

## **Resolution**

### **GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT IN REINVESTMENT ZONES CREATED IN THE JURISDICTION OF MILLS COUNTY, TEXAS.**

**WHEREAS**, the creation and retention of job opportunities that bring new wealth is one of the highest civic priorities; and,

**WHEREAS**, new jobs and investments will benefit the area economy, provide needed opportunities, strengthen the real estate market, and generate tax revenue to support local services; and,

**WHEREAS**, Mills County must compete with other localities across the nation currently offering tax inducements to attract new and modernization projects; and,

**WHEREAS**, any tax incentives offered in Mills County would reduce needed tax revenue unless these tax incentives are strictly limited in application to those new and existing industries that bring new wealth to the community; and,

**WHEREAS**, the abatement of property taxes, when offered to attract primary jobs in industries that bring in money from outside a community instead of merely recirculation dollars within a community, has been shown to be an effective method of enhancing and diversifying an area's economy; and,

**WHEREAS**, Texas laws requires any eligible taxing jurisdiction to establish guidelines and criteria as to eligibility for tax abatement agreements prior to the granting of any future tax abatement, which guidelines and criteria are to remain unchanged for a two-year period unless amended by minimum votes, as provided by said state law; and,

**WHEREAS**, these guidelines and criteria shall not be constructed as implying or suggesting that the County of Mills, or any other taxing jurisdiction, is under any obligation to provide tax abatement or other incentives to any applicant, and all applicants shall be considered on a case-by-case basis; and,

**WHEREAS**, these guidelines and criteria are approved for circulation to all affected taxing jurisdiction for consideration as a common policy for all jurisdictions that choose to participate in tax abatement agreements;

**NOW THEREFORE BE IT RESOLVED THAT**, said guidelines and criteria are as follows:

#### **Sec. 1. Definitions**

(a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real property, and certain personal property, in a reinvestment zone designated by the County of Mills for economic development purposes.

(b) "Affected jurisdiction" means the County of Mills, and any other taxing jurisdiction with any substantial parts of its area located in Mills County; and that levies ad valorem taxes and provides services to property located in said County; and that chooses to participate in tax abatement agreements by, or pursuant to, these guidelines.

- (c) "Agreement" means a contractual agreement between a property owner or lessee, or both, and an affected jurisdiction for the purposes of tax abatement.
- (d) "Base year value" means the assessed value of eligible property January 1 preceding the execution of the agreement, plus the agreed-upon value of eligible property improvements made after January 1 but before the execution of the agreement.
- (e) "Deferred maintenance" means improvements necessary for continued operations that do not improve productivity or alter the process technology.
- (f) "Distribution Center Facility" means permanent buildings and structures, including fixed machinery and equipment, used or to be used, primarily to receive, store, service, or distribute goods or materials owned by the facility operator.
- (g) "Expansion" means the addition of permanent building and structures, fixed machinery and equipment for purposes of increasing production capacity.
- (h) "Facility" means property improvements completed or in the process of construction that together comprise an integral whole.
- (i) "Manufacturing Facility" means permanent buildings and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (j) "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 permanent buildings and structures, alteration, or installation of permanent buildings and structures, fixed machinery and equipment. Modernization shall include improvements for the purposes of increasing productivity or updating the technology of machinery or equipment or both.
- (k) "New Facility" means a property previously undeveloped that is placed into service by means other than by, or in conjunction with, expansion or modernization.
- (l) "Other basic industry" means permanent buildings and structures, including fixed machinery and equipment not elsewhere described, used or to be used, for the production of products or services that primarily serve a market that result in the creation of new permanent jobs, and that bring in new wealth.
- (m) "Productive life" means the number of years a property improvement is expected to be in service in a facility.
- (n) "Regional entertainment facility" means permanent buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission of the general public.

(o) "Research facility" means permanent buildings and structures, including fixed machinery and equipment, used or to be used primarily for the research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

(p) "Regional service facility" means permanent buildings and structures, including fixed machinery and equipment, used or to be used, to service goods.

