

# **TAX ABATEMENT POLICY**

## **POLICY BASIS**

It is resolved that Hardin County elects to become eligible to participate in tax abatement. The herein established guidelines and criteria shall govern all Tax Abatement Agreements executed by Commissioners Court.

Hardin County recognizes the need for greater economic development within the County, to be reflected in expanding industry, diversifying the economic base, and creating new jobs. In this regard, Hardin County hereby adopts a Tax Abatement Policy, pursuant to the Property Redevelopment and Tax Abatement Act, which will encourage development and provide incentives for long-term economic growth to qualified property owners. This Tax Abatement Policy shall apply to approved present or potential owners of taxable property in Hardin County, who: (1) own or are in the process of acquiring eligible property in a Reinvestment Zone approved by the County; (2) are willing to execute tax abatement agreements on property improvements and developments designed to provide benefits to eligible property and to utilize local contractors and work force to the maximum extent feasible; and (3) are operators of new, expanded or modernized manufacturing, research, distribution, service, administrative, corporate or other business or industry facilities on the subject real property.

# HARDIN COUNTY UNIFORM TAX ABATEMENT POLICY – 2017

## **Note: Agreement with Hardin County Only**

**Businesses applying for tax abatement with Hardin County are advised that any agreement with Hardin County applies only to taxes assessed by Hardin County. Any abatement agreement with any other taxing entity must be negotiated with those respective entities. In addition, once an abatement agreement is made, the business is responsible for applying each year with the Hardin County Appraisal District for implementation of any abatement.**

### SPECIAL PROVISION OF THE HARDIN COUNTY APPRAISAL DISTRICT

The final determination of value to be abated is vested with the Hardin County Appraisal District (HCAD), an agency autonomous from Hardin County. The Procedures used by HCAD are attached as Exhibit “A” and incorporated and adopted in this Abatement Policy for all purposes.

## **STATEMENT OF PURPOSE SECTION I**

- (a) The Commissioners Court of Hardin County, Texas, adopts this tax abatement policy to provide incentives to the owner of real property, who proposes a Project to develop, redevelop or improve eligible facilities. The incentives will consist of a limited special exemption from certain taxes provided that the Owner agrees to accept and abide by this Policy and provided that the real property is located in a lawfully created Reinvestment or Enterprise Zone.
- (b) This policy is intended to improve the quality of life in economically depressed areas by stimulating industrial development, and job creation and retention.

## **DEFINITIONS SECTION II**

- (a) **“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 Hardin County for economic development purposes.
- (b) **“Agreement”** means a contractual agreement between a property owner and/or lessee and Hardin County.
- (c) **“Base Year”** means the calendar year in which the abatement contract is executed (signed).

- (d) **“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, its parent companies, subsidiaries, partners, co-venturers, or any entity exercising control over the owner or subject to control by the owner.
- (e) **“Deferred Maintenance”** means improvements necessary for continued operation which that do not improve productivity, or alter the process technology, reduce pollution or conserve resources.
- (f) **“Eligible Facilities”** 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 or enterprise zone that would be a benefit to the property and that would contribute to the economic development within the County, but does not include facilities which are intended primarily to provide goods or services to residents or existing businesses located in Hardin 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 designated to serve a regional population greater than Hardin County for medical, scientific, recreational or other purposes.
- (g) **“Expansion”** means the addition of buildings, structures, machinery, tangible personal property, equipment or payroll for purposes of increasing production capacity.
- (h) **“Facility”** means property improvements completed or in the process of construction which together comprise an integral whole.
- (i) **“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.
- (j) **“New Facility”** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.
- (k) **“Productive Life”** means the number of years a property improvement is expected to be in service in a facility.

