CITY OF CONROE

Tax Abatement

Policy

Guidelines & Criteria

Adopted and effective on November 8, 2018
SECTION I:

PREAMBLE

This Tax Abatement Policy is designed to stimulate continued economic growth in the City of Conroe, while preserving the values and existing assets that provide the quality of life our citizens have come to enjoy. It is hoped that businesses that avail themselves of the financial benefits of this policy will also join our community in all aspects of our civic life.

It seeks a balance between attracting new businesses that are seeking to relocate here, providing a friendly environment for new undertakings, promoting the expansion of existing businesses and economic resources already in place, and considering the effect of economic change upon existing economic assets that already have realized their potential.

It seeks to preserve the values of the past, stimulate and consider current economic opportunities, and plan for a future that includes a global economic marketplace and new and exciting economic endeavors.

It is the intent of the City Council of the City of Conroe to put in place a Tax Abatement Policy that will allow the City to be competitive in attracting economic growth and be of benefit to all the citizens of our Community.

The City Council acknowledges that both the retention of economic assets and existing jobs and the creation of new jobs and economic endeavors have an important place in striking a positive economic balance in the City of Conroe. These Guidelines and Criteria for seeking a Tax Abatement from the City are intended to be flexible and special circumstances may lead the City Council to tailor individual Tax Abatement Agreements to specific circumstances.

This particular Tax Abatement Policy and Guidelines and Criteria apply to the granting of a Tax Abatement by the City of Conroe only. There are a number of other entities and bodies that can choose to abate or not abate taxes as well. We urge you to check with the appropriate agencies, and the Montgomery Central Appraisal District to determine the circumstances of your particular situation as far as determining the taxing entities that may affect your project.

Other taxing and abating entities can include (but are limited to) emergency service district, Montgomery County, MUDs, and the Montgomery County Hospital District.
Section II: DEFINITIONS

(a) “Abatement” means the full or partial exemption from ad valorem taxes of certain real property and improvements thereon in a Reinvestment Zone designated by the City for economic development purposes.

(b) “Eligible Jurisdiction” means City of Conroe, Montgomery County or other taxing district eligible to abate its taxes according to Texas law that levies ad valorem taxes upon and provides services to property located within a proposed or existing Reinvestment Zone.

(c) “Abatement Agreement” or “Agreement” means a contractual Agreement between a property owner and/or a lessee and an eligible jurisdiction for the purposes of Tax Abatement.

(d) “Base Year Value” means the taxable value of eligible property at the time of the execution of the Agreement plus the agreed upon value of eligible property made after January 1 but before the execution of the Agreement.

(e) “Consolidating Facility” means a Facility resulting from the relocation or combining of operations and / or property into one or more locations within a reinvestment zone within the City of Conroe from one or more locations outside of the City of Conroe. “Consolidating Facility” includes a location existing in City of Conroe prior to the Effective Date of tax abatement so long as Eligible Property is included in the Consolidation.

(f) “Consolidation” means the relocation or combining of operations and / or property into one or more Consolidating Facilities located within a reinvestment zone within the City of Conroe from one or more locations outside of the City of Conroe.

(g) “Economic Life” means the number of years a property improvement is expected to be in service in a facility.

(h) “Deferred Maintenance” means improvements necessary for continued operations which do not improve productivity or alter the process technology.
(i) “Expansion” means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity.

(j) “Facility” means property improvements that are the subject of an Abatement Agreement. The term includes improvements that are completed or in the process of construction, which together comprise an integral whole.

(k) “Fixed Personal Property” means personal property that has been attached to land or improvements in a manner that:

- Would cause damage to the property if the fixture were to be removed;
- Renders use of the fixture essential to the use of the property; or
- Is attached in such a manner as to indicate that the party who installed the article intended for it to become a part of the real property.

The term includes all replacements and accessions to personal property otherwise qualifying as Fixed Personal Property.

(l) “Freeport Goods Exemption” means an exemption for personal property pursuant to Section 11.251 of the Texas Property Tax Code for “Freeport Goods” (as defined therein).

(m) “Full Time Job” means a position of employment at a Facility that provides at least 1,560 compensable hours of work per year (including vacation, sick leave or other hours of compensable leave) with a minimum straight time hourly wage of $15.00 per hour excluding employer contributions for insurance or other benefits of employment. Only permanent jobs in the direct employ of an entity that is a party to an Abatement Agreement shall be considered Full Time Jobs.