(q) "Renewable Energy Resource" means a resource which produces energy derived from renewable energy technologies, as defined in PUC Substantive Rule 25.5.

## **Sec. 2. Criteria for Abatement and Designation a Reinvestment Zone.**

(a) Authorized facility. A facility may be eligible for abatement if it is a manufacturing facility, research facility, distribution center or regional service facility, regional entertainment facility, renewable energy resource, or other basic industry.

(b) Creation of new value. Abatement may be granted only for the additional value of eligible property improvements made subsequent to, and specified in, an abatement agreement between Mills County and the property owner or lessee, subject to such limitation as Mills County may require.

(c) New and existing facilities. Abatement may be for new facilities and improvements to existing facilities purposes of modernization or expansion.

(d) Eligible property. Abatement may be extended to the value of permanent buildings and structures, fixed machinery and equipment, and certain other personal property, site improvements, and office space and related fixed improvements necessary to the operation and administration of the facility.

(e) Ineligible property. The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; housing; hotel accommodations; deferred maintenance investments; property to be rented or leased, except as provided in Section 2 (f); improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion; any improvements, including those to produce, store or distribute natural gas, fluids or gases, that are not integral to the operation of the facility; property owned or used by the State of Texas or its political subdivision or by any organization owned, operated, or directed by a political subdivision of the State of Texas.

(f) Owned and Leased Facilities. If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee.

(g) Value and term of abatement. A tax abatement agreement granted by Mills County shall be up to but not exceeding ten (10) years in duration and up to but not exceeding 100% of the ad valorem property taxes assessed.

(h) Economic qualification. In order to be eligible to receive tax abatement the planned improvement:

(1) must be expected to prevent the loss of employment, retain employment, or create employment on a permanent basis.

(2) must not be expected to solely or primarily have the effect of transferring employment from one part of the County of Mills to another; and,

(i) Existing business. Recognizing the importance of cosmetic improvements to the community of those existing businesses that modernize or expand over and above normal repair and upkeep, they may be granted a two-year tax abatement of the amount of value the facility is increased. (If a business has a building appraised at \$50,000.00 and modernization or expansion changes the appraised value to \$100,000.00, \$50,000.00 of the new value could be abated for two years beginning January 1 after the year completed.)

(j) Taxability. From the execution of the abatement agreement to the end of the agreement period taxes shall be assessed as follows:

(1) the value of ineligible property as provided in Section 2 (e) shall be fully taxable; and,

(2) the base year value of existing eligible property as determined each year shall be fully taxable; and,

(3) The additional value of new eligible property shall be taxable in the manner described in Section 2(g, h, & i).

### **Sec. 3. Application and Hearing**

(a) Any present or potential owner of taxable property in the jurisdiction of the Taxing Entities of the County of Mills, Texas may request tax abatement by filing a written request with the Mills County Commissioners Court via the office of the County Judge Electronic or facsimile transmission of documents, while informative, do not meet the requirements of this Section.

(b) The application shall consist of a completed application form accompanied by: a general description of the proposed use and the general nature and extent of the modernization, expansion, or new improvements to be undertaken including their estimated cost; a descriptive list of the improvements that will be a part of the facility; a map and property description; and a time schedule for undertaking and completing the planned improvements and an estimate of the number of jobs created or preserved

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 requires financial and other information that may be appropriate for evaluating the financial capacity of the applicant and any other factors.

(c) After receipt of an application, the Commissioners Court shall determine within forty-five

(45) days how to proceed with the application. Within this time frame, the Commissioners Court shall choose to deny the application, consider the application, or consider the application on an expedited basis.

(d) Consideration of Application. If the County determines that the application should be further considered, then the County Judge shall schedule a hearing to obtain public input on the application. At least seven (7) days prior to the hearing, the County must send written notice to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought and must publish notice of the hearing time, place and subject in the local newspaper. the Commissioners' Court shall pass an order to that effect that all of Mills County is a designated reinvestment zone and may then arrange to consider for approval the tax abatement agreement between the applicant and the County at its next regularly scheduled meeting. At least seven (7) days prior to entering into a tax abatement agreement, the County must give written notice of its intent to do so to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought, along with a copy of the proposed tax abatement agreement. At the regularly scheduled meeting, the Commissioners' Court may finally vote by simple majority to enter into the tax abatement agreement as submitted or as modified by the Court or to decline. The approved tax abatement agreement may be executed in the same manner as other contracts made by the County.

