

RESOLUTION NO. 2015-9

**A RESOLUTION OF THE COUNTY OF NAVARRO, TEXAS REESTABLISHING THE CURRENT TAX ABATEMENT POLICY GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN REINVESTMENT ZONES CREATED BY NAVARRO COUNTY, TEXAS OR OTHER AUTHORIZED TAXING JURISDICTION; ELECTING TO PARTICIPATE IN TAX ABATEMENTS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 312 of the Texas Tax Code requires that a taxing unit adopt a resolution stating that it elects to become eligible to participate in tax abatement; and

**WHEREAS**, Chapter 312 of the Texas Tax Code requires taxing entities which elect to participate in tax abatement programs, to establish guidelines and criteria governing the designation of reinvestment zones and tax abatement programs prior to granting any future tax abatement; and

**WHEREAS**, to assure a common coordinated effort to promote economic development with the City of Corsicana, the Guidelines and Criteria should be adopted; and

**WHEREAS**, any tax incentives offered by Navarro County should be limited to those companies that create new wealth within Navarro County; and

**WHEREAS**, Navarro County reestablishes the previous Tax Abatement Policy approved and adopted on May 13, 2013.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSIONERS COURT OF NAVARRO COUNTY, TEXAS THAT:**

**SECTION 1.**

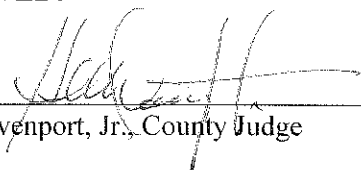
The Tax Abatement Guidelines, Criteria and Policy for Navarro County, Texas, attached hereto as Exhibit "A," is hereby reestablished as the guidelines and criteria governing tax abatement in Navarro County. The Tax Abatement Guidelines, Criteria and policy shall be effective for two (2) years from the date of this resolution, and may be amended or repealed by a vote of  $\frac{3}{4}$  of the members of the Commissioners Court. The Commissioners Court hereby elects to participate in tax abatements.

**SECTION 2.**

This resolution shall become effective upon passage.

**PASSED and APPROVED** by majority vote of the Commissioners Court of Navarro County, Texas, this 13<sup>th</sup> day of April 2015.

**APPROVED:**

  
\_\_\_\_\_  
H.M. Davenport, Jr., County Judge

**ATTEST:**

*Sherry Dowd*  
Sherry Dowd, County Clerk



**EXHIBITS:**

- A Tax Abatement Guidelines, Criteria and Policy, Navarro County, Texas

## EXHIBIT A

### TAX ABATEMENT GUIDELINES, CRITERIA AND POLICY NAVARRO COUNTY, TEXAS

#### SECTION 1. AUTHORITY, PURPOSE AND OBJECTIVES

- 1.01 Navarro County is committed to the promotion of high quality development in all parts of the County; and to ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, Navarro County will, on a case-by-case basis, give consideration to providing tax abatement as stimulation for economic development in Navarro County. It is the policy of Navarro County to make available tax abatement for both new facilities and for the expansion or modernization of existing buildings or structures. For the purpose of establishing a policy on economic development incentives, and pursuant to Chapter 312 of the Texas Property Tax Code, Navarro County, Texas (hereinafter referred to as "County") is authorized to designate Reinvestment Zones and to enter into tax abatement agreements in all areas of the County.
- 1.02 Section 312.002 of the Texas Property Tax Code requires that the County establish guidelines and criteria governing tax abatement agreements. These guidelines and criteria are for the purpose of promoting the efficient and reasonably consistent administration of tax abatement incentives. These guidelines are effective for two (2) years from the date adopted by the Commissioners Court for Navarro County (hereinafter referred to as "Commissioners Court").
- 1.03 These guidelines and criteria, and the procedures established herein, do not:
- a. Limit the discretion of the Commissioners Court to decide whether to enter into a specific tax abatement agreement,
  - b. Limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether or not the Commissioners Court should consider a particular application or request for tax abatement, and
  - c. Create any property right, contract right or other legal right to any person, or firm, or corporation to have the Commissioners Court consider or grant a specific application for a specific request for tax abatement.
- 1.04 The County is committed to the promotion of quality development in all parts of the County and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the County will, on a case-by-case basis, give consideration to providing tax abatement as stimulation for economic development in the County. It is the policy on economic development incentives for the County that said consideration will be provided in accordance with the guidelines, criteria and procedures outlined in this document. Nothing herein shall imply or suggest that the County is under any obligation to provide any incentive to any applicant. All applicants shall be considered on a case-by-case basis.

