RESOLUTION NO. 10-1331

A RESOLUTION OF THE CITY OF EULESS, TEXAS, RENEWING ADOPTION OF A TAX ABATEMENT POLICY; ESTABLISHING GUIDELINES AND CRITERIA FOR TAX ABATEMENT AGREEMENTS; ELECTING TO BECOME ELIGIBLE TO PARTICIPATE IN TAX ABATEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council originally adopted Ordinance No. 1344 in November 1998 establishing guidelines and criteria for granting tax abatements in reinvestment zones created in the City of Euless; and

WHEREAS, tax incentives are offered by the City of Euless for the purpose of securing the future economic viability of the community through the creation and retention of jobs, the attraction of new investment through the location of new industry, and the expansion and modernization of existing businesses; and,

WHEREAS, these tax incentives offered by the City of Euless are limited to those companies that create new wealth within the City and should not adversely affect the competitive position of existing companies operating in the City; and

WHEREAS, the Texas Legislature, during the most recent Legislative Session reauthorized the Property Redevelopment and Tax Abatement Act within Chapter 312 of the Texas Tax Code through September 1, 2019, which establishes the authority of and the process for the various local taxing entities to grant tax abatements; and,

WHEREAS, the City Council has determined that the goals and objectives, related to securing the future economic viability of the community by offering tax incentives, have been achieved; and,

WHEREAS, the Tax Abatement Policy is effective for two (2) years from the date of adoption. During which time, the policy may be amended or repealed only by a vote of three-fourths (¾) of the City Council.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EULESS, TEXAS, THAT:

SECTION 1

The Euless City Council does hereby elect to become eligible to participate in tax abatements, and does further hereby renew adoption of "Guidelines and Criteria", attached as Attachment "A", for granting tax abatement in reinvestment zones created within the City of Euless, Texas.

APPROVED AND ADOPTED at a regular meeting of the Euless City Council on the 12th day of January 2010, by a vote of _____ ayes, _____ nays, and _____abstentions.

APPROVED:

_____
Mary Lib Saleh, Mayor

ATTEST:

_____
Susan Crim CMC, City Secretary

ATTACHMENT "A"

GUIDELINES FOR TAX ABATEMENT IN A REINVESTMENT ZONE

City of Euless, Texas
Tax Abatement Policy
January 12, 2010

Section 1
DEFINITIONS

(a) The words below that are used in these policy guidelines are defined as follows:

"Abatement" means the full or partial exemption from ad valorem taxes of certain improvements to real property in a reinvestment zone designated for economic development purposes.

"Agreement" means a contractual agreement between a property owner and/or leasee and an eligible jurisdiction for the purposes of tax abatement.

"Base Year Value" means the assessed value of eligible property on 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.

"Deferred Maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.

"Economic Life" means the number of years a property improvement is expected to be in service in a facility.

"Eligible Jurisdiction" means the City of Euless, Tarrant County, or other special tax districts that levy ad valorem taxes upon and provide services to property located within a proposed or existing reinvestment zone.

"Expansion" means the addition of buildings, structures, fixed machinery or equipment for purposes of increasing production capacity.

"Facility" means property improvements completed or in the process of construction which together comprise an integral whole.

"Manufacturing Facility" means building, structures, fixed machinery or 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.

"Modernization" means the upgrading of existing facilities, which increase 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 purposes of reconditioning, refurbishing, or repairing.

"New Facility" means a property previously undeveloped, which is placed in service by means other than, or in conjunction with, expansion or modernization.

"Other Basic Industry" means buildings or structures, including fixed machinery and equipment not elsewhere described, used, or to be used, for the production of products or services.

"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, from which a majority of revenues generated by activity at the facility are derived from outside Tarrant County.

"Regional Entertainment/Tourism Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment and/or tourism related services, from which a majority of revenues generated by activity at the facility are derived from outside Tarrant County.

"Regional Retail Facility" means buildings and structures, including fixed machinery and equipment, used, or to be used, to provide retail services from which a majority of revenues generated by activity at the facility are derived from outside Euless.

"Regional Service Facility" means buildings and structures, including fixed machinery and equipment, used, or to be used, to provide a service, from which a majority of revenues generated by activity at the facility are derived from outside Tarrant County.

