

**RESOLUTION NO. 2020-07-20-018**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMERON, TEXAS ADOPTING GUIDELINES, REGULATIONS AND PROVISIONS FOR TAX ABATEMENT AGREEMENTS AND REINVESTMENT ZONES; REPEALING AND AMENDING CERTAIN GUIDELINES, REGULATIONS AND PROVISIONS FOR TAX ABATEMENT AGREEMENTS AND REINVESTMENT ZONES; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING RESOLUTIONS; AND ESTABLISHING AN EFFECTIVE DATE.**

**Whereas**, the City adopted Article 11.06 of the City's Code of Ordinances that provides for guidelines, rules, and regulations for tax abatement agreements and reinvestment zones;

**Whereas**, the guidelines and criteria found in said Article are effective for two years unless re-adopted; and

**Whereas**, the City of Cameron seeks to adopt the following guidelines.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CAMERON, TEXAS:**

**SECTION 1. Findings.** The recitals above are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as finding of fact.

**Section 2. Election to Participate in Tax Abatement.** The City does hereby elect/reaffirm the election to become eligible to participate in tax abatement agreements in accordance with Texas Tax Code §312.002 et seq.

**Section 3. Guidelines and Criteria Governing Tax Abatements Adopted.** In accordance with the requirements in Section 312.002 of the Texas Tax Code, the City Council of the City of Cameron hereby adopts the "Guidelines and Criteria Governing Tax Abatements by the City of Cameron", attached hereto as **Exhibit "A"** and incorporated herein for all purposes as if set forth in full.

**Section 4. No Limits.** Adoption of the Guidelines and Criteria adopted in Section 3 herein does not:

- (1) Limit the discretion of the City Council of the City of Cameron to decide whether to enter into a specific Tax Abatement agreement nor the terms of an abatement;
- (2) Create, nor shall it be construed to create, any property, contract, or other legal right in any person or entity to have the City Council of the City of Cameron consider or grant a specific application or request for Tax Abatement.

**SECTION 5. Severability.** It is hereby declared that the sections, paragraphs, sentences, clauses, and phrases of this resolution are severable and, if any phrase, clause, sentence, paragraph, or section of this resolution shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and section of this resolution, because the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**SECTION 6. Effective Date.** This resolution shall become effective immediately from and after its passage.

**SECTION 7. Open Meeting.** It is hereby officially found and determined that the meeting in which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, and Texas Government Code.

**SECTION 8. Repealer.** All resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith

**APPROVED** this 20<sup>th</sup> day of July, 2020.

  
\_\_\_\_\_  
William Harris, Mayor

ATTEST:

  
\_\_\_\_\_  
Amy Harris, City Secretary

## EXHIBIT A

### GUIDELINES AND CRITERIA GOVERNING TAX ABATEMENTS

CITY OF CAMERON, TEXAS JULY 20, 2020

#### SECTION 1: GENERAL PURPOSE AND OBJECTIVES

The City of Cameron is committed to enhancing the competitiveness and the expansion potential of the City; to attracting and encouraging new industry and investment; to improving the City of Cameron and its infrastructure which attracts and supports development; and to expanding the tax base, employment opportunities, and the overall quality of life for its citizens. This document describes the Guidelines and Criteria to opportunities City of Cameron may consider in attempts to assert positive economic development. Nothing herein shall imply or suggest that the City of Cameron is under obligation to afford these opportunities to any applicant. All applicants shall be reviewed on a case-by case basis and decisions of the City of Cameron City Council will be made on a case by case basis. The customized design of a total incentives package is intended to allow maximum flexibility in addressing the unique concerns of each applicant while enabling City of Cameron to respond to the changing needs of the City. Consideration will be given to applicants according to the criteria listed in this document and to Chapter 312 of the State Tax Code.

##### (1). **Purpose:**

Chapter 312 of the Texas Tax Code allows, but does not obligate or require, the City to grant a Tax Abatement on the value added to a particular property on account of a specific development project that meets the eligibility requirements set forth in these Guidelines and Criteria. In order for the City to enter into Tax Abatement agreements, the City is required to establish guidelines and criteria governing Tax Abatements and to pass a resolution stating that the City elects to become eligible to participate in Tax Abatement.