## SECTION 2. DEFINITIONS

- 2.01 **“Abatement”** means the full or partial exemption from ad valorem taxes of certain real property values and/or tangible personal property values in a reinvestment or enterprise zone designated by the County for economic development purposes.
- 2.02 **“Agreement”** means a contractual agreement between a property owner and/or lessee and the County.
- 2.03 **“Base Year”** means the calendar year in which the abatement contract is executed (signed).
- 2.04 **“Base Year Value”** means the assessed value of eligible property January 1 preceding the execution of the agreement plus the value of eligible property improvements and Tangible Personal Property made after January 1, but before the execution of the Agreement, and which property is owned by the owner, co-owner, and/or its parent companies, subsidiaries, partners, co-venturers, or any entity exercising control over the owner or subject to control by the owner.
- 2.05 **“Deferred Maintenance”** means improvements necessary for continued operation which that do not improve productivity, or alter the process technology, reduce pollution or conserve resources.
- 2.06 **“Eligible Facilities”** or **“Eligible Projects”** means new, expanded or modernized buildings and structures, tangible personal property as defined in the Texas Tax Code, 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 within the County, including facilities which are intended primarily to provide goods and/or services to residents or existing businesses located in the County such as, but not limited to, restaurants and retail sales establishments. Eligible facilities may include, but shall not be limited to, industrial buildings and warehouses. Eligible facilities may also include facilities designed to serve a regional population greater than the County for medical, scientific, recreational or other purposes.
- 2.07 **“Expansion”** means the addition of buildings, structures, machinery, tangible personal property, equipment, payroll or other taxable value for purposes of increasing production capacity; and/or, a property previously undeveloped which is placed into service by means other than expansion or modernization.
- 2.08 **“Modernization”** means a complete or partial demolition of facilities and the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, equipment, pollution control devices or resource conservation equipment.
- 2.09 **“New Facility”** means a property previously undeveloped which is placed into service by means other than in conjunction with Expansion or Modernization.
- 2.10 **“Productive Life”** means the number of years a property improvement is expected to be in service in a facility.

- 2.11 **“Tangible Personal Property”** means tangible personal property classified as such under state law, but excluding inventory and/or supplies and tangible personal property that was located in the investment or enterprise zone at any time before the period covered by the agreement with the County.

