

COURT ORDER

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ORDER NO. 2011 742

DATE: April 19, 2011

STATE OF TEXAS §

COUNTY OF DALLAS §

BE IT REMEMBERED, at a regular meeting of the Commissioners Court of Dallas County, Texas, held on the 19th day of April, 2011, on a motion made by John Wiley Price, Commissioner of District No. 3 and seconded by Mike Cantrell, Commissioner of District No. 2 the following Order was adopted:

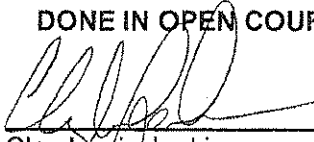
WHEREAS, on April 5, 2011, the Dallas County Commissioners Court was briefed on a proposal to revise and renew the County's tax abatement policy which had previously been authorized under Court Order 2009-514; and

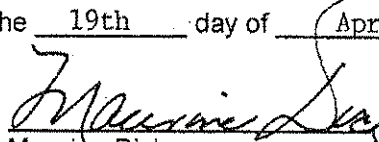
WHEREAS, the proposed revisions to the previously existing tax abatement policy will help the County facilitate the redevelopment of retail shopping areas that are declining or that have become obsolete; and

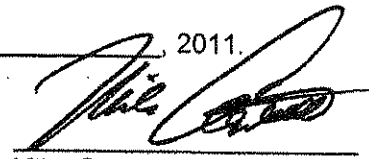
WHEREAS, the proposed tax abatement policy is consistent with the County's strategic plan which specifically recommends that the County provide targeted tax incentives in under-developed areas and that the County seek to become the destination of choice for businesses and residents.

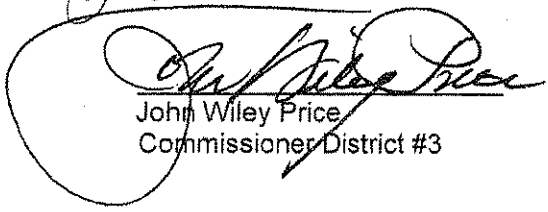
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Dallas County Commissioners Court adopts the attached tax abatement policy, that it shall replace the policy that was previously authorized under Court Order 2009-514, and that it shall be used to evaluate all tax abatement requests received by Dallas County for a period of two years, unless otherwise repealed, amended, or extended.

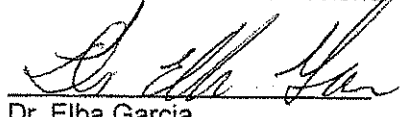
DONE IN OPEN COURT this the 19th day of April, 2011.

  
Clay Lewis Jenkins  
County Judge

  
Maurine Dickey  
Commissioner District #1

  
Mike Cantrell  
Commissioner District #2

  
John Wiley Price  
Commissioner District #3

  
Dr. Elba Garcia  
Commissioner District #4

Recommended by: 

# DALLAS COUNTY TAX ABATEMENT POLICY

## I. INTRODUCTION

Counties in Texas are authorized under Chapter 381 of the Local Government Code and Section 11.24 and Chapter 312 of the Tax Code to provide tax abatements for historic preservation, housing, and economic development projects. To help ensure that all tax abatement requests are consistently reviewed and that only the most effective and appropriate projects are undertaken, the following policy has been developed. It shall govern the consideration of all tax abatement requests received by the Dallas County Commissioners Court. It shall not apply to requests for abatements from other entities like the Dallas County Community College District and the Dallas County School Board which the Commissioners Court has no jurisdiction over nor shall it apply to the Dallas County Hospital District which does not provide tax abatement assistance.

## II. DEFINITIONS

**Applicant:** The firm, party, entity, or organization that would be receiving the tax abatement if granted.

**Dallas CBD:** The area bounded by Woodall Rodgers Freeway, I-30, I-35, and I-45.

**Dallas County City:** The portion of any city located within Dallas County.

**Distressed Area:** Excluding the Dallas CBD, either a census tract whose median family income is less than or equal to 150% of the poverty level for a Dallas area family of four or the area contained within a federally or state-designated enterprise zone, empowerment zone, or enterprise community.

**Economic Assessment Criteria:** Five criteria used to identify under-utilized/emerging areas under this policy. These criteria are defined as follows:

- Low population growth (percentage change in population that is less than the County average for 1990-2000).
- Low property values (median value of owner-occupied structure is no greater than 50% of the County median).
- Low employment growth (percentage change in employment that is less than the County average for 2000-2005).
- Low traffic congestion (as determined by NCTCOG).