##### (2). **Objective:**

The City of Cameron is committed to the promotion of high quality developments in all parts of the City and to ongoing improvement in the quality of life for all citizens. These objectives are generally served by the enhancement and expansion of the local economy, the City of Cameron, will on a case-by-case determination, give consideration to providing Tax Abatement as stimulus for economic development within the boundaries of the City of Cameron or the City's extraterritorial jurisdiction if the Tax Abatement agreement applies to taxes of the City if the City annexes the property during the term of the Tax Abatement agreement. It is herein proclaimed to be a policy of the City of Cameron to make available Tax Abatement for both new facilities and for the Expansion or Modernization of existing structures. It is further recognized to be a policy of the City

of Cameron that the consideration of Tax Abatement will be made in accordance with the procedures and criteria set forth herein. Nothing herein shall imply, suggest or in any way be interpreted to obligate the City of Cameron to provide a Tax Abatement to any applicant.

**(3). General Eligibility Criteria:**

A Tax Abatement can only be granted to persons or entities eligible for Tax Abatement pursuant to Section 312.204 of the Texas Tax Code, which persons or entities as of the effective date of these Guidelines and Criteria are:

(i) the owner of taxable real property located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, on the condition that the owner of the property make specific improvements or repairs to the property; or

(ii) the owner of a leasehold interest in tax-exempt real property located in a Tax Abatement reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt a portion of the value of property subject to ad valorem taxation, including the leasehold interest, improvements, or tangible personal property located on the real property, for a period not to exceed 10 years, on the condition that the owner of the leasehold interest make specific improvements or repairs to the real property;

**(4). General Exclusions and Limitations:**

(i) A Tax Abatement agreement under this Resolution is subject to the rights of holders of outstanding bonds of the municipality.

(ii) A Tax Abatement agreement exempting taxable real property or leasehold interests or improvements on tax-exempt real property may provide for the exemption of such taxable interests in each year covered by the Tax Abatement agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed.

(iii) A Tax Abatement agreement exempting tangible personal property located on taxable or tax-exempt real property may provide for the exemption of tangible personal property located on the real property in each year covered by the agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, including inventory and supplies.

(iv) An improvement, repair, development, or redevelopment taking place under a Tax Abatement agreement under this Resolution must conform to the City's comprehensive zoning ordinance.

## SECTION 2: DEFINITIONS.

As used within these Guidelines and Criteria, the following words or phrases shall have the following meanings:

- (1). **"Abatement" or "Tax Abatement"** means the temporary, full or partial exemption from ad valorem taxes of certain eligible taxable real and in some cases tangible personal property and/or improvements located in a Reinvestment Zone designated for economic development purposes.
- (2). **"Added Value"** means the increase in the assessed value, as compared to base year value, of an eligible property as a result of "Expansion" or "Modernization" of an existing Facility or construction of a "new Facility." It does not mean or include "Deferred Maintenance."
- (3). **"Agreement"** means a contractual agreement between an owner and/or lessee of eligible property and the City of Cameron for the purposes of Tax Abatement.
- (4). **"Base Year Value"** means the assessed value of eligible property as determined by the Milam County Appraisal District located in a reinvestment zone on January 1 of the year in which the Agreement is executed.
- (5). **"Deferred Maintenance"** means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (6). **"Affected Jurisdiction"** means the City of Cameron and every other taxing unit that includes, within its boundaries, property located within a proposed or existing reinvestment zone.
- (7). **"Economic Life"** means the number of years a property improvement is expected to be in service in a reinvestment zone.
- (8). **"Expansion"** means the addition of buildings, structures, machinery, or equipment for purposes of increasing production capacity.
- (9). **"Facility"** means property improvements completed or in the process of construction which together compromise an integral whole.
- (10). **"Manufacturing Facility"** means buildings and structures, including 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.
- (11). **"Modernization"** means the replacement and upgrading of existing facilities which increase the productive input or output, updates the technology or

substantially lowers the unit cost of the operation, and extends the Economic Life of the facilities. 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, repairing or completion of Deferred Maintenance.