- (l) **“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 Hardin County.
- (m) **“Fixed Machinery and Equipment”** means tangible machinery and equipment that is securely placed or fastened and stationary within a building or structure, or which is movable but remains at and is used solely at the project site.
- (n) **“Manufacturing Facility”** means buildings and structures, including fixed machinery and equipment, and fixed personal property, 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.
- (o) **“Other Basic Industry”** means buildings and structures including fixed machinery and equipment, and fixed personal property not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside Hardin County and result in the creation of new permanent jobs and bring new wealth into Hardin County.
- (p) **“Regional Distribution Center Facility”** means buildings and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- (q) **“Non-Manufacturing Facilities”** means buildings and structures, used to service and/or house individuals on a permanent or temporary basis.
- (r) **“Regional Service Facility”** means building and structures, including fixed machinery and equipment, and fixed personal property, used or to be used to service goods.
- (s) **“Reinvestment Zone”** is an area designated as such for the purpose of tax abatement as authorized by Chapter 312 of the Texas Tax Code.
- (t) **“Enterprise Zone”** is an area designated as a reinvestment zone under Chapter 312 of the Texas Tax Code without further hearing or other procedural requirements than those required by the Texas Enterprise Zone Act (Chapter 2303, Government Code).
- (u) **“Regional Entertainment Facility”** means buildings and structures, including machinery and equipment, used or to be used to provide entertainment through the admission of the general public where the majority of the users reside at least 100 miles from its location in Hardin County.

- (v) **“Regional Retail Facility”** means buildings and structures including fixed machinery and equipment, used or to be used to provide retail services from which a large portion of the revenues generated by the activity at the facility are derived from users outside Hardin County.
- (w) **“Research Facility”** means buildings and structures, including fixed machinery and equipment, and fixed personal property, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (x) **“Construction Period”** means the period for facility construction limited to a maximum of two (2) years.

**ABATEMENT AUTHORIZED  
SECTION III**

- (a) **Eligible Facilities.** Upon application, Eligible Facilities shall be considered for tax abatement as hereinafter provided.
- (b) **Creation of New Value.** Abatement may only be granted for the additional value of eligible facilities made subsequent to and specified in an abatement agreement between Hardin County and the property owner or lessee, subject to such limitations as Hardin County may require.
- (c) **New and Existing Facilities.** Abatement may be granted for new facilities and improvements to existing facilities for purposes or modernization in order to significantly increase productivity.
- (d) **Eligible Property.** Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements, 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 tax abatement: Land, supplies, inventory, deferred maintenance, property to be rented or leased (except as provided by Section III(f)), property which has a productive life of less than ten (10) years, or any other property for which abatement is not allowed by state law.
- (f) **Owned/Leased Facilities.** If a leased facility is granted abatement, the agreement shall be executed with the lessor or the lessee.
- (g) **Economic Qualification.** In order for an Eligible Facility to receive tax abatement the planned improvement:

- (1) Must be expected to have an increased appraised ad valorem tax value based upon the Hardin County Appraisal District's assessment of the eligible property; and
- (2) Must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in Hardin County.
- (3) Must not have the effect of displacing workers or transferring employment from one part of Hardin County to another.
- (4) Must demonstrate by an independent economic impact analysis that the local economic benefit will be in excess of the amount of anticipated foregone tax revenues resulting from the abatement.

(h) **Standards for Tax Abatement.** The following factors, among others, shall be considered in determining whether to grant tax abatements for an Eligible Facility, and if so, the percentage of value to be abated and the duration of the tax abatement:

- (1) Existing improvements, if any;
- (2) Type and value of proposed improvements;
- (3) Productive life of proposed improvements;
- (4) Number of existing jobs to be retained by proposed improvements;
- (5) Number and types of new jobs to be created by proposed improvements;
- (6) The extent to which new jobs to be created will be filled by persons who are economically disadvantaged, including residents of a Reinvestment or Enterprise Zone;
- (7) The extent to which local labor or local contractors will be used in the construction phase of the project;
- (8) Amount of local taxes to be generated directly;
- (9) Amount the property tax base valuation will be increased during term of abatement and after abatement;
- (10) Amount of time requested for 100% construction period of abatement;
- (11) The amount of economic impact the Eligible Facility will provide to the local community;

- (12)The costs to be incurred by Hardin County to provide facilities or services directly resulting from the new improvements;
- (13)The amount of ad valorem taxes to be paid to Hardin County during the abatement period considering:
- i. The existing values;
  - ii. The percentage of new value abated;
  - iii. The abatement period; and
  - iv. The value after expiration of the abatement period;
- (14)The population growth of Hardin County projected to occur directly as a result of new improvements;
- (15)Whether the proposed improvements compete with existing businesses to the detriment of the local economy;
- (16)The types and values of public improvements, if any, to be made by applicant seeking abatement;
- (17)The impact on the business opportunities of existing businesses;
- (18)The attraction of other new business opportunities to the area as a result of the project;
- (19)The overall compatibility with the zoning ordinances and comprehensive plan for the area;
- (20)Whether the project is environmentally compatible with no negative impact on quality of life perceptions;
- (21)The extent to which local vendors and suppliers will be used in the construction phase of the project.