- Predominantly low/moderate income population (at least 51% of population earns less than 80% of the Dallas area median household income).

**Economic Development Project:** One of five general tax abatement project categories under this policy. Projects falling within this category generate new jobs, increase the local property tax base, involve the modernization/addition of equipment, and/or the expansion, construction, or leasing of business facilities.

**Facility Expansion/Modernization Project:** An economic development project involving the modernization/addition of equipment/inventory and/or the physical expansion or modernization of an existing facility or the construction of a new/additional building within the same city where the firm's major Dallas County facility is located.

**Fortune 1000 Corporate HQ Project:** An economic development project involving the relocation of a Fortune 1000 firm's corporate headquarters. Said project must involve the location of the principle office of the firm's chief executive officer, the office must be designated as the firm's corporate headquarters in the firm's news releases, corporate reports, letterhead, website, etc., and the average salary of all of the jobs associated with the project must be at least \$100,000.

**Economically Significant Project:** An economic development project that either creates at least 1,000 new full-time permanent jobs or increases the County's tax base by at least \$100 million through the addition of new equipment, the expansion of inventory, the construction of a new facility, and/or the renovation/expansion of an existing facility.

**Higher Education Facilities Project:** One of five general tax abatement project categories under this policy. Projects falling within this category involve the construction/renovation/expansion of facilities that primarily consist of classrooms, distance learning centers, libraries, and/or laboratories that are exclusively used by accredited universities and colleges.

**Historic Preservation Project:** One of five general tax abatement project categories under this policy. Projects falling within this category involve the utilization of a structure that is either listed in the National Register of Historic Places, is eligible for such listing, or is located within a district that is listed in the National Register.

**Housing Project:** One of five general tax abatement project categories under this policy. Projects falling within this category must be located within either a distressed area or the Dallas CBD and involve the construction, development, or rehabilitation of housing or the conversion of an existing structure into housing.

**New Construction/Relocation Project:** An economic development project involving the construction of a new facility or the utilization of an existing building (including its

inventory and equipment) for a new business or an existing firm that is relocating from outside of Dallas County; the construction of another facility or the utilization of an existing building (including its inventory and equipment) for an existing business if the construction/building utilization will occur in a city other than where its major Dallas County facility is located; or the construction of another facility or the utilization of an existing building (including its inventory and equipment) for an existing business if the new facility/utilization of an existing building, while it will occur in the city where the firm's major Dallas County facility is located, will replace an existing facility in another Dallas County city.

**Non-Distressed Area:** A census tract whose median family income is greater than 150% of the poverty level for a Dallas area family of four or the area that is not contained within a federally or state-designated enterprise zone, empowerment zone, or enterprise community or that is not defined as an under-utilized/emerging area under this policy.

**Payroll:** Includes all forms of compensation, such as salaries, wages, reported tips, commissions, bonuses, vacation allowances, sick-leave pay, employee contributions to qualified pension plans, and the value of fringe benefits before deductions for Social Security, income tax, insurance, union dues, etc. are made. For corporations, it also includes amounts paid to officers and executives; for unincorporated businesses, it does not include profit or other compensation of proprietors and partners.

**Retail Shopping Area Redevelopment:** One of five general tax abatement project categories under this policy. Projects falling within this category involve the conversion, replacement, or substantial improvement of those existing retail shopping areas that are largely characterized by the presence of such items as obsolete physical lay-outs, high vacancies, declining property values, low economic-value tenants, and/or dated signage/storefronts.

**Strategic Investment Project:** An economic development project involving a firm that derives a majority of its revenue from the design, research, development, manufacture, sale, and/or provision of bio-technology, telecommunication, fuel cell, electronic, internet, software, and computer product/services. Said projects must create at least thirty-five new full-time permanent jobs and increase the County's tax base by at least \$1 million. The average salary of all jobs created by such projects must be at least \$65,000, and the project must principally consist of the firm's corporate/administrative, research and development, manufacturing, or service delivery operations; they shall not principally consist of the firm's warehouse/distribution operations.

**Tax Abatement:** A form of tax incentive that is authorized under either Chapter 381 of the Local Government Code, Section 11.24 of the Tax Code, or Chapter 312 of the Tax Code and that reduces, in part, applicable ad valorem taxes so that a particular type of economic activity can be undertaken. For purposes of this policy, this term is also interchangeable with such terms as "tax reduction," "tax deferral," and "tax rebate."