(12). **"New Facility"** means a property previously undeveloped, which is placed into service by means other than or in conjunction with an Expansion or Modernization.

(13). **"Other Basic Industry"** means buildings and structures, including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which primarily serve a market outside Cameron, Texas. Corporate Home Office is included in this definition.

(14). **"Other Basic Industry Facility"** means property, previously undeveloped, which is placed into service by means other than or in conjunction with Expansion or Modernization.

(15). **"Owner"** means the owner of property subject to Abatement. If the eligible property is constructed or located on a leased property, the owner shall be the party which owns the property eligible for a Tax Abatement. The other party to the lease may join in the execution of the Agreement but shall not be obligated to assure performance of the party receiving the Abatement,

(16). **"Permanent Full-Time Job"** means a new employment position created by a business that provides a regular work schedule of at least 40 hours per week of regular employment per year to a Milam County, Texas resident and maintain the employment position during the term of the Abatement agreement.

(17). **"Employee"** means a person whose employment is both permanent and fulltime, who works for and is an employee of the Owner or an employee of a Contractor, who works a minimum of 40 hours per week, who receives industry-standard benefits, and whose employment is reflected in the Owner's (and Contractor's, if applicable) quarterly report filed with the Texas Workforce Commission ("TWC"); but excluding any direct contract (seasonal, part-time, and full-time equivalent). It is understood that two or more part time employees may be considered as one full time employee, depending on the amount of hours a part time employee acutally works.

(18). **"Tax Abatement Reinvestment Zone"** means any real property within Cameron, Texas or its extraterritorial jurisdiction which has been designated as a reinvestment zone, by the City of Cameron City Council.

**SECTION 3: ABATEMENT AUTHORIZED**

(1). **Authorized Facility:** Abatement may be eligible for new facilities and improvements to existing facilities for the purpose of Modernization or Expansion.

(2). **Creation of New Value:** Abatement may only be granted for the Added Value of eligible property improvements based on valuations as determined by the Milam County Appraisal District and subject to and listed in an Abatement agreement between City and the property owner and lessee, if required, subject to such limitations as said jurisdiction may require.

(3). **Eligible Property:** Abatement may be extended to the Added Value of real and tangible personal property as noted in Section 3(6) below.

(4). **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; aircraft; housing; hotel accommodations; Deferred Maintenance investments; property with an economic life of less than 15 years; 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, or any property exempted by local, state or federal law. When such exempted property includes manufacturing machinery and equipment listed in the Investment Budget (as required in "Application"), then the value of such property may not be included toward the achievement of investment or valuation thresholds set out in the Agreement.

(5). **Types Of Industry:** In keeping with the broad based approach to economic development, Agreements will not be restricted to any particular type of industry. Preference will, however, be given to manufacturing and any other type of industry which provides relatively higher wages. In keeping with obtaining the highest cost-benefit, Tax Abatements will be granted on the basis of (a) new jobs and (b) additional investments, for a maximum term of 10 years.

(6). **Abatement Calculations:**

Category I:	Dollar Amount of Improvements	Points
	\$50,000. - \$100,000	3
	\$101,000. - \$250,000	6
	\$251,000. - \$1,000,000	9
	Greater than \$1,000,000	12

Category II:	Number of Jobs Created or Retained	Points
	1- 5	3
	6-15	6

16 – 30	9
Greater than 30	12

Category III:	Positive Impact on the Community	Points
	No Significant Positive Impact	0
	Desirable Positive Impact	6
	Exceptional Positive Impact	12

Point Summary	Years	% abatement
Less than 6	2	none
6-9	2	40%
12-15	2	50%
18-21	2	60%
24-27	3	80%
30 or more	4	80%

(7). **Living Wage Requirement:** In order to count as a permanent full-time job under this Tax Abatement program, the job should pay Employees wages at a minimum level which is equal to five dollars (\$5.00) above the U.S. minimum wage in effect at the time of the Agreement. Additional compensation, such as commissions and mileage, will be taken into consideration and will be included in the wages.

