

JOHNSON COUNTY COMMISSIONERS COURT Filed For Record 9.12



OCT 25 2016

RICK BAILEY
Commissioner Pct. #1

ROGER HARMON
County Judge

Becky Ivey
County Clerk, Johnson County Texas
BY JERRY L. STRINGER DEPUTY
Commissioner Pct. #3

KENNY HOWELL
Commissioner Pct. #2

Alison Hitchcock
Assistant to Commissioner's Court

LARRY WOOLLEY
Commissioner Pct. #4

THE STATE OF TEXAS §
§
COUNTY OF JOHNSON §

ORDER #2016-36

TAX ABATEMENT PROJECT SOUTHWEST

BE IT REMEMBERED, at a regular meeting of the Commissioners' Court of Johnson County, held on the 24th day of October, 2016, on motion made by Commissioner Kenny Howell, and seconded by Commissioner Rick Bailey, the following Order was adopted:

WHEREAS, the City of Burleson has designated a parcel of property located within the City's jurisdiction known as the TAX ABATEMENT REINVESTMENT ZONE NUMBER 006-2016 pursuant to V.T.C.A., Tax Code, Chapter 312; and

WHEREAS, Golden State Foods Corporation, a Delaware Corporation, operating under the name of and also known as Project Southwest and all entities directly or indirectly under the control or common control of Golden States Foods Corp described as affiliates in the City of Burleson Abatement Agreement (all collectively referred to hereinafter as "GSF) is under contract to purchase property located within said Reinvestment Zone; and

WHEREAS, Johnson County is authorized pursuant to Section 312.402 of V.T.C.A., Tax Code to enter into a Tax Abatement Agreement with GSF; and

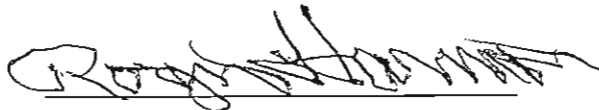
WHEREAS, GSF is proposing to construct a 100,000 square foot office, manufacturing and distribution facility on the property with an eligible capital investment of \$46,900,000.00 by January 1, 2019 and thereby increase the local employment for said facility by at least 150 positions; and

WHEREAS, the Johnson County Commissioners' Court has adopted a policy that establishes the criteria that the County will use to evaluate tax abatement requests; and

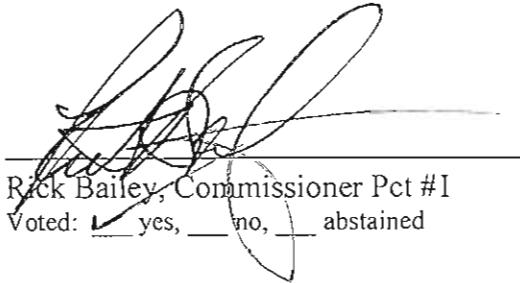
WHEREAS, the criteria for the Tax Abatement Agreement between Johnson County and GSF will provide for an Abatement of fifty percent of the increased value over a seven year period;

NOW THEREFORE BE IT ORDERED, ADJUDGED AND DECREED, that the Commissioners Court hereby and herewith authorizes the County Judge to execute an abatement agreement between Johnson County and GSF consistent with both the aforesaid terms as to amount of improvements and the level and term of the abatement and the guidelines and criteria previously adopted by the Commissioners' Court.

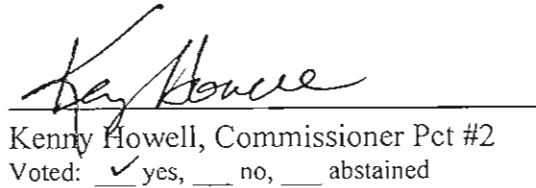
SO ORDERED IN OPEN COURT THIS 24TH DAY OF OCTOBER, 2016.



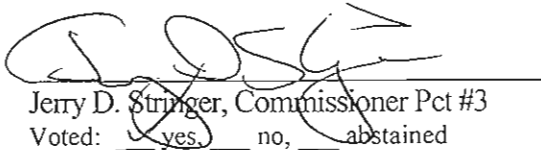
Roger Harmon, Johnson County Judge
Voted: yes, ___ no, ___ abstained



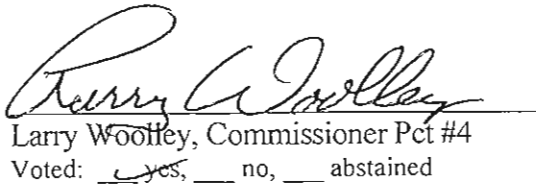
Rick Bailey, Commissioner Pct #1
Voted: yes, ___ no, ___ abstained