(n) “Modernization” means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
(o) “New Facility” means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(p) “Manufacturing Facility” means 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.

(q) “Regional Distribution Center Facility” means 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.

(r) “Research Facility” means building and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

(s) “Office Building” means a new office building to be occupied 100% by one owner or one tenant, providing further that said office building and owner or tenant meet the other criteria set forth herein. A multi-tenant and/or multi-use office buildings in Downtown will also qualify.

(t) “Downtown” means the Central Business District and the Highway 105 corridor. The area boundaries include I-45 on the west, Dallas Street on the north, the Santa Fe Railroad on the south and the Missouri Pacific Railroad on the east.

SECTION III:

ABATEMENT AUTHORIZED

(a) “Eligible Facility.” A facility may be eligible for abatement if it is a: Aviation Facility, Manufacturing Facility, Regional Distribution Center, Research Facility, or any other real property not excluded under Section III (e). That shall include an office building as defined in II(n).
(b) **“Creation of New Value.”** Abatement may only be granted for the additional value of eligible property improvements made subsequent to and specified in an Abatement Agreement between the City and the property owner and lessee (if required), subject to such limitations as the Conroe City Council may require.

(c) **“New and Existing Facilities.”** Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion.

(d) **“Eligible Property.”** Abatement may be extended to the value of buildings, structures, site improvements plus that office space, and related fixed personal property improvements necessary to the operation and administration of the facility. Abatement may also be extended to the taxable value of aircraft, but only in conjunction with other eligible property and/or improvements that create new value in addition to that of the aircraft. Retail enterprises, including hotels, conference centers, restaurants, and tourist and entertainment venues that are generally ineligible for abatement are eligible if located in Downtown Conroe.

(e) **“Ineligible Property.”** The following types of property shall be fully taxable and ineligible for abatement: land; inventories; supplies; tools; furnishings, and other forms of movable personal property; vehicles; vessels; housing; hotel accommodations; Deferred Maintenance investments; property to be rented or leased except as provided in Section III or is located in Downtown Conroe; on-site directly related improvements for the generation of transmission of electrical energy installed and/or used by the abatee but not wholly consumed by a New Facility or Expansion; property which has an Economic Life of less than 15 years (save and except Fixed Personal Property); property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas, any property not using a 100% market value for ad valorem tax calculations and any property (held by owner/lessee) using any other form of exemption/reduction that causes the taxable value to be less than the appraised full market value. Notwithstanding this section abatement may be granted to a Facility for which a Freeport Goods Exemption is or may be applicable provided that the market value of the additional improvements exceeds Eight million U.S. dollars ($8,000,000.00) and at least twenty (20) new permanent Full Time Jobs will be created at the Facility.
Population-driven retail enterprises that reasonably can be expected to locate or stay in a community without Abatement are usually ineligible for Abatement. This includes the following in most cases: retail businesses, hotels and motels, conference centers, restaurants, hospitals, banks, and other financial institutions.

(f) “Effective Date of Abatement” Abatement shall be granted effective with the January 1 valuation date immediately following the date of the Agreement’s execution unless otherwise provided in the Agreement. The Agreement may provide that the commencement date of the abatement period is deferred until a date that is subsequent to employment and value guidelines set forth in Schedule “A” are eligible to be considered for Abatement of new value. The Abatement and Agreement may be extended through the initial Agreement, and a subsequent Agreement may be required if necessary to comply with state law regarding the term of the Reinvestment Zone. If the period of construction exceeds two years, the facility will be considered completed for purposes of Abatement at the end of the second calendar year. In no case will the period of abatement, inclusive of construction and completion, exceed ten years.

(g) “Owned/Leased Facilities.” If a leased facility is granted abatement, the Agreement shall ordinarily be executed with the property owner (lessor) and the lessee occupant. If the agreement relates solely to a separately taxable leasehold interest and the personal property of the leaseholder, then the joinder of the fee owner is not required.

(h) “Value and Term of Abatement” Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the Agreement. Projects which meet the minimum employment and value guidelines set forth in Section III (h) are eligible for abatement of new value on a sliding scale.