**(8). Other General Guidelines:**

- (1.) Companies shall pay permanent full time Employees at least 50% of their health benefits.
- (2.) Applicable work must be offered to local companies for the Expansion of existing facilities as well as new facilities.
- (3.) Efforts to hire must be "performance based" to provide cost benefit advantages to the City of Cameron.
- (4.) Applicant must not permit outside companies to unfairly compete with local businesses in the same business in the local market.
- (5.) The contracts must be effectively protected by cancellation, recalibration and "claw-back" provisions which would ensure the return of the community's funds if the company defaults on its part of the Agreement.

**(9). Negotiation and Variance**

- (1). Notwithstanding anything to the contrary in these Guidelines, the City Council of the City of Cameron may, depending upon the applicant, grant Tax Abatements which differ from the Basic Formula contained in Section



3(6) above taking into consideration the cost benefit, company's financial statements or D & B rating, past business history, nature of the production process, environmental hazards, cost breakdown of the investment into land, building, equipment, probable project status at the end of 10 years, percent of hiring of local workers, and benefits to be paid to local workers and other criteria deemed appropriate by the City Council of the City of Cameron.

(2). The City Council of the City of Cameron further reserves the right to vary the term and percent of Abatement from the Basic Formula contained in Section 3(6) above on a case by case basis, where the applicant shows unique circumstances that, in the opinion of the City Council of the City of Cameron, meet the economic development goals and objectives of Cameron, Texas.

#### **SECTION 4. APPLICATION.**

(1). Any owner of taxable property in the City may request the designation of a reinvestment zone and a Tax Abatement agreement by filing a written application with the City of Cameron.

(2). The application shall be signed by the Owner accompanied by:

(i). A description of the involved parcels of land to be included in the reinvestment zone and the owner(s) of each parcel;

(ii). A general description of the proposed use and the general nature and extent of the Modernization, Expansion or new improvements to be undertaken;

(iii). a descriptive list of the improvements which will be a part of the Facility;

(iv). an estimate of the cost of the improvements;

(v). an estimate of the number of Employees during construction, and thereafter, operate the Facility;

(vi). a map, metes and bounds or other valid legal property description of the property proposed as a reinvestment zone;

(vii). a time schedule for undertaking and completing the planned improvements; and a proposed program for the recruitment of local Employees in the construction and operation of the Facility or facilities together with a statement affirming the applicant's commitment to equal opportunity hiring, at all levels, and

(viii). a plan to implement and ensure such hiring.

(3). 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.

(4). The application shall provide such financial and other information as required by the City to enable it to evaluate the financial capacity of the applicant. In the case of an application based on job retention, the applicant shall include sufficient information to verify the potential of job loss that would occur without Abatement.

(5). If the City intends to act favorably on the application and enter into an Agreement, it shall do so in writing with the owner of the taxable real property located in an area designated as a reinvestment zone to exempt from taxation all of the increase in the value of the property over its value in the year in which the Agreement is executed.

(6). The City may not enter into a Tax Abatement agreement unless it finds that the terms of the Agreement, and the property subject to the Agreement, meet the applicable provisions of these "Guidelines and Criteria." Not later than the seventh day before the date on which the City enters into such an Agreement, the City Manager, or an officer or employee of the City designated by him, shall deliver to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the Agreement is located a written notice that the City intends to enter into an Agreement. The notice shall be placed in the mail, postage paid, properly addressed, and sent by certified mail with return receipt requested.

(7). A resolution designating an area as a reinvestment zone may not be adopted by the City until the City Council of the City of Cameron has held a public hearing on the designation.

(i). It also must be found that the area of the proposed reinvestment zone is reasonably likely as a result of the designation to contribute to the retention or expansion of employment or to attract major investment in the zone that would be a benefit to the property and would contribute to the economic development of the City.

(ii). At the hearing, interested persons are entitled to speak and present evidence for or against the designation.