"Reinvestment Zone-Municipality Designated" means any area which lies within the taxing jurisdiction of the City of Euless and has been designated a reinvestment zone for tax abatement purposes. It is the intent of the Euless City Council to provide tax abatement within municipality designated reinvestment zones as long as the municipality granted tax abatement is in concert with the tax abatement guidelines contained herein.

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

Section 2
ABATEMENT AUTHORIZED

(1) Authorized Facility. A facility may be eligible for abatement if it is a:

- Manufacturing Facility,
- Research Facility,
- Regional Distribution Center Facility,
- Regional Service Facility,
- Regional Entertainment/Tourism Facility,
- Regional Retail Facility, or
- Other Basic Industry

(2) Authorized Date. A facility shall be eligible for tax abatement if it has applied for such abatement prior to the commencement of construction, provided that such facility meets the criteria granting tax abatement in reinvestment zones created in the City of Euless pursuant to the guidelines and criteria adopted by the City Council.

(3) Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between the City of Euless and the property owner and/or lessee, subject to such limitations as the City Council may require.

(4) New and Existing Facilities. Abatement may be granted to new facilities and improvements to existing facilities for purposes of modernization and expansion.

(5) Eligible Property. Abatement may be extended to the value of buildings, structures; fixed machinery and equipment, site improvements, plus office spaces and related fixed improvements necessary to the operation and administration of the facility.

(6) Ineligible Property. The following classes of property shall be fully taxable and ineligible for abatement:

- Land,
- Inventories,
- Supplies,
- Furnishings or other forms of movable personal property,
- Vehicles, vessels, or aircraft,
- Deferred maintenance investments,
- Residential property,
- Property that is associated with any activity that is illegal under federal, state or local law,
- Property owned or used by the State of Texas or its political subdivisions,
- Property owned by any organization which is owned, operated or directed by a political subdivision of the State of Texas

(7) Leased Facilities. If an authorized facility eligible for tax abatement is leased, the agreement shall be executed with both the lessor and the lessee.

(8) 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. The value and term of abatement on new eligible property shall be determined as follows:

The value of the abatement may not exceed that indicated in Table A, based on the investment by the business in eligible property described in Section 2(e) above. The City Council, or its designated representative, shall work with the applicant, prior to the execution of an abatement agreement, to determine the exact schedule for the abatement.

Under no circumstances shall the value of the abatement exceed 100 percent of the value of the eligible property in a single year, and the duration of an abatement agreement shall not exceed 10 years or **one-half (1/2) the economic life of the eligible property, whichever is less.**

(9) Economic Qualification. In order to be eligible to receive tax abatement, the applicant must meet the following qualifications:

a. For a new facility (with the exception of a regional retail facility) - be reasonably expected to invest not less than one million dollars ($1,000,000) in the facility (including both eligible and ineligible property) within three years from the commencement of construction, and be expected to create employment for not less than 10 persons associated with the production of goods and services at the authorized facility on a full-time, permanent basis in the City of Euless.

b. For an expanded or modernized facility (excluding regional retail facilities) - be reasonably expected to invest not less than one million dollars ($1,000,000) in the facility (including both eligible and ineligible property) within three years from the commencement of construction, and be expected to create or retain employment for not less than 10 persons associated with the production of goods and services at the authorized facility on a full-time, permanent basis in the City of Euless.

c. For regional retail facilities - be reasonably expected to invest not less than two million dollars ($2,000,000) in the facility (including both eligible and ineligible property) within three years from the commencement of construction, and be expected to create employment for not less than 10 persons associated with the production of goods and services at the authorized facility on a full-time, permanent basis in the City of Euless.

d. Two or more part-time, permanent employees totaling an average of not less than 40 hours per week may be considered as one full-time, permanent employee.

e. Companies seeking to qualify for tax abatement on the basis of job retention shall document that without the creation of reinvestment zone and/or tax abatement, the company will either reduce or cease operations.

f. The new construction, expansion or modernization shall not primarily have the effect of transferring the facility from one part of the City of Euless to another.

g. The City may consider an application from the owner or lessee of real property requesting abatement of real and/or personal property owned or leased by a certified air carrier make specific real property improvements or lease real property improvements for a term of 10 years or more.

h. For an eligible development project to be considered for tax abatement, the "Application for Tax Abatement" form must be completed and submitted to the City Manager's Office.

i. If requested, the applicant must provide evidence that there are no delinquent property taxes due on the property.

j. The tax abatement agreement shall limit the uses of property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax abatements are in effect.

k. The owners of all projects receiving tax abatements shall properly maintain the property to assure the long-term economic viability of the project.

l. Taxability. From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:

    1. The value of ineligible property, as provided in Section 2(f) above, shall be fully taxable,

    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(h), above.

m. Conflict of Interest. Property that is in a reinvestment zone and that is owned or leased by a member of the governing body or the Planning and Zoning Commission of the City of Euless shall be excluded from property tax abatement.