(i) “Minimum Guidelines.” To be eligible for Abatement, the Facility or proposed project must meet the Economic Qualifications contained in Section 3(j) and other provisions of these Guidelines. The Agreement shall provide and no tax abatement shall be given in any year in which the Facility (1) fails to meet the contractually-defined minimum value requirement or (2) the property owner or lessee occupant of the Facility fails to meet the contractually-defined employment creation and retention
requirement. The Agreement shall provide and no tax abatement shall be given to a Facility or any owner of a Facility in any year for which all non-abated taxes on the Facility or any other property owned by the owner of the Facility payable to the City or any other taxing jurisdiction located in Montgomery County were not paid before delinquency.

(j) “Value and Term of Abatement.” Abatement may be granted in accordance with the terms of an Agreement pursuant to the following guidelines:

1) “Recommended Structure.” In considering a request for abatement, The City will use the guidelines regarding total added tax value and the minimum number of **Full Time Jobs** to be created with regard to the expansion of existing business and / or new business shown below. **Only persons in the direct employ of the property owner or lessee occupant of the Facility will be counted in satisfaction of the Full Time Job requirements. Contract, leased or temporary employees shall not be counted as Full Time Jobs.**

<table>
<thead>
<tr>
<th>Total Added Tax Value</th>
<th># of Full Time Jobs</th>
<th>Recommended Abatement Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant Category A: expansion to existing business only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$1,000,000 to $4,000,000</td>
<td>10 – 20</td>
<td>Year 1: 100% (const.)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 2: 75%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 3: 50%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Year 4: 25%</td>
</tr>
</tbody>
</table>

Applicant Category B: expansion to existing business and/or new business

| $4,000,000 to $8,000,000 | 21-50 | Year 1: 100% (const.) |
| | | Year 2: 100% |
| | | Year 3: 80% |
| | | Year 4: 60% |
| | | Year 5: 40% |
| | | Year 6: 20% |

Applicant Category C: expansion to existing business and/or new business

| $8,000,000 to $24,000,000 | 51-150 | Year 1: 100% (const) |
| | | Year 2: 100% (const) |
Applicant Category D: expansion to existing business and/or new business

$25,000,000 or more 150 or more up to 10 years: Negotiable

(2) “Abatements Including Aircraft.” Taxes may be abated on the taxable value of an aircraft if the Agreement also requires the creation of additional new value through improvements to the property that is the taxable situs of the aircraft. The recommended Abatement schedule is determined as provided in (1) above, however, at least 75% of the minimum added tax value must come from the new improvements.

(3) “Existing Enterprise Consideration.” The City Council may, at its discretion, give any weight it feels appropriate to the granting or not granting of a tax abatement application, based upon their consideration of whether or not the potential beneficiary of an applied-for tax abatement would compete with an already existing business.

In general, the City Council takes the position it is not fair for an existing local tax paying business – operating in the same or a similar manner as far as type of product or products, scope of production and/or services, and the size of investment made – to have to compete with a new business competitor whose taxes would be abated.

SPECIAL NOTE/SPECIAL CIRCUMSTANCES: Nothing contained in the City of Conroe Tax Abatement Guidelines and Criteria should be construed to limit or restrict the City Council in the exercise of its discretion in setting term limits or percentages of reduction in any particular Abatement Application. The Abatement may be extended through the initial Agreement, and a subsequent Agreement may be required if necessary to comply with state law regarding the term of the Reinvestment Zone. If the period of construction exceeds two years, the facility shall be considered completed for purposes of abatement and in no case shall the period of abatement – inclusive of construction and completion – exceed ten years.
(k) “Reporting Requirements.” Every Agreement will require the entity receiving abatement to timely file (1) annual status reports with the City by July 1 of each year and (2) annual renditions of value and annual applications for Abatement with the Montgomery Central Appraisal District by April 1 or by the date required by the Texas Tax Code, whichever is later.

(l) “Economic Qualification.” To be eligible for Abatement, the proposed project:

(1) Must be reasonably expected to increase taxable ad valorem tax value of at least $1,000,000 based upon the Montgomery Central Appraisal District’s appraisal of the eligible property;

(2) Must be expected to prevent the loss of jobs or retain, increase or create the required number of Full Time Jobs on a permanent basis in the City; and

(3) Must not be expected to solely or primarily have the effect of transferring employment from one part of the City to another.