### SECTION 3. REINVESTMENT ZONE DESIGNATION

- 3.01 A Reinvestment Zone may only be designated in accordance with Subchapter B of Chapter 312 of the Texas Property Tax Code, as amended. The procedures set forth in this section apply to County-created reinvestment zones.
- 3.02 A Reinvestment Zone under § 312.201 of the Texas Property Tax Code may, by ordinance, be designated by the Commissioners Court in an area of the County that is found by the County to satisfy the requirements of § 312.202 of the Texas Property Tax Code.
- 3.03 An area may be designated as a Reinvestment Zone if the Commissioners Court, after a public hearing on the proposed designation, finds that the designation would contribute to the retention or expansion of primary employment within the County or would attract major investment in the Reinvestment Zone and would contribute to the economic development of the County.
- 3.04 A public hearing on the proposed Reinvestment Zone designation must be held prior to the findings and action of the Commissioners Court on the proposal. At this hearing, all interested persons are entitled to speak and present evidence for or against the designation. Not later than the seventh (7<sup>th</sup>) day before the date of the public hearing, notice of the public hearing shall be: (1) published in a notice in a newspaper having general circulation in the County, and (2) delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the Reinvestment Zone. The public hearing must also be posted as an agenda item on the Commissioners Court agenda to comply with the Tax Code and the Texas Open Meetings Act.
- 3.05 A delivered notice made under subsection 3.04 in the paragraph above is presumed to be delivered when placed in the mail, postage paid and properly addressed to the appropriate presiding officer. A notice properly addressed and sent by registered or certified mail for which a return receipt is received by the sender is considered to have been delivered to the addressee.
- 3.06 If the Commissioners Court finds that designation of the area as a Reinvestment Zone is proper, such proposed designation shall be put to a vote of the Commissioners Court, and will pass if a majority of the members of the Commissioners Court in attendance vote to approve the designation.
- 3.07 The ordinance of the Commissioners Court designating the area as a Reinvestment Zone (Zone) shall contain a description of the boundaries of the Zone and the eligibility of the Zone for residential tax abatement, or commercial-industrial tax abatement, or tax increment financing as provided for in Chapter 311 of the Texas Property Tax Code.
- 3.08 The designation of the Reinvestment Zone may be for a period of up to five (5) years. No designation shall exceed five (5) years, and may be for a shorter period at the discretion of the Commissioners Court. The designation shall automatically expire five (5) years after the

date of the designation unless renewed by the Commissioners Court for subsequent periods not to exceed five (5) years each. Pursuant to § 312.203 of the Texas Property Tax Code, the expiration of the designation of a Reinvestment Zone does not affect an existing tax abatement.

- 3.09 Designation of an area as an Enterprise Zone under the Texas Enterprise Zone Act (Chapter 2303, Government Code) constitutes designation of the area as a Reinvestment Zone without further hearing or other procedural requirements other than those set out in the Texas Enterprise Zone Act.
- 3.10 Pursuant to § 312.002 and § 312.204(a) of the Texas Property Tax Code, the County may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed ten (10) years, on the condition that the owner of the property make specific improvements or repairs to the property.
- 3.11 Section 312.204(b) of the Texas Property Tax Code requires that the agreements made with the owners of property in a reinvestment zone contain identical terms for the portion of the value of the property that is to be exempt and the duration of the exemption.

#### **SECTION 4. ABATEMENT AUTHORIZED**

- 4.01 Tax Abatement is authorized, subject to the approval of the Commissioners Court and execution of a lawful tax abatement agreement, for properties located within a Reinvestment Zone designated by the Commissioners Court or other authorized taxing jurisdiction.
- 4.02 Authorized Facilities: Tax abatement may be granted for new facilities and for expansion or modernization of existing facilities. The Productive Life of a facility or improvements must exceed the life of the tax abatement agreement.
- 4.03 Eligible Property: Tax abatement may be granted for Eligible Facilities or Projects and increased value to real property or tangible personal property to the extent allowed by state law.
- 4.04 Value of Abatement: Eligible Facilities may be granted abatement on all or a portion of the increased value of eligible property over the Base Year for a period to be determined by the Commissioners Court. Taxes may be abated for real property or improvements, to the extent that the value of the real property exceeds the value for the Base Year. Taxes on eligible Tangible Personal Property may be abated to the extent of additions, but cannot be abated for Tangible Personal Property located on the real property at any time before the period covered by the tax abatement agreement, and cannot be abated for inventory and supplies.

#### **SECTION 5. CRITERIA FOR TAX ABATEMENT**

- 5.01 The following threshold criteria shall be used to determine whether any tax abatement incentives shall be considered:

- a. The project must create an investment of at least one million dollars (\$1,000,000.00) in property improvements or in personal property, not including purchase price of the land.
- b. At the discretion of the Commissioners Court, a partial (investment pro-rated) tax abatement may be granted in the event the project does not create a capital investment of at least one million dollars (\$1,000,000.00) in property improvements or in personal property, but other threshold requirements must be met.
- c. The project must create at least twenty (20) new, full time equivalent jobs (40 hours per week).
- d. A partial (employment pro-rated) tax abatement may be granted in the event the project does not create at least twenty (20) new, full time jobs, but other threshold requirements must be met. The partial (employment pro-rated) tax abatement shall be calculated as a ratio of actual new, full time jobs created (numerator) and the threshold employment level (twenty [20] new jobs) (denominator) multiplied by the percentage tax abatement granted for the capital investment and the creation of twenty (20) new jobs.
- e. The project must obtain all required permits and meet all relevant planning and zoning requirements as applicable.