Section 3
APPLICATION

(1) Any present or potential owner of taxable property in Euless may request the creation of a reinvestment zone and tax abatement by filing a written request with the Mayor or his/her designated representative.

(2) The application (Exhibit "A") shall consist of a completed application form accompanied by the following:

a. A general written description of the proposed use and the general nature and extent of the modernization, expansion, or new improvements to be undertaken.

b. A descriptive list of the improvements that will be a part of the facility

c. A map and property description

d. A time schedule for undertaking and completing the planned improvements

e. Such financial and other information as deemed appropriate by the City Council for purposes of evaluating the application

(3) Upon receipt of a completed application, the Mayor shall notify, in writing, the presiding officer of the governing body of each affected jurisdiction. Before acting upon the application, the City Council shall, through public hearing, afford the applicant, designated representatives of any affected taxing jurisdiction, and the general public opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on a City Council agenda to be posted in accordance with the Texas Property Redevelopment and Tax Abatement Act and the Texas Open Meetings Act.

(4) After receipt of an application for creation of a reinvestment zone (if not in reinvestment zone) and application for tax abatement, the City Council, or its designee, shall prepare a feasibility study setting out the impact of the proposed reinvestment zone and tax abatement. The feasibility study shall include, but not be limited to, an estimate of the economic effect of the creation of the zone and the abatement of taxes and the cost/benefit to the City and other affected jurisdictions.

(5) A request for a reinvestment zone for the purpose of tax abatement shall not be granted if the City Council finds that the request for abatement was filed after the commencement of construction, alternation, or installation of improvements related to a proposed expansion, modernization or new facility authorized as eligible under these guidelines.

(6) Variance. Request for variance from provisions of these guidelines may be made in written form to the Mayor, or his/her designated representative, provided, however, that the term and value of abatement described in Section 2(h) above, may not be increased. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) vote of the governing body.

Section 4
PUBLIC HEARING

(1) Should an affected jurisdiction be able to show cause in the public hearing why the grant of abatement will have a substantial adverse effect on its bonds, tax revenue, service capacity or the provision of services, that showing shall be reason for the City to deny any designation of the reinvestment zone, the granting of abatement, or both.

(2) Neither a reinvestment zone nor an abatement agreement shall be authorized if it is determined that:

a. There would be a substantial adverse effect on the provision of government services or tax base,

b. The applicant has insufficient financial capacity,

c. Planned or potential use of the property would constitute a hazard to public safety, health or morals, or

d. Planned or potential use of the property would violate other codes or laws.

Section 5
AGREEMENT

(1) After approval, the City shall formally execute an agreement with the owner of the facility and/or lessee, which shall include the following:

a. Estimated value to be abated and the base year value,

b. Percent of value to be abated each year as provided for in Section 2(h), above,

c. The commencement and termination dates of the abatement,

d. The proposed use of the facility, nature of the construction, time schedule for construction and commencement of operations, map, property description, and improvements as listed in the application under Section 3(b), above,

e. Contractual obligations in the event of default, violation of terms and conditions, delinquent taxes, recapture, administration and assignment as provided for in Sections 2(a), 2(g), 2(h), 6, 7 and 8, or other provisions that may be required for uniformity or by state law, and

f. Amount of investment in, and average number of jobs associated with, the facility during the abatement period.

(2) Such agreement shall normally be executed within 60 days after applicant has forwarded all necessary information and documentation for evaluation of the application to the City.

Section 6
DENIAL OF ABATEMENT

(1) All eligible applications for tax abatement shall be considered on a case-by-case basis and, except for the instances set forth in Section 6(b) herein, the decision to approve or deny tax abatement shall be made at the discretion of the City Council in accordance with the City of Euless Policy Statement for Tax Abatement.

