatement.
- c) Such agreement shall be executed within sixty (60) days after the later of the date applicant has forwarded all necessary information and documentation to Tyler County or the date of the approval of the application.

## **SECTION VI**

### **RECAPTURE**

- a) In the event that the company or individual (1) allows its ad valorem taxes owed the County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or (2) violates any of the terms and conditions of the abatement agreement; and fails to cure during the cure period, the agreement then may be terminated and all taxes previously abated by virtue of the Agreement will be recaptured and paid within thirty (30) days of the termination.
- b) Should the County determine that the company or individual is in default according to the terms and conditions of its agreement, the County shall notify the company or individual of such default in writing at the address stated in the agreement; and if such is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the Agreement may be terminated. Alternatively, County may, as a penalty for default or non-compliance with the provisions of the Agreement, reduce the term of the abatement period and/or the annual percentage abatements available thereunder.
- c) Payment in Lieu of Taxes: If, during the period of this abatement, any Federal or State law provides and additional tax exemption for the property that is already the subject of this agreement, Applicant agrees to decline that tax exemption during the period of this abatement. If Applicant is unable to decline that tax exemption, Applicant agrees to pay the taxes, or payment in lieu of taxes, on the reduction of property tax revenue to the County that is the result of said exemption. Any payment in lieu of taxes shall be due on or before November 15 of the year in which payment is due.
- d) Notwithstanding Section VI, the County is entitled to draft an agreement with the applicant that will reflect the parties' mutual definition of a breach that results in a default, and a recapture amount proportional to the breach.



**SECTION VII**  
**ANNUAL ASSESSMENT**

1. The Chief Appraiser of Tyler County Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser shall notify Tyler County of the amount of the assessment;
2. The agreement shall stipulate that a designated representative of Tyler County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and the conditions of the agreement are being met. All inspections will be made only after the giving of reasonable notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards;
3. Upon completion of construction, Tyler County shall annually evaluate each facility receiving abatement to ensure compliance with the agreement.

**SECTION VIII**  
**ASSIGNMENT**

Tax abatement agreements may be assigned to a new owner or lessee of the facility with the written consent of Tyler County, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in the agreement. Any assignment of tax abatement shall be to an entity that contemplates the same improvements or repairs to the property, except to the extent such improvements or repairs have been completed. No assignment shall be approved if the assignor or the assignee is indebted to Tyler County for ad valorem taxes or other obligations.

**SECTION IX**  
**DURATION OF POLICY**

These guidelines and criteria are effective upon the date of their adoption and will remain in force for two (2) years, but may be modified or eliminated by action of the Commissioners Court of Tyler County. These guidelines shall be modified by action of the Commissioners Court of Tyler County as necessary to insure compliance with the Texas Property Tax Code.

SECTION X

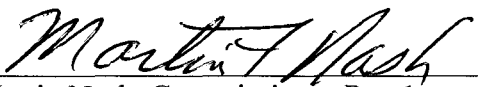
TAX ABATEMENT GUIDELINES

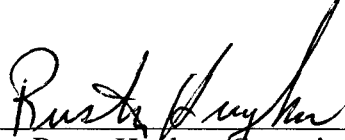
*County of Tyler*

TEXAS

PASSED BY A MAJORITY VOTE THE COMMISSIONERS COURT  
of Tyler County, Texas the 29<sup>th</sup> of August, 2011.

AMENDED BY MAJORITY VOTE OF THE COMMISSIONERS COURT  
of Tyler County, Texas this the 10<sup>th</sup> of November, 2011

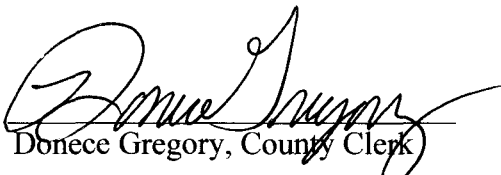
  
\_\_\_\_\_  
Martin Nash, Commissioner Pct. 1

  
\_\_\_\_\_  
Rusty Hughes, Commissioner Pct. 2

  
\_\_\_\_\_  
Mike Marshall, Commissioner Pct. 3

  
\_\_\_\_\_  
Jack Walston, Commissioner Pct. 4

  
\_\_\_\_\_  
Jacques L. Blanchette, County Judge

Attested by:   
\_\_\_\_\_  
Donece Gregory, County Clerk



# TYLER COUNTY COMMISSIONERS COURT

County Courthouse, Room 101 / Woodville, Texas

Thursday  
November 10, 2011  
1:25 PM

MARTIN NASH  
Commissioner, Pct. 1

RUSTY HUGHES  
Commissioner, Pct. 2

JACQUES L. BLANCHETTE  
County Judge

MIKE MARSHALL  
Commissioner, Pct. 3

JACK WALSTON  
Commissioner, Pct. 4

**NOTICE** Is hereby given that a *Special Meeting* of the Tyler County Commissioners Court will be held on the date stated above, at which time the following subjects will be discussed;

## Agenda

*"the wisdom to know the right thing and the courage to do it"*

- **CALL TO ORDER**
  - Establish quorum

M - M.N. } Adjournd  
 2 - S.W. } 1:30  
 (ARRIVED)

**I. CONSIDER/APPROVE:**

- A. Amending County Abatement Guidelines – *J. Blanchette*

➤ **ADJOURN**

I do hereby certify that the above Notice of Meeting of the Tyler County Commissioners Court is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice at the Tyler County Courthouse in a place readily accessible to the general public at all times and that said Notice remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting, as is required by Section 551.002 & 551.041.

Executed on Nov. 7, 2011 Time 11:20 AM

Donece Gregory, County Clerk/Ex Officio Member of Commissioners Court

By: [Signature] (Deputy)



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A. **Amending** County Abatement Guidelines – *J. Blanchette*

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By: *John Weber* (Deputy)