**Under-Utilized/Emerging Area:** Either the Dallas CBD, a census tract that is two-thirds undeveloped and that meets one of five other economic assessment criteria (low population growth, low employment growth, low traffic congestion, low property values, and predominantly low/moderate income population), or a census tract that meets three of the aforementioned economic assessment criteria.

### III. GENERAL REQUIREMENTS/CONSIDERATIONS

All requests for tax abatement must meet the terms and criteria contained within this policy if they are to be eligible for consideration. However, for instances involving strategic investment projects, specific terms and criteria, apart from those contained in the definition for such projects and those that govern the maximum abatement that can be provided for such projects, may be waived with the majority approval of the Dallas County Commissioners Court. In no situation, though, does meeting the terms and criteria of this policy or the waiving of any term or criteria by the Commissioners Court for a strategic investment project obligate the County to provide any abatement to an applicant.

All applicants seeking tax abatement must, at the time of the application and before their requests can be reviewed, demonstrate that they regularly provide some type of medical coverage/health insurance for all full-time permanent non-contract employees, certify that they are equal opportunity employers, and certify that they do not and will not knowingly employ an undocumented worker and that if they are convicted of such a violation, shall repay any abatement (with interest) that the County may have provided.

In determining whether to provide an abatement for a project and, if so, at what level, the County will consider a number of related factors. Such factors shall include, but not be limited to, the degree to which the project surpasses the County's investment requirements, the short-term/long-term impact of the project on the County's tax base, the location of the proposed project, its impact on its surrounding area, the type and durability of the proposed investment, the existence of any environmental problems, the background and past performance of the applicant, the potential for the project to be successfully implemented, the need for the requested abatement, the degree to which the project utilizes or is served by alternative forms of transportation, the project's impact on the provision of County services, and current economic conditions. In addition, to the extent that they are applicable, other factors that will be considered shall include the project's ability to provide meaningful employment to the chronically unemployed, the type and quality of any jobs that will be produced, the number of affordable housing units that will be produced, the number and type of jobs that will be retained, the type of higher education facilities that will be produced, and the number of students that will utilize the proposed facilities.

The maximum term for an abatement that can be provided under this policy is ten years. However, in the event a subsequent project will utilize a site that already has a real

property abatement, then the existing real property abatement may be extended to provide a total abatement of up to fifteen years if the subsequent project will be conducted by a party not affiliated with the existing abatement's recipient and the subsequent project constitutes either an economically significant project or a distressed area project that meets the job generation and tax base increase requirements of a non-distressed area project.

Abatements can only be authorized by formal action of a majority of the Commissioners Court in open session after the required abatement application information has been submitted to the County. Because the availability of abatement assistance can facilitate the selection of a specific site when numerous sites are under consideration, a Court member in whose district a project is considering locating to and the County Judge may, in some limited instances, jointly issue a non-binding letter (or instruct staff to issue such a letter on their behalf) in which they propose terms for a particular abatement. Such letters may only be issued when a site outside of the County is also under consideration, when the project and the proposed terms are consistent with this policy, when the magnitude of the project warrants such action, and when requested by the potential applicant or its representative. Such letters shall clearly note that they are non-binding and that the proposed abatement can only be authorized by formal action of the Commissioners Court.

Abatements will only be awarded when the city in which the project is located has formally approved the provision of either a generally comparable abatement or another form of economic development assistance of comparable value and when the applicant and the County have entered into a formal tax abatement agreement. This agreement shall contain specific provisions that incrementally tie the abatement to actual capital investment, housing production, and/or job creation for housing and economic development projects and to actual renovation, investment, and preservation/maintenance for historic preservation projects. Any year that the agreed-upon capital investment, renovation, housing production, payroll, job generation amounts, and/or maintenance levels are not reached, then, depending upon the wording in the abatement agreement, the abatement will either be adjusted downward to the appropriate level for the amount of investment, renovation, maintenance, production, payroll expansion, and job generation that actually did take place, or the abatement may be discontinued altogether.