(2) Provided, however, neither a reinvestment zone nor abatement agreement may be authorized if it is determined that:

a. There would be an adverse impact on the provision of government service or tax base,

b. The applicant has insufficient financial capacity to complete the project,

c. Planned or potential use of the property would constitute a hazard to public safety or health; or

d. Violation of other codes or laws exists.

e. Nothing herein shall imply or suggest that the City of Euless is under any obligation or duty to provide tax abatement to any eligible applicant, or that any applicant has an entitlement to tax abatement, except as may be determined on a case-by-case basis by the City Council.

Section 7
RECAPTURE

(1) In the event that the facility is completed and begins producing goods and/or services, but subsequently discontinues such production 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 taxes for all prior years, and such recaptured taxes shall be paid to the City within sixty (60) days from the date of termination.

(2) Should the City determine that the company or individual is in default according to the terms and conditions of the abatement agreement, the City shall notify the company or individual, in writing, at the address stated in the agreement, and if such non-compliance is not resolved within sixty (60) days from the date of such notice, then the agreement shall be terminated.

(3) The agreement may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination, in the event that the company or individual:

a. Allows its ad valorem taxes owed the City or other affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or

b. Violates any of the terms and conditions of the abatement agreement and fails to resolve such violations within sixty (60) days from the date of written notice of such violations,

Section 8
ADMINISTRATION

(1) The Chief Appraiser of the County shall, as a normal consequence of his duties, annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the assessor with such information as may be necessary for the abatement, including the number of new or retained employees associated with the facility. Once the value has been established, the Chief Appraiser shall notify the affected jurisdictions, which levy taxes, of the amount of the assessment.

(2) The agreement shall stipulate that employees and/or designated representatives of the City will have access to the property during the term of the abatement agreement to inspect the facility to determine if the company or individual is in compliance with the terms and conditions of the abatement agreement. All inspections will be made only after notification of not less than twenty-four (24) hours and will only be conducted in such manner as not to 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 individuals present and in accordance with the company's safety standards.

(3) Upon completion of construction, the City shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the City Council and City Attorney.

(4) All proprietary information required by the City for purposes of monitoring compliance by a company with the terms and conditions of an abatement agreement should be considered confidential.

Section 9
ASSIGNMENT

(1) Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval of the City Council 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 with the City of Euless.

(2) The expiration date of the new contractual agreement shall not exceed the termination date of the abatement agreement with the original owner and/or lessee.

(3) 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 Euless or any affected taxing jurisdiction for outstanding taxes or other obligations.

Section 10
SEVERABILITY AND LIMITATION

In the event that any section, clause, sentence, paragraph or any part of these Guidelines and Criteria shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid such invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria.

Section 11
SUNSET PROVISION

(1) The "Guidelines and Criteria" are effective upon the date of their adoption and will remain in force for two years, at which time all reinvestment zones (reinvestment zone 5 years) and tax abatement contracts created pursuant to

its provisions will be reviewed by the City Council of Euless to determine whether the goals of the abatement program have been achieved. Based upon that review, the "Guidelines and Criteria" may be modified, renewed or eliminated.

(2) This policy is mutually exclusive of existing Industrial District Contracts and owners of real property in areas deserving of special attention as agreed by the affected jurisdictions.

(3) Prior to the date of review, as defined above, the "Guidelines and Criteria" may be modified by a three-fourths (3/4) vote of the City Council, as provided for in the Texas Property Redevelopment and Tax Abatement Act.

Section 12
TABLE A
TERM AND VALUE OF ABATEMENT SCHEDULE & POLICY

Newly Created Value	Maximum Tax Abatement "for up to" 10 years period
$5,000,000	**75%**
$3,000,000	**65%**
$2,000,000 - $2,999,999	**50%**
$1,000,000 - $1,999,999	**35%**

If more than $5,000,000 in newly created value is generated per year the council may authorize an additional property tax abatement percentage to any of the amounts listed above.

Exhibit "A"
The City of Euless
Tax Abatement Application

About the application…

The Tax Abatement Application provides the City with specific information on the project. The information requested in the application is designed to address the criteria developed within the City of Euless Tax Abatement Policy. The information serves as the basis for fiscal analysis and overall project evaluation. This evaluation is provided to Council Members and serves as a source document during City Council deliberations.

The application and the agreement…

Specific information from the application (like value of new investment) is incorporated into the Abatement Agreement. Since the agreement is a binding contract it is important that each question on the application be **answered in full,** and as realistically as possible. Put simply, the application is part of the process from start to finish so you will want to make sure you are comfortable with the contents.