Each application for tax abatement shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

- (i) **Local Employment.** For purposes of evaluating Section III(h)(7), Local Labor is defined as those laborers or skilled craftsmen who reside in a three (3) county Region comprised of Hardin, Jefferson and Orange Counties.

(j) **Denial of Abatement.** Neither a reinvestment or enterprise zone, nor abatement agreement, shall be authorized if it is determined that:

- (1) There would be a substantial adverse affect on the provision of government service or tax base;
- (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;
- (4) Violation of state or federal laws; or
- (5) Any other reason deemed appropriate by Hardin County.

(k) **“Taxability”** From the execution of the abatement agreement to the end of the agreement period, taxes shall be as follows:

- (1) The value of ineligible property as provided in Section III(e) shall be fully taxable; and
- (2) The base year value of existing property as determined each year shall be fully taxable.

#### **APPLICATION SECTION IV**

(a) Any present owner, potential owner or Lessee of taxable property in Hardin County may request the creation of a reinvestment or enterprise zone and tax abatement by filing a written request with the County Judge.

(b) The application shall consist of a completed application form which shall provided detailed information on the items described in Section III(h) hereof; a map and property description; a time schedule for undertaking and completing the planned improvements. In the case of modernization, a statement of the assessed value of the facility separately stated for real and personal property shall be given for the tax year immediately preceding the application. The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

(c) Hardin County shall not establish a reinvestment or enterprise zone or enter into an abatement agreement if it finds that the request for the abatement was filed after the commencement of construction, alteration, or installation or improvements related to a proposed modernization, expansion or new facility.



- (d) Information that is provided to Hardin County in connection with an application or request for tax abatement and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which a tax abatement agreement is requested is confidential and not subject to public disclosure pursuant to the Texas Public Information Act until the tax abatement agreement is executed. That information in the possession of a taxing unit after the agreement is executed is not confidential and is subject to disclosure.

**AGREEMENT  
SECTION V**

- (a) Hardin County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required which shall include at least the following terms:
- (1) Estimated value to be abated and the base year value;
  - (2) Percent of value to be abated each year;
  - (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 improvement list as provided in application, Section IV(b);
  - (5) Contractual obligations in the event of default, violation of terms and conditions, delinquent taxes, or assignment;
  - (6) Provision for access to and authorization for inspection of the property by Hardin County employees to ensure that the improvements or repairs are made according to the specifications and conditions of agreement;
  - (7) Limitations on the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect;
  - (8) Provision for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement;
  - (9) Provision that all contractors be encouraged to seek qualified workers through the Texas Workforce Commission;
  - (10) Contain each and every term agreed to by the owner of the property;

- (11) Requirement that the owner or lessee of the property certify annually to the governing body of each taxing unit that the owner or lessee is in compliance with each applicable term of the agreement; and
- (12) All terms required by Texas Tax Code 312.205, as amended.

Such agreement shall normally be executed within sixty (60) days after the applicant has forwarded all necessary information and documentation to Hardin County.

### **RECAPTURE SECTION VI**

- (a) In the event that the company or individual: (1) allows its ad valorem taxes owed to Hardin County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or (2) violates any of the terms and conditions of the abatement agreement; and fails to cure during the cure period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within (30) days of the termination.
- (b) Should Hardin County determine that the company or individual is in default according to the terms and conditions of its agreement, Hardin County shall notify the company or individual of such default in writing at the address stated in the agreement; and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the agreement may be terminated.