(4) Only persons in the direct employ of the Facility owner or lessee occupant shall be counted in satisfaction of the Full Time Job requirement. Contract, leased or temporary employees shall not be counted.

(m) “Standards for Abatement.” The following factors, among others, shall be considered in determining whether to grant Abatement:

(1) The value of land and existing improvement, if any.

(2) The type and value of the proposed improvements.

(3) The expected Economic Life of the proposed improvements.

(4) The number of existing, permanent jobs to be retained by the proposed improvements.

(5) The number of new permanent Full Time Jobs to be created by the proposed improvements.

(6) The amount of local payroll to be created or enhanced.

(7) Whether the new jobs to be created will be filled by persons residing or projected to reside within the City and Conroe’s ETJ.
(8) The amount of the property tax base valuation will be increased during the term of the Abatement and after Abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than $1,000,000.

(9) The costs to be incurred by the City to provide facilities or services directly resulting from the new improvements.

(10) The amount of ad valorem taxes to be paid the City during the Abatement period – considering (a) the existing values, (b) the percentage of new value abated, (c) the Abatement period, and (d) the value after expiration of the Abatement period.

(11) The population growth of the City that might occur as a direct result of new improvements.

(12) The types and values of public improvements, if any, to be made by applicant seeking Abatement.

(13) Whether the proposed improvements compete with existing businesses to the detriment of the local economy.

(14) The impact on the business opportunities of existing businesses.

(15) The attraction of other new businesses to the area.

(16) Whether the project is environmentally compatible with the community, and whether the project could negatively impact the residents’ quality of life.

(17) The company profile, including business references, principal bank, audited financial statement and business plan.

Each Application shall be reviewed on its merit, 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.
(m) "Denial of Abatement." No Agreement shall be execute and no Abatement granted if:
   
   (1) There would be a substantial adverse effect on the tax base or costs associated with the providing of government services;
   
   (2) The applicant has insufficient financial capacity which reasonably could be expected to jeopardize the success of the undertaking;
   
   (3) The planned or potential use of the property would constitute a hazard to public safety or health;
   
   (4) Granting Abatement might lead to the violation of other codes or lawsor;
   
   (5) For any other reason deemed appropriate by the City.

Denial of an application for abatement is within the discretion of the City Council and no City official shall be required to give a reason or explanation for the reason(s) why any particular application for Abatement did not result in the granting of Abatement.

(n) "Taxability." From the execution of the Abatement, to the end of the Agreement period, property taxes shall be payable as follows:

   (1) The value of ineligible property as provided in Section III (e), shall be fully taxable using 100% market value as determined by the Montgomery Central Appraisal District.
   
   (2) The base-year value of existing eligible property, as determined each year, shall be fully taxable.
   
   (3) The additional value of new, eligible property shall be fully taxable at the end of the Abatement period.

SECTION IV:

APPLICATION

(a) "Submission." Any present or potential owner of taxable property in the City may request a Tax Abatement by following the City of Conroe Procedures for Tax Abatement.

(b) "Review." All abatement application(s) shall be individually reviewed by the City Council, the City Tax Assessor-Collector, the City Attorney, and the Chief Appraiser of the Montgomery Central Appraisal District. The City Council will approve or disapprove an agreement based on the merits of the Application and the guidelines and criteria set forth herein. In addition, in its discretion, City Council
may appoint a Tax Abatement Review Board to review and make suggested recommendations to the City Council regarding each application. If appointed, that Board shall include: The Mayor, a City Council member and the City Attorney. It shall have no less than five and no more than seven members.

(c) “Included Items.” The application shall consist of a completed application form which shall provide detailed information on the items described in Section III 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.

(d) “Notice to be Given.” Prior to the adoption of an order designating a Reinvestment Zone, the City shall give notice as provided by the Tax Code, i.e., (1) written notice to the presiding office of the governing body of each taxing unit in which the property to be subject to the Agreement is located not later than the seventh day before the public hearing and (2) publication in a newspaper of general circulation within such taxing jurisdiction not later than the seventh day before the public hearing.