When is the application final…?

The answer to this question is very simple: When you tell us, "It's Final." It is not uncommon for a property owner(s) to submit numerous applications as drafts for information and evaluative purpose only. As conversations continue, the property owner will submit a finalized version of the application that includes all of the commitments agreed to during the discussions.

What about confidentiality…?

Section 312.003 of the Texas Tax Code makes confidential information provided to the City as a part of this application that describes the specific processes or business activities to be conducted or other property to be located on the property for which tax abatement is sought. Such information may not be subject to public disclosure until the tax abatement agreement is executed. The City is subject to disclosing most records and documents upon request under the Public Information Act. Accordingly, please clearly indicate and mark any proprietary information, trade secrets or other matters you consider confidential information in your application.

City of Euless
Tax Abatement and Creation of Reinvestment Zone Applications

City of Euless
City Manager's Office
201 N. Ector Drive
Euless, Texas 76039
(817) 685-1420
(817) 685-1416 Fax

APPLICATION FOR TAX ABATEMENT

This Application should be filed with the City Manager's Office, City of Euless, 201 N. Ector Drive, Euless, Texas 76039-3595. For more information please call (817) 685-1420.

1.) Applicant/Property Owner _____

Mailing Address: _____
_____
_____

Telephone Number: _____
Fax Number: _____

2.) Applicant's Representative: _____

Mailing Address: _____
_____
_____

Telephone Number: _____
Fax Number: _____

3.) Property Address: _____
_____
_____

Property Legal Address: _____
_____
_____

- **Attach a copy of Deed (or Surveyor's notes) detailing property notes**
- **Metes and Bounds Description**
- **Attach map of project including all roadways, land use and zoning within 500 feet of site**

4.) **Brief Description of project:** _____
_____
_____
_____
_____
_____
_____

9.) Project Construction Phase:

A. Estimate percentage of project development and construction dollars to be spent with area based contractors and sub-contractors _____%

B. Construction Employment Estimates:

1. **Start (Month/Year):** _____
2. **Completion Date (Month/Year):** _____
3. **Number of Construction Jobs:** _____
4. **Estimate Total Construction Payroll:** _____

C. Describe any Off-Site Infrastructure Requirements:

Water:_____
_____
_____

Sanitary Sewer: _____
_____
_____

Streets: _____
_____
_____

Drainage: _____
_____
_____

Phone:_____
_____
_____

Gas: _____
_____
_____

Electricity: _____
_____
_____

Other: _____
_____
_____
_____
_____
_____
_____

10.) Types of jobs created (list the job titles and number of positions in each category that will be employed at the facility; provide average wage for each category.):

_____
_____
_____
_____
_____
_____
_____

11.) Estimate annual utility usage for project:

Water **$**_____
Sewer **$**_____
Gas **$**_____
Electricity **$**_____

12.) Describe any other direct benefits to the City of Euless as a result of this project (e.g. sales tax revenue, related project elements.)

_____
_____
_____
_____
_____
_____
_____
_____

13.) **Current Zoning:** _____
Zoning required for proposed project: _____
Anticipated Variances: _____
Is property platted: **Yes** _____ **No**_____
Will Replatting be necessary **Yes** _____ **No**_____

14.) Financial Information: Attach a copy of the latest audited financial statement or, in the case of a new project, a business plan.

This Tax Abatement Application is submitted with the acknowledgement that additional certified financial information maybe required.

_____ _____ _____
Authorized Signature **Title** **Date**

APPLICATION FOR CREATION OF A REINVESTMENT ZONE

This Application should be filed with the City Manager's Office, City of Euless, 201 N. Ector Drive, Euless, Texas 76039-3595. For more information please call (817) 685-1420.

1.) Applicant/Property Owner _____

Mailing Address: _____
_____
_____

Telephone Number: _____
Fax Number: _____

2.) Applicant's Representative: _____

Mailing Address: _____
_____
_____

Telephone Number: _____
Fax Number: _____

3.) Property Address: _____
_____
_____

Property Legal Address: _____
_____
_____

- **Attach a copy of Deed (or Surveyor's notes) detailing property notes**
- **Metes and Bounds Description**
- **Attach map of project including all roadways, land use and zoning within 500 feet of site**

4.) Brief Description of project location:_____
_____
_____
_____
_____