5.02 In addition to the minimum requirements stated above, the following subjective criteria shall be considered prior to granting any economic development incentive:

- a. Is the project consistent with the preferred development or redevelopment of the County?
- b. What types and cost of public improvements and services (roads, bridges, etc.) will be required of the County? What types and values of public improvements, if any, will be made by the applicant?
- c. What impact will the project have on the local consumer and business communities?
- d. How many full time jobs directly and indirectly are created by the Company?

## **SECTION 6. DISCRETION OF THE COUNTY**

- 6.01 It is the policy of the County to customize offers of economic development incentives on a case-by-case basis. The individualized design of a total incentive package is intended to allow maximum flexibility in addressing the unique concerns of each applicant while enabling the County to better respond to the changing needs of the community.
- 6.02 The criteria outlined in Section 5 above will be used to determine whether it is in the best interest of the County to provide any economic development incentives to a particular applicant. The degree to which the specified project furthers goals and objectives of the County and the relative impact of the specified project will be used to determine the total value of the

incentives provided. As a general rule, no tax abatement will be provided to any applicant in an amount exceeding the value of the following:

- a. No incentive shall be provided which abates taxes on real property or personal property by more than a total of five hundred percent (500%) over ten (10) years of the specific project (i.e., 50% level of abatement for a term of 10 years). For capital investments greater than \$500 million, the Commissioners Court may, at their discretion, consider granting abatements up to a total of seven hundred percent (700%) over ten (10) years.
- b. An Eligible Project located within the boundaries of County that meets all tax abatement criteria stated herein is eligible for, but not entitled to, the maximum tax abatement.

### SECTION 7. APPLICATION PROCEDURES

- 7.01 Any developer desiring that County consider providing economic development incentives to encourage location of an Eligible Project within the County shall be required to comply with the following application procedures and process. However, nothing within these guidelines shall imply or suggest that the County is under any obligation to provide any incentive to any applicant.
- 7.02 Applicant shall file an application for tax abatement (enclosure 1) with the County which shall include at least the following information to be considered, if applicable, in the determination whether to grant tax abatement.
  - a. A cover letter on Company letterhead addressed to the County Judge from the Company signed by a corporate officer requesting tax abatement consideration by the Commissioners Court.
  - b. A survey plat showing the precise location of the property, all roadways proximate to the site, and all existing zoning (as applicable) and land uses proximate to the site.
  - c. A metes and bounds legal description of the property considered for designation as a reinvestment zone.
  - d. A completed *Application for Tax Abatement* consisting of the following data and information:
    1. Date of application;
    2. Name of firm, partnership, or corporation and mailing address;
      - (a) Previous tax abatement received from County (Yes/No);
      - (b) If previous abatement has been received, date it was received
    3. Number of new full time (40 hour work week) employees to be added;



4. Number of acres of property to be developed
    - (a) Plat of property and development or site plan attachment (Yes/No);
  5. Estimated value of existing real property to be developed;
  6. Estimated value of real property improvements;
  7. Estimated value of existing inventory;
  8. Estimated value of inventory to be added;
  9. Estimated value of existing personal property;
  10. Estimated value of taxable personal property improvements;
  11. Total estimated value of taxable investment to be made;
  12. Description of public services for project development and new facilities and/or services required;
  13. Development schedule for all improvements;
  14. Estimate impact on the local school district(s);
  15. Expected benefit to the local economy;
  16. Estimated annual payroll of new employees;
  17. Description or product to manufactured or distributed;
  18. Expected Productive Life of all real property improvements;
  19. Identification and quantity of all pollutants and emissions;
  20. Certification of no materially adverse environmental impact as a result of the improvements and operations;
  21. Certification that project is compliant with relevant zoning requirements;
  22. Declaration by company official with signature that all information provided is correct.
  23. Reasonable proof of financial ability.
  24. References from past communities, if applicable.
- e. An environmental compliance letter (enclosure 2) addressed to the County Judge written on company letterhead and signed by a company official confirming that the

proposed project will fully comply with all requirements and regulations from the U.S. Environmental Protection Agency, Texas Commission on Environmental Quality, and all local environmental requirements, regulations, and codes.

#### SECTION 8. ABATEMENT AGREEMENT

- 8.01 Not later than the seventh (7<sup>th</sup>) day before the date on which the County enters into the tax abatement agreement (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. The notice shall include a copy of the prepared Agreement.
- 8.02 The County shall formally pass a resolution authorizing the execution of an agreement with the owner (hereinafter referred to as Company). The Agreement shall contain at least:
- a. The Base Year Value;
  - b. The percent of value to be abated each year;
  - c. The commencement date and the termination date of abatement;
  - d. The proposed use of the facility, property survey and property description, and list of property improvements;
  - e. Contractual obligations in the event of default;
  - f. A provision for access to and authorization for inspection of the property by County employees to make certain the improvements or repairs are being made according to the specifications and conditions of the agreement;
  - g. A provision for access to and authorization for inspection by appraisal district representatives for ad valorem property tax appraisal for all real property, improvements to real property, tangible personal property, inventory and equipment.
  - h. The limitations on the uses of the property consistent with the general purpose of encouraging development and/or redevelopment of the zone during the period that property tax exemptions are in effect;
  - i. A provision for recapturing property tax revenue lost as a result of the agreement in accordance with Section 9;
  - j. A provision that all permanent jobs be registered with the Texas Workforce Commission and that all contractors be encouraged to seek qualified workers through the Texas Workforce Commission;
  - k. Each and every term and condition agreed to by the County and the Company;

- l. A requirement that the Company certify annually to governing body of each taxing unit granting tax abatement is in compliance with applicable terms and conditions of the agreement; and
- m. All terms required by Texas Property Tax Code § 312.205, as amended, and any other terms deemed appropriate by the Commissioners Court.

#### **SECTION 9. RECAPTURE OF TAXES AND TERMINATION OF AGREEMENT**

- 9.01 The Commissioners Court shall have the authority to require recapture of all taxes abated in the event the Company violates any term or condition of the Agreement.
- 9.02 In the event that the facility is completed and begins operation as required by the Agreement, but during the term of the Agreement subsequently discontinues such operation, or fails to maintain property values as required by the Agreement for any reason excepting fire, explosion, or other casualty or accident or natural disaster, then the Agreement may terminate and all taxes previously abated by virtue of the Agreement shall be recaptured and paid to the County within sixty (60) days of the termination.
- 9.03 In the event that the company or individual:
  - a. allows its ad valorem taxes owed the County or other affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
  - b. fails to make improvements or repairs as provided in the Agreement, the Agreement then shall be terminated and all taxes previously abated by virtue of the Agreement shall be recaptured and paid within sixty (60) days of the termination.
- 9.04 Should the County determine that the Company or individual is in default according to the terms and conditions of the abatement agreement, the County shall notify the company or individual, in writing, at the address stated in the agreement, and if such non-compliance is not resolved within sixty (60) days from the date of such notice, then the agreement shall be terminated.

#### **SECTION 10. AMENDMENTS TO THESE GUIDELINES AND CRITERIA**

The guidelines and criteria adopted herein shall not be amended or repealed except by three-fourths (3/4<sup>th</sup>) vote of the Commissioners Court.

#### **SECTION 11. EFFECTIVE DATE**

These guidelines and criteria adopted herein shall be effective from the date of passage and remain effective for two (2) years from such date of adoption, unless otherwise repealed or amended by a three-fourths (3/4) vote of the Commissioners Court for Navarro County, Texas.

#### **ENCLOSURES:**

- 1. Application for Tax Abatement
- 2. Sample Environmental Compliance Letter

**Exhibit 1**

**2015 APPLICATION FOR TAX ABATEMENT**

**Instructions:** Please print or type. Submit the completed and signed original copy of the 2015 Application for Tax Abatement with attachments to: City of Corsicana & Navarro County Economic Development Department, 200 North 12th Street, Corsicana, Texas 75110

1. Date

2. Name of Firm, Partnership or Corporation and mailing address

Please print or type:

2a. Have you received a previous tax abatement from Navarro County?  (YES/ NO)

2b. If yes, when?

3. Number of new full time employees to be added -----   
 (\*A minimum of 20 new, full-time [e.g. 40 hours/week] jobs are required.)

4. Number of acres of property to be developed -----

4a. Plat of property and Development or Site Plan attached? -----  (YES/ NO)  
 (Official Property Survey with metes and bounds required)

5. Estimated value of existing real property to be developed ----- \$

6. Estimated value of real property improvements ----- \$   
 (A minimum \$1,000,000.00 investment required, unless otherwise approved by Commissioners Court)

7. Estimated value of existing inventory ----- \$

8. Estimated value of inventory to be added ----- \$

9. Estimated value of existing personal property ----- \$

10. Estimated value of taxable personal property improvements ----- \$

11. Total estimated value of new taxable investment to be made (Total of Items # 6, 8 & 10) \$

12. Description of real property improvements to be made:

12. Description of Public Services available for project development and new facilities and / or services required.

Water:	<input type="text"/>
Wastewater:	<input type="text"/>
Railways:	<input type="text"/>
Natural Gas:	<input type="text"/>
Electricity:	<input type="text"/>

13. One Year Development Schedule for all improvements.

1st Quarter:	<input type="text"/>
2nd Quarter:	<input type="text"/>
3rd Quarter:	<input type="text"/>
4th Quarter:	<input type="text"/>

\* Qualification for pro-rating new employees is determined on a case-by-case basis.

**2015 APPLICATION FOR TAX ABATEMENT (Page 2)**

14. Expected impact on the Corsicana Independent School District.

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15. Expected benefit to the local economy.

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16. Estimated annual payroll of new employees.

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17. Description of product to be manufactured or distributed.

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18. Expected productive life of all real property improvements.

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19. Identification and quantity of all Pollutants and Emissions:

TYPE	QUANTITY
AIR:	
NOISE:	
SOLID WASTE:	
WASTEWATER:	

20. Certification of no materially adverse environmental impact as a result of the improvements and operations

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21. Project in compliance with relevant zoning requirements.

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22. Reasonable proof of financial ability.

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23. References from past communities, if applicable.

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I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief.

**sign here >**

Phone:

Date:

Submitted By (Please Print)	
Name:	
Title:	
Date:	

Received by the City of Corsicana	
Name:	
Title:	
Date:	

*For assistance in completing this form, call the Economic Development Director - 903.654.4806. An Equal Opportunity Employer.*

City of Corsicana & Navarro County Economic Development Department  
200 North 12th Street, Corsicana, Texas 75110

**ENCLOSURE 2 – SAMPLE ENVIRONMENTAL COMPLIANCE LETTER**

***CORPORATION  
LETTERHEAD***

*(Date)*

H.M. Davenport, Jr.  
County Judge  
Navarro County, Texas  
300 West 3<sup>rd</sup> Avenue  
Corsicana, TX 75110

Dear Judge Davenport:

The purpose of this correspondence is to provide assurances that the planned *(approximate dollar value)* expansion of *(Company)* at its Navarro County, Texas location will have no unacceptable environmental impact according to the Environmental Protection Agency (EPA), Texas Commission on Environmental Quality (TCEQ), and Navarro County, Texas codes, guidelines and environmental regulations.

Sincerely,

*(Signature block)*