(e) “90’Day Time Period.” Not more than 90 days after receipt of the completed Application, except in unusual circumstances, the City shall by Resolution either approve or disapprove the Application for Tax Abatement. The City shall notify the applicant of such approval or disapproval. Failure to act by Resolution within 90 days shall not be construed as approval of Abatement, either expressed or implied.

(f) “Timeliness of Actions.” The City shall not 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. Property eligible for abatement includes only the new improvements that occur after the completion of an Abatement Agreement with the City.

(g) “Confidentiality Required.” Information that is provided to the City 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 Tax Abatement is sought is **confidential and not subject to public disclosure until the Tax Abatement Agreement is executed.** That information in the custody of a taxing unit after the Agreement is executed is Public Record, and not confidential.

SECTION V

**AGREEMENT**

**a** **“Notice to Jurisdictions.”** Not later than the seventh day before the date on which the City enters into the Abatement Agreement, the City shall notify the governing body of each of the other taxing units in which the property is located, a written notice that the City intends to enter into the Agreement.

**b** **“Agreement Contents.”** The City shall formally execute an Agreement with the owner of the facility, and lessee as required, which shall include:

1. The estimated value to be abated and the base-year value.
2. The percent of value to be abated each year, as provided in Section III(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 improvement list – as provided for in the Application for Tax Abatement.
5. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration, and assignment as provided under Sections III, VI, VII, and VIII.
6. The size of the investment, and the average number of jobs involved.

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

SECTION VI

**RECAPTURE**

**a** **“Termination.”** If the company or individual (1) allows its ad valorem taxes owed the City 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 Agreement and fails to cure during the
Cure Period (as defined below), the Agreement then may be terminated and all taxes previously abated by virtue of the Agreement will be recaptured and will be due and payable thirty (30) days after the termination of the Agreement.

(b) “Cure Notification.” Should the City determine that the company or individual is in default according to the terms and conditions of its Agreement, the City 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.

SECTION VII

ADMINISTRATION

(a) “Assessment Determination.” The Chief Appraiser of the Montgomery Central Appraisal District shall annually determine an assessment of the real property covered under the Abatement. Each year, the company or individual receiving abatement shall furnish the Chief Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser shall notify the City of the amount of the assessment.

(b) “Access Guaranteed.” The Abatement Agreement shall stipulate that employees and/or designated representatives of the City will have access to the abated property 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 prior notice, and will 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. The City Tax Assessor-Collector has direct authority to act on behalf of the City with all inspections.

(c) “Annual Assessment Reports.” Upon completion of construction, the designated representative of the City shall annually evaluate information regarding each facility receiving abatement to insure
compliance with the Agreement, and a formal, written report shall be made to the City Tax Assessor-Collector and the City Council.

(d) “Timely Filing.” The City shall timely file with the Texas Department of Commerce and the State Comptroller’s Office all information required by the Tax Code. The City Tax Assessor-Collector has direct authority to act on behalf of the City with this requirement.

SECTION VIII

ASSIGNMENT

An Abatement Agreement may not be transferred nor assigned by the holder to a new owner or lessee of the same facility without prior approval by the resolution of the Conroe City Council. Any assignment shall provide that all conditions, terms and obligations in the original Abatement Agreement are guaranteed by the execution of an additional contractual Agreement with the City as an addendum to the Abatement Agreement. 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.

SECTION IX:

SUNSET PROVISION

These Guidelines and Criteria are effective upon the date of their adoption, and will remain in force for two years, unless amended by three-quarters vote of the Conroe City Council and so provided for in the Tax Code, at which time all Reinvestment 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.

SECTION X:

DISCRETION OF THE CITY

(a) The adoption of these guidelines and criteria by the City does not:

   (1) Limit the discretion of the City Council to decide whether to enter into a specific Tax Abatement Agreement.
(2) Limit the discretion of the City Council to delegate to its employees the authority to determine whether or not the City Council should consider a particular Application or request for Tax Abatement.

(3) Create any property, contract, or legal right in any person, partnership, corporation or other entity to have the City Council consider or grant a specific Application or request for Tax Abatement.

(b) The City Council expressly reserves the right to substitute other equivalent benefits or incentives in lieu of an offer of tax abatement. Such incentives include but are not limited to a cash advance or reimbursement payment or payments to offset a portion of any taxable liability that might otherwise be subject to abatement under this policy. In such case the abatement may be reduced or eliminated.