Kenny Howell, Commissioner Pct #2
Voted: yes, ___ no, ___ abstained



Jerry D. Stringer, Commissioner Pct #3
Voted: yes, ___ no, ___ abstained



Larry Woolley, Commissioner Pct #4
Voted: yes, ___ no, ___ abstained

Attest: 
County Clerk



TAX ABATEMENT AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF JOHNSON §

WHEREAS, the City of Burleson, Texas (the "City") adopted Ordinance No. CSO-494-08-2016, designating Tax Abatement Reinvestment Zone No. 006-2016 , City of Burleson (referred to herein as the "Zone") under the provisions Title 3, Subtitle B, of Chapter 312 of V.T.C.A., Tax Code; and

WHEREAS, the City has entered into an agreement with Golden State Foods Corp., a Delaware Corporation, operating under the name of and also known as "Project Southwest," and all entities directly or indirectly under the control or common control of Golden States Foods Corp. described as "Affiliates" in the City of Burleson Abatement Agreement (all collectively referred to hereinafter as "GSF), as owner of the taxable real property for the abatement of ad valorem taxes pursuant to Section 312.204 of V.T.C.A., Tax Code; and

WHEREAS, Johnson County, herein after referred to as the "County," has determined that the proposed improvements, as described in this agreement ("Agreement"), are to be constructed by GSF, meet the requirements for eligibility for tax abatement under V.T.C.A. Tax Code and the "Ordinance"; and

WHEREAS, it is reasonably likely that this Agreement will contribute to the retention, expansion and creation of primary employment and will attract major investment in the Zone that would be a benefit to property within the Zone and that would contribute to the economic development of the County; and

WHEREAS, the County has determined that the Improvements are practical and are of benefit to the area within the Zone and to the County; and

WHEREAS, Commissioners Court of Johnson County, Texas (the "Commissioners Court") finds that the terms of this Agreement meet the applicable requirements of the Guidelines and Criteria for the Johnson County Tax Abatement Policy Statement, adopted by the Commissioners Court; and

WHEREAS, this Agreement shall become effective upon the approval by Johnson County and the execution of said Agreement by both the County and GSF;

NOW, THEREFORE, the parties hereto, for and in consideration of the premises and mutual promises stated herein, agree as follows:

Section 1. The real property and improvements thereto shall be those constructed on the property within the Zone as described by the following legal description; that 25 acre tract out of Lot 1R1, Block 5 and Lot 4, Block 5, and portions of Lot 3, Block 5 and Lot 1, Block 9 of the HighPoint Business Park Addition, and more particularly described on Exhibit "A" that is attached hereto and incorporated by reference herein for all purposes (the "Premises").

Section 2. GSF desires to construct a 100,000 square foot office, manufacturing and distribution facility ("Improvements") on the Premises with an eligible capital investment of \$46,900,000.00 by January 1, 2019. The facility construction will create approximately 150 new jobs. GSF anticipates that the improvements will be completed by January 1, 2020.

Section 3. For purposes of this Agreement:

- (a) the "Abatement Property" means the Premises, the Improvements and the related items of tangible personal property described in Sections 1 and 2 hereof,
- (b) the "Effective Date of Abatement" means January 1, 2018; and
- (c) the "Abatement Period" means that period commencing in tax year 2018 and ending in tax year 2024.

Section 4. Subject to the terms and conditions of this Agreement, and subject to the rights of holders of any outstanding bonds of the County, fifty percent (50%) of the appraised value for property tax purposes of the Abated Property (to the extent the appraised value of the Abated Property for each year exceeds its value as of January 1, 2016) shall be abated and exempted from taxation for a period of seven (7) years beginning with the first day of the Effective Date of Abatement. As a result, said abatement shall result in a reduction by fifty percent (50%) of the taxes that would otherwise be assessed upon that portion of the appraised value of the Abated Property that for each year of abatement exceeds its value as of January 1, 2016. It is the intent of the parties that the abatement granted hereby shall extend for a period of seven (7) years beginning with the first day of the Effective Date of Abatement, and shall apply only to all Improvements and items of tangible personal property constructed or placed on the Premises that resulted from this expansion. To the extent necessary, it is the intent of the parties that this Agreement shall not be amended to include such additional improvements and items of tangible personal property. A separate tax abatement agreement shall be entered into with respect to any additional real property not included in the Abatement Property. It is also agreed that if the appraised value of the Improvements should fall below \$35,000,001.00, the percent abated will be reduced per the table in the Guidelines and Criteria For Johnson County Tax Abatement Policy.