(iii). Not later than the seventh day before the date of such hearing, notice of the hearing must be published in a newspaper having general circulation in the City. Said notice shall be delivered in writing to the presiding officer of the governing body of each taxing unit that includes, within its boundaries, real property that is to be included in the proposed reinvestment zone.

(iv). The notice shall be placed in the mail, postage paid, and properly addressed to the appropriate presiding officer.

(v). The City shall not establish a reinvestment zone for the purpose of Tax Abatement if it finds that the request for the Abatement was filed after the commencement of construction, alteration, or installation of improvements related to a proposed Modernization, Expansion or new Facility.

## **SECTION 5: AGREEMENT**

After the hearing the City Council shall adopt a resolution finding that the proposed Agreement filed with the resolution, a copy of which is to be attached thereto, meets the applicable provisions of these "Guidelines and Criteria". The resolution shall also authorize the execution of the Agreement with the Owner, to include provisions for:

- (1). The exemption from taxation of all the increases in value of the property, over its value in the year in which the Agreement was executed for the period of time provided.
- (2). A general description of the kind, number, and location of the proposed improvements of the property;
- (3). Access to and inspection of property by City employees to ensure that the improvements or repairs are made according to the specifications and conditions of the Agreement;
- (4). Limiting 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;
- (5). 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.
- (6). Total estimated cost of the improvements and employment estimates.
- (7). The commencement date, the termination date of the Tax Abatement and the date taxes are first due the City.
- (8). A provision that the Agreement shall be effective when executed by all parties and upon the final passage of an ordinance designating the reinvestment zone, and
- (9). A provision that the applicant is required to file an annual report to the City describing the efforts of the applicant toward local hires and using local vendors and subsequent to completion, progress on construction.

## **SECTION 6: RECAPTURE**

(1). In the event that the Facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion, or other 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 and other taxing agencies within sixty days from the date of termination.

(2). Should the City of Cameron 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 in writing at the address stated in the Agreement, and if the default is not cured within sixty (60) days from the date of such notice ("Cure Period"), the Agreement may be terminated.

(3). In the event that the company or individual (1) allows any ad valorem taxes owed the City of Cameron or affected jurisdictions to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or (2) contests or violates any of the terms and conditions of the Abatement agreement and fails to cure any default within the Cure Period, the Agreement may then be terminated and all taxes previously abated, by virtue of the Agreement, shall be recaptured and paid within sixty (60) days of the termination.

## **SECTION 7: ADMINISTRATION**

(1). Each year, the company or individual receiving Abatement shall furnish the Chief Appraiser of Milam County with such information as may be necessary for the Abatement. The Chief Appraiser will annually determine the assessment of the real and personal property comprising the reinvestment zone and notify the affected jurisdictions of the amount of the assessment.

(2). Upon completion of construction, the City shall annually evaluate each Facility receiving Abatement to ensure compliance with the Agreement.

## **SECTION 8: ASSIGNMENT**

The Tax 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 the City Council, subject to the financial capacity of the assignee, and provided all conditions and obligations in the Tax Abatement agreement are guaranteed by the execution of a new contractual agreement with the City of Cameron. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee are liable to the City of Cameron or any affected jurisdiction or other taxing agency for outstanding taxes or other obligations. Approval shall not be unreasonably withheld.

## **SECTION 9: SUNSET PROVISION**

These Guidelines and Criteria are effective for two years from the date adopted. During that period, the "Guidelines and Criteria" may be amended or repealed only by a vote of three-fourths of the members of the City Council.

## **SECTION 10: LEGAL NOTICE TO POTENTIAL APPLICANTS**

The adoption of these guidelines and criteria by the City does not and shall not:

- (1). Limit the discretion of the City to decide whether to enter into a specific Tax Abatement agreement;
- (2). Limit the discretion of the City to delegate to its employee the authority to determine whether or not the City 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 the City consider or grant a specific application or request for Tax Abatement.
- (4). Waive or relinquish any immunity or defense on behalf of the City, its governing officials, officers, employees and agents as a result of the execution of a Tax Abatement agreement and/or the performance of the functions and obligations described herein.