### **ADMINISTRATION SECTION VII**

- (a) The Chief Appraiser of the Hardin County Appraisal District will annually determine an assessment of the real and personal property subject to each abatement agreement. Each year, the company or individual receiving abatement shall furnish the appraiser with such information as may be necessary to determine compliance with the abatement agreement. Once value has been established, the Chief Appraiser will notify Hardin County of the amount of the assessment.
- (b) The abatement agreement shall stipulate that employees and/or designated representatives of Hardin County will have access to the facility during the term 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 twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one

or more representatives of the company or individual and in accordance with its safety standards.

- (c) Upon completion of construction, the designated representative of Hardin County shall annually evaluate each facility receiving abatement to insure compliance with the agreement, and a formal report shall be made to Hardin County.
- (d) When construction is completed the Commissioners' Court shall receive the total value of Eligible Property from the Hardin County Appraisal District and appoint a committee consisting of appropriate persons from Hardin County and the owner or lessee to determine:
  - (1) The total value of Eligible Property attributable to the direct hire of local labor;
  - (2) The total value of Eligible Property attributable to local subcontractors;
  - (3) The total value of Eligible Property for which no abatement will be granted (Ineligible Property).
    - (A) In evaluating the total value of Eligible Property attributable to direct hire of local labor and local subcontractors, if the Commissioners' Court determines that, due to the level of industrial expansion and construction activity taking place in the region, the Project was not able to utilize local labor and local subcontractors, the Commissioners' Court may, by a majority vote, credit the Project as if it had utilized local subcontractors.
- (e) The Chief Appraiser of the Hardin County Appraisal District shall timely file with the Texas Department of Economic Development and the State Property Tax Board all information required by the Tax Code.

### **AGREEMENT SECTION VIII**

Abatement may be transferred and assigned in whole or in part by the holder to a new owner or lessee of the same facility upon the approval by resolution by Commissioners' Court; subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement assumed.

No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to any jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

**SUNSET PROVISION  
SECTION IX**

These guidelines and criteria are effective upon the date of their adoption and will remain in force for two (2) years, unless amended by a majority vote of the Commissioners' Court at which time all reinvestment and enterprise zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the guidelines and criteria may be modified, renewed or eliminated.

**DISCRETION OF HARDIN COUNTY  
SECTION X**

The adoption of these guidelines and criteria by Hardin County does not:

- (1) Limit the discretion of Hardin County to decide whether to enter into a specific tax abatement agreement;
- (2) Limit the discretion of Hardin County to delegate to its employees the authority to determine whether or not Hardin County should consider a particular application or request for tax abatement; or
- (3) Create any property, contract, or other legal rights in any person to have Hardin County consider or grant a specific application or request for tax abatement; and
- (4) Limit the discretion of the Commissioners' Court with regard to the interpretation and meaning of words, phrases, or terms used in this document.

## **EXHIBIT A**

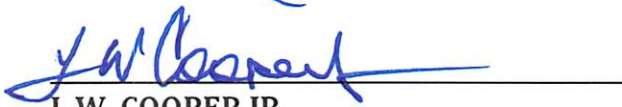
Except as otherwise provided by Sec. 23.01 of the Texas Property Tax Code, all taxable property is appraised at its market value as of January 1.


The market value of property shall be determined by the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of a property using mass appraisal standards, the mass appraisal standards must comply with the Uniform Standards of Professional Appraisal Practice. The same, or similar appraisal methods and techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value and all available evidence that is specific to the value of the property shall be taken into account in determining the property's market value.

EXECUTED this the 9<sup>TH</sup> day of January, 2017.

BY THE COMMISSIONERS COURT OF HARDIN COUNTY, TEXAS:

  
\_\_\_\_\_  
**WAYNE MCDANIEL**  
COUNTY JUDGE

  
\_\_\_\_\_  
**L.W. COOPER JR.**  
COMMISSIONER, PRECINCT 1

  
\_\_\_\_\_  
**KEN PELT**  
COMMISSIONER, PRECINCT 3

Absent  
\_\_\_\_\_  
**CHRIS KIRKENDALL**  
COMMISSIONER, PRECINCT 2

Absent  
\_\_\_\_\_  
**ALVIN ROBERTS**  
COMMISSIONER, PRECINCT 4

ATTEST:  
  
\_\_\_\_\_  
**GLENDA ALSTON**  
COUNTY CLERK