Section 5.

It is agreed that employees of the County shall have access to the Premises for inspection to ensure that the Improvements are made according to the conditions of this Agreement and that the Improvements are of substantially the same character as described in Section 2 hereof (subject to the right of GSF, to revise the plans and specifications for the Improvements prior to and during construction). All inspections will be made only after giving GSF at least twenty-four (24) hours advance notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the project. All inspections will be made with one or more representatives of GSF, and in accordance with GSF's safety standards.

GSF, shall indemnify, hold harmless and defend the County, its members, agents, officials, employees, from and against any and all obligations, claims, suits, damages, and liability, or alleged liability, including, but not limited to liability without fault and liability by virtue of the obligations of GSF, pursuant to this Agreement or the acts or omissions of GSF, its agents, contractors, employees, licensees, or invitees, on or with respect to the Premises, Improvements and/or equipment, including costs of suit, attorney fees and other related costs and expenses of whatever kind or character arising directly or indirectly from any cause whatsoever in connection with or incidental to this Agreement or such acts or omissions, provided, however, that GSF, shall not be required to indemnify and hold harmless any indemnified party for any such injury or harm caused by the negligence or willful misconduct of any indemnified party. The indemnity set forth herein shall specifically include, without limitation all actions, damages, claims and liabilities for personal injury, death or property damage occurring on, or arising out of or resulting from the use of Premises, Improvements and/or equipment by GSF, its sublessee or representative, agents, contractors, employees, licensees or invitees.

Section 6.

- (a) During the Abatement Period, the County may declare a default hereunder by GSF, only if GSF, fails to commence construction of the Improvements within two (2) years from the date this Agreement is executed, fails to construct the Improvements, or refuses or neglects to comply with any of the terms of this Agreement, or if any representation made by GSF, in this Agreement is false or misleading in any material respect, or if GSF, 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.
- (b) Should the County determine GSF, to be in default of this agreement, the County shall notify GSF, in writing prior to the end of the abatement period, and if such default is not cured within one hundred twenty (120) days from the date of such notice (the "Cure Period"), then the Agreement may be terminated; provided, however, that in the case of a default that, for causes

beyond GSF's reasonable control, cannot with due diligence be cured within such one hundred twenty day period, the "Cure Period" shall be deemed extended if GSF, (i) shall immediately, upon the receipt of such notice, advise the County of GSF's intention to institute all steps necessary to cure such default, and (ii) shall institute and thereafter prosecute to completion with reasonable dispatch all steps necessary to cure same.

- (c) Except as provided in Subsection (d) below, if GSF, violates any of the terms and conditions of this Agreement and fails to cure during the Cure Period, this Agreement may then be terminated and all taxes previously abated by virtue of this Agreement will be recaptured and paid within one hundred twenty (120) days of the termination.
- (d) During the period of time when GSF, is constructing, renovating, repairing, or installing the improvements and/or equipment on the premises, and at all times thereafter, during the term of this Agreement, GSF, shall keep the improvements and equipment insured against all loss or damage by fire or any other casualty. GSF, shall furnish the County with all Certificates of Insurance that are required by this Agreement within thirty (30) days after the initiation of construction, repairs, or installation, and within thirty (30) days succeeding the renewal of each policy required herein.

In the event, improvements and/or equipment are damaged by fire or any other casualty, should GSF, decide not to repair, remodel, renovate or reinstall; or fails to begin repair, remodeling, renovation or reinstallation on the damaged Improvements and/or equipment within six (6) months of the fire and/or other casualty, then the abatement shall terminate and all taxes previously abated by virtue of this Agreement will be recaptured and paid within one hundred twenty (120) days of the termination.

Section 7. For purposes of this Agreement, the value of the Premises, the Improvements and all items of tangible personal property situated on the Premises shall be the same as the value of such property as determined annually by the Chief Appraiser of the Johnson County Appraisal District, subject to the appeal procedures set forth in the Texas Property Tax Code (V.T.C.A. Tax Code). Any reduction in the number of new employees hired and retained by GSF, during any tax year subject to this Agreement shall reduce the amount of abated tax per the table on page three (3) of the tax abatement policy for Johnson County.

Prior to October 1st of each year that this Agreement is in effect, GSF, shall certify to the County that GSF is in compliance with each applicable term of this Agreement. This annual certification shall include a rendition of the property value.

GSF is solely responsible for meeting any and all additional requirements for the completion of this Agreement including the application for the Abatement which will need to be filed with the Central Appraisal District of Johnson County, Texas.

Section 8. If the County terminates this Agreement upon an event of default as defined in Section 6 hereof, it shall provide GSF written notice of such termination. If GSF believes that such termination was improper, GSF may file suit in Johnson County District Courts appealing such termination within one hundred twenty (120) days after receipt from the County of written notice of the termination. If an appeal suit is filed, GSF shall remit to the County, within one hundred twenty (120) days after receipt of the notice of termination, any additional and/or recaptured taxes as may be payable pursuant to Section 6 of this Agreement during the pendency of the litigation pursuant to the payment provisions of section 42.08, V.T.C.A. Tax Code. If the final determination of the appeal increases GSF's tax liability above the amount of tax paid, GSF, shall remit the additional tax to the County pursuant to section 42.42, V.T.C.A. Tax Code and this agreement. If the final determination of the appeal decreases GSF's tax liability, the County shall refund to GSF, the difference between the amount of tax paid and the amount of tax for which GSF, is liable pursuant to section 42.43, V.T.C.A. Tax Code, and this Agreement.

Section 9. Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or GSF at the following addresses. If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To GSF:

Dorn Van Cleave
Golden State Foods Corp.
Senior Director, Corporate Development
18301 Von Karman Ave, Ste. 1100
Irvine, CA 92612
Telephone: (949) 247-8032
Email: dvanceleave@goldenstatefoods.com

With a copy to: John E. Page, Esq.

Golden State Foods Corp.
SVP, Chief Legal Officer
18301 Von Karman Ave, Ste. 1100
Irvine, CA 92612
Telephone: (949) 247-8000
email: JPage@goldenstatefoods.com

and a copy to:

Kelley Rendziperis
Site Selection Group
3736 Bee Cave Rd, #1-239
West Lake Hills, TX 78746
(214) 271-0584
Email: krendziperis@siteselectiongroup.com

To the County:

Johnson County Courthouse
2 Main Street
Cleburne, Texas 76031
Attention: Roger Harmon
County Judge

Any party may designate a different address by giving the other parties ten days' written notice.

Section 10. All provisions of this Agreement shall be executed in compliance with the Order of the Commissioners Court. A copy of the Order is attached hereto as Attachment I and incorporated herein by reference for all purposes.

Section 11. GSF warrants to the best of its knowledge that the Premises do not include any property that is owned by a member of the Commissioners' Court or any board, commission or other governmental body approving, or having responsibility for the approval of this Agreement.

Section 12. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, and such invalidity or unenforceability does not destroy the basis of the bargain between the parties, then the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.


Section 13. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto.

Section 14. This Agreement was authorized by the Order adopted by the Commissioners Court of Johnson County, Texas, at a meeting open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by Texas Open Meetings Act, V.T.C.A., government code, Chapter 551, and such Order authorizes the County Judge to execute this Agreement on behalf of the County. This Agreement shall constitute a valid and binding agreement between the County and GSF upon execution by the County and GSF. This Agreement shall constitute a covenant running with the land and shall be recorded upon execution in the Real Property Records of Johnson County, Texas. This Agreement is performable in Johnson County, Texas, and venue over any action to enforce any of the provisions hereof shall lie exclusively in Johnson County, Texas. The laws of the State of Texas shall apply in all respects to interpretation of this Agreement.

Section 15. This Agreement has been executed by the parties in multiple originals, each having full force and effect.

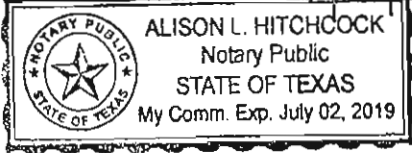
EXECUTED THE 24th DAY OF October, 2016.

JOHNSON COUNTY, TEXAS


By: 
Roger Harmon
County Judge

This instrument was acknowledged before me on the 24th day of October, 2016, by Roger Harmon as County Judge.

Alison L. Hitchcock
Notary Public Signature
My commission expires: 7/2/19



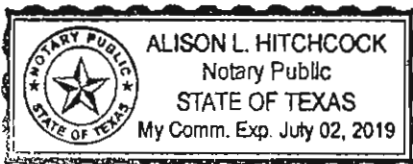
Golden State Foods Corp.
A Delaware corporation

By: 
Title: Group VP LP NA

State of _____
County of _____

This instrument was acknowledged before me on the 24th day of October, 2016, by Shane Steven Solberg as Group VP LP NA.

Alison L. Hitchcock
Notary Public Signature
My commission expires: 7/2/19





25 acre tract out of Lot 1R1, Block 5 and Lot 4, Block 5, and portions of Lot 3, Block 5 and Lot 1, Block 9 of the HighPoint Business Park Addition

EXHIBIT A