(e) Expedited Consideration of Application. If the County determines that the application should receive expedited consideration, then the County Judge shall schedule an opportunity to obtain public input on the application at the Commissioners Court's next meeting. At least seven (7) days prior to the meeting, the County must send written notice to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought along with a copy of the proposed tax abatement agreement. and must publish notice of the hearing time, place and subject in the local newspaper. During the Commissioners' Court meeting, the Commissioners' Court shall evaluate the application against the criteria in Sections 2 and shall decide whether to designate the property for which the abatement is sought as a reinvestment zone. If the reinvestment zone is designated, the Commissioners' Court shall pass an order to that effect and may then immediately consider for approval the tax abatement agreement between the applicant and the County. After consideration, the Commissioners' Court may finally vote by simple majority to enter into the tax abatement agreement, vote to modify the agreement or decline to enter into the agreement. An approved tax abatement agreement may be executed in the same manner as other contracts made by the County.

(f) Confidentiality. As required by Section 312.003 of the Texas Tax Code, information that is provided to the County in connection with an application or a request for a tax abatement under this chapter 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 the abatement is sought is confidential and not subject to public disclosure until the tax abatement is executed.

(g) When the abatement is disapproved, an applicant may be granted a review, or rehearing, in which a new application and hearing may be required.

(h) Tax abatement may not be approved if the County finds that the application therefore was filed after the commencement of the construction, alteration, or installation of improvements related to a proposed modernization, expansion, or new facility.

(i) Request for variance from the provisions of Section 2 may be made in written form to the Commissioners' Court of Mills County. Such request shall include all the items listed in Section 3 (b) above, together with a complete description of the circumstances that prompt the applicant to request variance. The approval process for a variance shall be identical to that for a standard application and may be supplemented by such additional requirements as may be deemed necessary by the County.

#### **Sec. 4. Standards for denying Approval of Abatement.**

(a) If any affected jurisdiction is able to conclusively show cause in the public hearing why the granting of the abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity, or the providing of services, Mills County shall deny the approval of abatement.

(b) An abatement agreement shall not be granted if it is determined that:

(1) there would be substantial adverse effect on the providing of government services or tax basis;

(2) the applicant has insufficient financial capacity;

(3) planned or potential use of the property would constitute a hazard to public safety, health, or morals; or,

(4) codes or laws would be violated.

#### **Sec. 5. Effect of Approval of Application**

Mills County Commissioners' Court acts only for the taxing entity of Mills County and for no other taxing entity within Mills County. The County's approval or disapproval of an application has no effect on any other taxing entity within the jurisdiction or their right to approve or disapprove an application. Only the governing bodies of the effected jurisdictions may grant tax abatements, and enter into tax abatement agreements with applicants.

#### **Sec. 6. Tax Abatement Agreements**

The Mills County Commissioners' Court after approval of an application shall enter into an agreement with the applicant. Such agreements shall be executed with the owner of the facility, and with the lessee when required. Such agreements shall include:

(1) the estimated value to be abated and the base year value;

(2) the percentage of value to be abated each year as provided in Sec. 2 (g, h, & i);

(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 application, Section 3 (b);

(5) contractual obligations in the event of default, violation of terms or conditions, delinquent taxes recapture, administration, and assignment as provided in Sections 2 (a), 2 (f), 2 (g, h, & i), 7, 8, and 9.