Requests for abatements will not be considered if, prior to the submission of an application, the project is already substantially underway or completed. A project will be considered to be substantially underway if actions such as, but not limited to the following have occurred: (1) demolition, site preparation, or the installation of infrastructure has begun; (2) a building permit has been issued for construction not associated with mitigating an environmental hazard; (3) construction (including renovations or tenant finish-out) has begun; (4) equipment, inventory, or employees have been relocated to the new site; or (5) the initial contact with the County about the

project was more than ninety days after the host city had executed an abatement agreement for the project.

However, having had demolition and/or site preparation occur for a project that solely utilizes property that has been tax-exempt for at least the past fifty years and that is now taxable because of the proposed tax abatement project does not constitute the project being substantially underway. Also, the execution of a lease, the mitigation of environmental problems, the purchase of land, the completion of an environmental assessment, or the preparation of architectural and engineering plans does not constitute a project being substantially underway nor does the prior preparation of an historic building for demolition (if the building is to now be preserved with an abatement) or the stabilization of an historic building.

For tax abatement projects with multiple phases, once the initial abatement has been approved, additional abatement requests associated with any successive phase shall be evaluated under the terms of the tax abatement policy that was in effect at the time the project's initial request was approved, provided these successive requests are submitted within twelve months of the initial phase's approval.

Requests for an abatement will not be considered for an establishment that derives more than 25% of its revenue from the on-site sale of alcoholic beverages and/or tobacco products. Requests will also not be considered for property that will be used in whole or in part for a sexually-oriented business, including, but not limited to, condoning, legitimizing, or promoting obscene materials, nude or topless modeling or dancing, adult motel operations, escort services, sexual encounter centers, sex phone centers, or any other sexually-oriented business activity. Similarly, property receiving an existing abatement for another use cannot convert this property for use as a sexually-oriented business or an establishment that would derive more than 25% of its revenue from the on-site sale of alcohol and tobacco and still retain this abatement.

Requests for an abatement will also not be considered if the abatement will be utilized by a firm in which the County is currently involved in litigation or a pending claim or in which the County has experienced unsatisfactory contractual performance (including previous abatements) within the past thirty-six months.

#### **IV. ECONOMIC DEVELOPMENT REQUIREMENTS**

For purposes of Dallas County's tax abatement policy, there are five types of economic development projects (economically significant, Fortune 1000 corporate HQ, strategic investment, facility expansion/modernization, and new construction/relocation) that can occur in three types of areas (distressed, non-distressed, and under-utilized/emerging).

To be eligible for an abatement, facility expansion/modernization and new construction/relocation projects must, within three years of the date in which the

abatement is approved, increase the County's property tax base **and** either increase the number of full-time permanent jobs within the County or increase the firm's local payroll by the amounts listed below.

**MINIMUM GENERATION REQUIREMENTS**

PROJECT TYPE	FOR DISTRESSED AREA			FOR UNDER-UTILIZED/EMERGING AREA			FOR NON-DISTRESSED AREA		
	JOBS	PAYROLL	TAX BASE	JOBS	PAYROLL	TAX BASE	JOBS	PAYROLL	TAX BASE
New Construction/ Relocation	100	\$5 million	\$5 million	200	\$10 million	\$10 million	600	\$30 million	\$30 million
Facility Expansion/ Modernization	50	\$2.5 million	\$2.5 million	100	\$5 million	\$5 million	400	\$20 million	\$20 million

To be eligible for an abatement, economically significant projects must, within three years of the date in which the abatement is approved for any first phase, either create 1,000 new full-time permanent jobs or increase the County's tax base by \$100 million.

To be eligible for an abatement, strategic investment projects must, within three years of the date in which the abatement is approved for any first phase, create at least thirty-five new full-time permanent high-paying jobs and increase the County's tax base by at least \$1 million.

To be eligible for an abatement, Fortune 1000 corporate HQ projects must, within three years of the date in which the abatement is approved, employ at least 100 full-time high-paying jobs and increase the County's tax base by at least \$2.5 million.

In meeting the tax base increase requirements described above, no freeport-eligible property that a project may possess can be utilized. Also, the County may, at its discretion, consider the retention of existing jobs to satisfy some portion of the job generation requirements listed above if the average salary/wage of the jobs that are to be retained are equal to at least 80% of the average salary/wage for Dallas County, if there is tangible evidence of the possibility that these existing jobs may relocate to a new site outside of the County, and if the project, depending upon its location, retains the following number of jobs and possesses the following existing amounts of taxable property.

## JOB RETENTION REQUIREMENTS

	DISTRESSED AREA	UNDER-UTILIZED/ EMERGING AREA	NON-DISTRESSED AREA
NUMBER OF JOBS TO BE RETAINED	100	200	400
REQUIRED AMOUNT OF EXISTING TAXABLE PROPERTY	\$5 million	\$10 million	\$20 million

Whether the County chooses to allow job retention to satisfy all or a portion of the standard job generation requirement will be dependent upon a number of factors, including the location of the project, the condition of the local economy, the type of jobs and industry involved, and the extent to which the project exceeds the job retention, average salary, tax base increase, and existing taxable property requirements.

Economic development projects cannot involve an outside firm seeking or being offered a tax abatement from more than one Dallas County city unless that firm is also considering locating its operations outside of Dallas County or a present Dallas County firm **primarily** relocating its operations from one Dallas County city to another unless this move has the formal approval of the current host city. Abatements also cannot be provided for the construction of a distribution center/warehouse unless 70% of the facility's space is pre-leased or will be used by the builder/owner for use in its business operations.

The maximum abatement that will be provided to a new construction/relocation project, a strategic investment project, or a facility expansion/modernization project that is located in a distressed area or to an economically significant project is 90% of the increase in assessed valuation that occurs. The maximum abatement that will be provided to a new construction/relocation project, a strategic investment project, or a facility expansion/modernization project that is located in a non-distressed area is 50% or 75% of the increase in assessed valuation that occurs if the project is located in an under-utilized/emerging area. The maximum abatement that will be provided to a Fortune 1000 corporate HQ project is 75%. Also, the amount of an abatement provided during a specific year may exceed the limits for non-distressed and under-utilized/emerging area projects as long as the average percent abated over the life of the abatement does not exceed these limits.

## V. HOUSING REQUIREMENTS

Under this policy, Dallas County will consider providing tax abatements for housing projects located within a distressed area or the Dallas CBD. To be eligible for an abatement, a housing project must produce 30 units of housing and increase the

County's property tax base within three years of the date in which an abatement is approved for any first phase and within three years of the effective date for any subsequent phase by \$1.5 million. The maximum abatement that will be provided to a housing project is 90% of the increase in assessed valuation that occurs.

## **VI. RETAIL SHOPPING AREA REDEVELOPMENT REQUIREMENTS**

To be eligible for a retail shopping area redevelopment abatement, a project must involve the redevelopment of at least five acres of contiguous property that currently consists of a group of stores and other commercial establishments built around a shared parking area. If a project involves either substantially improving or replacing an existing retail shopping area with a new retail shopping development, then the project must increase the County's tax base by at least \$2.5 million within three years of the date that any abatement is approved.

If a project involves the demolition and replacement of an existing retail shopping area with a residential development, then the project must produce thirty new units of housing and increase the County's tax base by at least \$1.5 million within three years of the date that any abatement is approved.

The maximum abatement that will be provided to a retail shopping area redevelopment project is 75% of the increase in assessed valuation that occurs if the project is located in either a non-distressed or under-utilized area or 90% of any increase if the project is located in a distressed area.

## **VII. HISTORIC PRESERVATION REQUIREMENTS**

To be eligible for an historic preservation tax abatement, the project must utilize a structure that is either listed in the National Register of Historic Places, is eligible for such listing, or is located within a district that is listed in the National Register, and the project must increase the County's tax base by at least \$2 million within three years of the date that any abatement is approved for any first phase and within three years of the effective date for any subsequent phase. Also, the renovation/restoration work must be appropriate and consistent with the structure's historical significance, as should the building's general maintenance.

All historic preservation projects will initially be eligible for a maximum abatement of up to 50% of any increase in assessed valuation. Additional "bonus" abatements may be awarded if the project develops housing, if it is located in a distressed area, if it utilizes a structure with extraordinary historical significance, if the structure is in serious danger of being demolished (i.e., there are no likely alternative uses, the building has been vacant for some time, etc.), and/or if the project will generate significant economic activity (i.e.,

the amount of investment to be undertaken greatly exceeds the County's requirements, it will assist tourism, increase retail sales, etc.). The maximum abatement that can be received for an historic preservation project is 90% of the increase in assessed real property valuation that occurs.

**VIII. HIGHER EDUCATION FACILITIES**

Dallas County will consider providing a tax abatement for the construction/renovation/expansion of higher education facilities that will be exclusively used by an accredited college or university if the assessed valuation of the new improvements is at least \$2.5 million within three years of the date in which an abatement is approved for any first phase and within three years of the effective date for any subsequent phase. The maximum abatement that will be provided for a higher education facility is 100% of the increase in assessed real property that occurs.

**IX. APPLICATION PROCESS**

Requests for tax abatement from the Dallas County Commissioners Court must be made in writing and submitted to Dallas County's Director of Planning and Development, 411 Elm Street, Dallas, Texas 75202. These requests must also be accompanied with the following information:

**TAX ABATEMENT APPLICATION REQUIREMENTS**

REQUIRED APPLICATION INFORMATION	ECONOMIC DEVELOPMENT PROJECTS	HOUSING PROJECTS	RETAIL REDEVELOPMENT PROJECTS	HISTORIC PRESERVATION PROJECTS	HIGHER EDUCATION FACILITIES
Description of requested abatement for each year (amount and duration)	X	X	X	X	X
Current assessed valuation of property/firm	X	X	X	X	X
Projected annual assessed valuation of applicable proposed improvements/ business personal property over life of abatement (PLEASE NOTE THAT THESE FIGURES WILL BE USED AS THE QUALIFYING BENCHMARKS IN ANY ABATEMENT AGREEMENT)	X	X	X	X	X

REQUIRED APPLICATION INFORMATION	ECONOMIC DEVELOPMENT PROJECTS	HOUSING PROJECTS	RETAIL REDEVELOPMENT PROJECTS	HISTORIC PRESERVATION PROJECTS	HIGHER EDUCATION FACILITIES
Description of proposed project (including, where applicable, the amount/type of investment involved, increase in local payroll, number/types of jobs created/retained, how much of projected tax base increase is attributable to Freeport-eligible inventory, number of housing units to be produced, average rent/sales price, type of renovations/improvements to be made, square footage of retail space that will be demolished/replaced/improved, type of educational facilities to be constructed, number of students involved, etc.)	X	X	X	X	X
Detailed schedule for implementing project (including, where applicable, when property will be acquired, when financing will be obtained, when demolition/construction/renovation will begin/be completed, when new equipment will be installed, when facility will be fully operational, when new positions are filled, when jobs will be relocated, etc.)	X	X	X	X	X
Financial pro forma showing impact of abatement on operating expenses		X		X	
Explanation of why abatement is needed	X	X	X	X	X
Map/location of proposed project	X	X	X	X	X
Date retail area was constructed			X		
Current occupancy rate for retail area			X		
Description of how project is served by such alternative forms of transportation as light rail, bus, car pool programs, HOV lanes, hike/bike trails, etc or is immediately located within the community it will serve/from which its employees will reside	X	X	X	X	X
Description of applicant's business history (including location of firm's other Dallas County projects/facilities)	X	X	X	X	X
Description of firm's relocation history over the past fifteen years	X	X	X	X	X
Identification of any displacement or environmental issues/problems and discussion of how these issues/problems will be addressed	X	X	X	X	X
Status of tax abatement/economic development assistance requests with other jurisdictions	X	X	X	X	X
Preliminary architectural sketches			X	X	
Explanation, if applicable, of how project will revitalize distressed areas or employ the chronically unemployed	X	X	X	X	X
Current use of building/average occupancy rate over past twelve months				X	
Description/documentation of building's historic significance				X	

REQUIRED APPLICATION INFORMATION	ECONOMIC DEVELOPMENT PROJECTS	HOUSING PROJECTS	RETAIL REDEVELOPMENT PROJECTS	HISTORIC PRESERVATION PROJECTS	HIGHER EDUCATION FACILITIES
Documentation/description of medical coverage/health insurance provided to all full-time, permanent non-contract employees	X	X	X	X	X
Statement that firm does not and will not knowingly employ an undocumented worker and that if convicted of doing so, it shall repay any abatement (with interest) that may have been provided	X	X	X	X	X
Copy of most recent EEO-1 or equivalent work force composition report	X	X	X	X	X
Name, telephone number, email address, and mailing address of contact person	X	X	X	X	X

Besides the information outlined above, additional information may be requested by the County at a later date.

So as to help facilitate the consideration of any tax abatement request, potential applicants are strongly encouraged to contact the County's Director of Planning & Development at (214) 653-7601 as early in the project formulation process as possible.

#### X. REVIEW AND APPROVAL

The Dallas County Commissioners Court will review all eligible tax abatement requests submitted to the County and determine to what degree the County will provide assistance.