(6) size of investment and number of jobs involved along with qualifiers as applicable including distinguishing between full, part time and seasonal jobs and general skills and paygrades. Such agreement be executed within 30 days after the applicant has forwarded all necessary information and documentation to the County; and

(7) the agreement shall stipulate that employees, or designated representatives, or both, of Mills County will have access to the reinvestment zone during the terms of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of 24 hours prior notice and will be conducted in such a manner that they will not unreasonably interfere with the construction or operation or both of the facility. All inspections will be made in the presence of one or more representatives of the company or individual and in accordance with the safety standards of the company or individual. The agreement shall further stipulate the form and frequency of the required reporting to demonstrate both initial and ongoing compliance.

## **Sec. 7 Recapture**

(a) If the facility is completed and begins producing products or services, but subsequently discontinues producing products or services for any reason excepting casualty or accident or natural disaster, for a period of one year during the abatement period, then the agreement shall terminate and so shall the abatement of the taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for that calendar year shall be paid to the affected jurisdiction within 60 days from the date of termination.

(b) If the Mills County Commissioners' Court determines that the company or individual is in default according to the terms and conditions of its agreement, the Commissioners' Court shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within 30 days from the date of such notice ("cure period"), then the agreement may be terminated.

(c) If the company or individual (1) allows its ad valorem taxes owed to the County of Mills, or any other taxing entity in Mills County, to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest or both; or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the cure-period, or (3) has liens or judgments filed against it by the IRS or (4) defaults in the payments of obligations to it's creditors or is subject to a voluntary or involuntary transfer for the benefit of its creditors then the agreement may then be terminated by Mills County, and all taxes previously abated by virtue of the agreement will be recaptured and payable within 60 days of the termination.

## **Sec. 8. Administration**

(a) The Chief Appraiser of the Mills County Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, any 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 the affected jurisdictions that levy taxes of the amount of the assessment.

(b) Upon completion of construction, a designated representative of Mills County shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and shall make a report to the Commissioners' Court regarding the findings of each evaluation.

**Sec. 9. Assignment**

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of Mills County Commissioners Court, subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement between the new owner and Mills County. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner, or the new lessee are liable to any taxing entity in Mills County for outstanding delinquent taxes or other obligations.

**Sec. 10. Sunset Provision**

The guidelines and criteria are effective upon the date of their adoption and will remain in force for two years unless amended by a three-quarters vote of the Mills County Commissioners' Court, at which time the tax abatement contracts created according to these provisions will be reviewed to determine whether or not the goals have been achieved. Based on that review, the guidelines and criteria may be further modified, renewed or eliminated.

**Moved, Seconded, and Passed Unanimously, This the \_\_\_\_\_ day of \_May 2019.**

\_\_\_\_\_  
Mills County Judge

\_\_\_\_\_  
Commissioner Precinct 1

\_\_\_\_\_  
Commissioner Precinct 2

\_\_\_\_\_  
Commissioner Precinct 3

\_\_\_\_\_  
Commissioner Precinct 4

**ATTEST:**

\_\_\_\_\_  
Mills County/District Clerk



MILLS COUNTY TAX ABATEMENT APPLICATION  
FOR  
ECONOMIC DEVELOPMENT INCENTIVES

PROPERTY/PROJECT DESCRIPTION

1. Property Owner  
  
Mailing Address  
  
  
Telephone
2. Project Sponsor  
(If different than property owner)  
Mailing address  
  
  
Telephone
3. Applicant's Representative  
Telephone
4. Property Address  
  
Legal Description  
  
(provide attachment if by metes and bounds)
5. Located within: (School or other taxing district)
6. Description of Project:
7. Date (s) projected for occupation of project/initiation of operations:
8. Employment Impact
  - a. How many jobs will be brought to Mills County?
  - b. What types of jobs will be created?
  - c. What will the total annual payroll be?

9. Fiscal Impact
  - a. How much real and personal property value will be added to the tax roles?
  - b. How much direct sales tax will be generated?
  - c. How will this project affect existing business and/or office facilities?
  - d. What infrastructure construction would be required?
  - e. What is the total annual operation budget of this facility projected to be?
  
10. Community Impact
  - a. What effect would the project have on the local housing market?
  - b. What environmental impact, if any, will be created by the project?
  
11. Type and value of incentive requested: