FRIO COUNTY
TAX ABATEMENT POLICY
Preamble

Pursuant to Chapter 312, Texas Tax Code (the "Act"), Frio County may consider an application for tax abatement, designate a reinvestment zone, and enter into a tax abatement agreement as provided for in this Tax Abatement Policy. This Policy and the guidelines and criteria outlined herein were approved by Resolution No. _____ adopted by the Frio County Commissioners Court on _____, after a public hearing on _____ , and approval of a Resolution providing that the County elects to become eligible in tax abatement pursuant to the Act.

I. Abatement Policy

A. Investment. To enter into an abatement agreement, the Commissioners Court must find that the project will result in a significant investment being made in the County. Unless additional factors are deemed to provide value to the County, the minimum investment for abatement is as follows:

   i. New business: $1,000,000, and
   ii. Expansion of existing business: $300,000.

B. Job Creation. Abatement on eligible real and fixed personal property requires new job creation, or, in the case of expansion, sustained employment levels.

C. Criteria. In determining whether to designate a reinvestment zone the County shall consider the Criteria provided in Section 312.202, Texas Tax Code, and with regard to whether to enter into a tax abatement agreement, the Commissioners Court shall consider the following criteria, among others determined to be appropriate by the Court:

   i. Site and Improvements
      a. Existing value of land and existing improvements, if any;
      b. Type and value of proposed improvements;
      c. Productive life of proposed improvements;
      d. Overall compatibility with the zoning ordinances and comprehensive plan, if any, for the area; and
      e. Environmental impacts of project.
   ii. Economic Spinoff
      a. Number and dollar amounts of all construction contracts and subcontracts award on the project;
      b. Impact on the business opportunities of existing businesses and the attraction of new business to the area, if any; and
      c. Disadvantaged business entity and Frio County contractors represented in total construction, suppliers, and services contracts.
   iii. Jobs
      a. Number of existing jobs to be retained by proposed improvements, if any;
      b. Number and type of new jobs, if any, to be created by proposed improvements;
      c. Diversity of employment base;
      d. Local employment opportunities; and
      e. Competitive wages and benefits for employees.

   iv. Public Costs and Benefits

a. Costs to be incurred by Frio County, if any, to provide facilities or services directly resulting from the new improvements;
b. Types and values of public improvements, if any, to be made by applicant seeking abatement; and
c. Amount of ad valorem property tax to be paid to Frio County during and after expiration of the abatement agreement.

D. Ad Valorem Taxes. Unless expressly provided, County approval of tax abatement applies only to County ad valorem taxes and may be restricted to include only County maintenance and operations taxes, excluding interest and sinking fund taxes. County approval of tax abatement may also apply to both Hospital District and Emergency Services District ad valorem taxes, provided that the County is statutorily required to approve the tax rate for such districts or levies their ad valorem taxes as described in Section 312.004, Texas Tax Code.

E. Existing Property Value. The value of existing real and personal property currently on the tax rolls will remain taxable and be included in the base value, even if personal property is moved to a new, abated location or replaced due to modernization or expansion. Abatement may be only granted for the additional value of eligible property improvements made sub sequent to and listed in an abatement agreement between the County and the property owner and lessee, subject to such limitations as Commissioners Court may require.

F. Application Must Precede Commencement of Project. A project is ineligible for abatement if the application for County abatement was filed after the commencement for construction, alteration, or installation of new improvements.

G. 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; private aircraft; deferred maintenance investments; property to be rented or leased except if a leased facility is granted the abatement; also, any property included in the calculation of base year value as defined.

H. Compliance with Policy. The County will only enter into abatement agreements that the County finds meet the guidelines and criteria outlined in this Policy and in the Act.

I. County Discretion. Nothing herein limits the discretion of the County to determine whether to enter into a specific abatement agreement. The County is under no obligation to provide an abatement for any project.

J. Taxability. From the execution of the abatement to the end of the agreement period taxes shall be payable as follows: (1) The value of ineligible property as provided above shall be fully taxable; (2) The base year value of existing eligible property shall be fully taxable, as well as the value of any existing personal property currently on the tax rolls in Frio County that is either moved to a new abated location or is replaced due to modernization or expansion; (3) The additional value of new eligible property shall be taxable in the manner and for the period provided for in the abatement agreement, subject to the terms described herein; and (4) The additional value of new eligible property shall be fully taxable at the end of the abatement period.

II. Application Procedure

A. Applicant. Any present or potential owner or lessee of taxable property in Frio County may request

the creation of a reinvestment zone and/or tax abatement by submitting a written application conforming to the requirements outlined herein.

B. Eligible Property. Abatement may only be granted for the following property constructed or otherwise put in place after the effective date of the tax abatement agreement: new, expanded or modernized buildings and structures, fixed machinery, and equipment; site improvements; related fixed improvements; other tangible items necessary to the operation and administration of the project or facility; and all other real and tangible personal property permitted by the Act.

C. Application. The application shall consist of a completed Frio County Tax Abatement Application, in the form attached hereto as Exhibit A, as may be amended from time to time, which shall contain the following:

i. a general description of the project, including a descriptive list of the improvements for which the abatement is requested;
ii. information showing how the project meets the requirements of the criteria outlined herein, including employment and contract information;
iii. a map and description of the property;
iv. a time schedule for completing the planned improvements;
v. the estimated taxable value or range of values of the project or facility;
vi. basic financial information about the principles sufficient to enable evaluation of the applicant's financial capacity;
vii. a feasibility study estimating the economic impact of the project and effect on the County and any other participating jurisdictions, and the applicant;
viii. in the case of modernization, a statement of the assessed value of the facility separately stated for real and personal property, shall be provided for the three years immediately preceding the application; and
ix. Each application shall be accompanied by an application fee of $1,000.00 payable to Frio County.

D. Application Consideration. The procedure for consideration by the County of a tax abatement application is as follows:

i. The application form is provided as Exhibit A to this Policy, and shall be available on the County's website.
ii. After an applicant completes the Tax Abatement Application, applicant provides a copy to each member of the Frio County Commissioners Court and the County Judge's Administrative Assistant.
iii. If the application is deemed to be complete by the County Judge, the County Judge shall provide a copy of the application to the presiding officer of the governing body of each eligible jurisdiction.
iv. Upon receipt of a completed application and/or request to participate with a municipality in an abatement agreement, the County Judge shall review and provide a recommendation to the Commissioner's Court prior to thirty (30) days prior to the public hearing.
v. The County shall not establish a reinvestment zone, nor participate in an abatement, if it finds that the application for County reinvestment zone/tax abatement was filed after the commencement of construction, alteration, or installation of improvements related to the proposed modernization, expansion or new facility.
vi. A request for variance from the provisions of this Policy must be made in written form to the County Judge and submitted with the Tax Abatement Application; provided, however,

the total duration of an abatement shall in no instance exceed ten (10) years. Such variance request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Request for variance must be approved by a majority vote of the Commissioners Court.

III. Public Hearing and Approval

A. New Reinvestment Zone. The Commissioners Court may not adopt a resolution designating a County reinvestment zone for a five (5) year period until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. No later than the seventh (7th) day before the hearing, notice of the hearing shall be published in a newspaper having general circulation in the County and delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone.

   i. If the reinvestment zone is not designated, the application fails, although it may be amended and resubmitted.
   ii. If the reinvestment zone is designated, the Commissioners Court shall pass an order to that effect and may then arrange to consider for approval of the tax abatement agreement between the applicant and the County at its next regularly scheduled meeting.
   iii. At least seven (7) days prior to entering into a tax abatement agreement, the county must give written notice of its intent to do so to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought, along with a copy of the proposed tax abatement agreement. At the regularly scheduled meeting, the Commissioners Court may finally vote by simple majority to enter into the tax abatement agreement or to decline. An approved tax abatement agreement may be executed in the same manner as other contracts made by the county.

B. Abatement Agreement. Prior to entering into a tax abatement agreement, the Commissioners Court may, at its option, hold a public hearing at which interested persons shall be entitled to speak and present written materials for or against the approval of the tax abatement agreement.

   i. At least seven (7) days prior to entering into a tax abatement agreement, the county must give written notice of its intent to do so to the presiding officers of all taxing units with jurisdiction over the property for which an abatement is sought, along with a copy of the proposed tax abatement agreement.
   ii. At the regularly scheduled meeting, the Commissioners Court may finally vote by simple majority to enter into the tax abatement agreement or to decline. An approved tax abatement agreement may be executed in the same manner as other contracts made by the County.
   iii. The public notice of the meeting at which the Commissioners Court will consider the approval of a tax abatement agreement shall contain the following:
      a. the name of the property owner and the name of the applicant for the abatement agreement;
      b. the name and location of the reinvestment zone in which the property subject to the agreement is located;
      c. a general description of the nature of the improvements or repairs included in the agreement;
      d. the estimated cost of the improvements or repairs; and
      e. the public notice must be given in a manner required by Chapter 551, Texas

Government Code, except that the notice must be provided at least 30 days prior to the scheduled time of the meeting.

C. Findings.

i. To be designated a reinvestment zone by the County, the County Commissioners must find by majority vote that:
   a. the property designated for the reinvestment zone is not located in the taxing jurisdiction of a municipality;
   b. the property for which the abatement is sought will be reasonably likely as a result the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the County, or meet one or more of the other requirements provide in Section 312.202, Texas Tax Code; and
   c. the improvements sought are feasible and practical and would be a benefit to the land to be included in the zone and to the County after expiration of the tax abatement agreement.

ii. In order to enter into a tax abatement agreement, the Commissioners Court must find by majority vote that the terms of the proposed agreement meet these Guidelines and Criteria and that: (1) there will be no substantial adverse effect on the provision of the jurisdiction's service or tax base: and (2) the planned use of the property will not constitute a hazard to public safety, health or morals.

D. Confidentiality. As required by Section 312.003, Texas Tax code, information that is provided to the 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 the property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until a tax abatement agreement is executed. Such information should be clearly marked in the application.

IV. Format for Tax Abatement Agreement

A. Required Provisions. If the Frio County Commissioners Court designates a reinvestment zone, it may consider and execute a tax abatement agreement, that conforms with this Policy, with the owner of the designated property and lessee, as appropriate, as outlined above. Any tax abatement agreement shall include at least the following:

i. the kind, number and location of all proposed improvements of the property;
ii. provisions allowing for reasonable access to the property for initial and intermittent inspection purposes by County employees or designated representatives to ensure improvements are made in compliance with the agreement;
iii. provisions limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period of abatement;
iv. provisions 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 in the agreement;
v. each term agreed to by the recipient of the abatement;
vi. a requirement that the abatement recipient certify its compliance with the agreement annually to the County; and

vii. provisions allowing the County to cancel or modify the agreement if the recipient is out of compliance with the agreement.

B. Optional Provisions. The tax abatement agreement may also contain any or all of the following items, in addition to any others deemed appropriate by the contracting parties:

i. the estimated taxable value to be abated each year;
ii. percent of value to be abated each year;
iii. the commencement and termination dates of the abatement;
iv. proposed use of the property;
v. nature of the construction, time schedule, map and property description;
vi. contractual obligations in the event of default or violation of terms or conditions;
vii. size of investment and number of temporary and permanent jobs involved, if any;
viii. provisions for dispute resolution; and
ix. a PILOT payment to cover the County's fees associated with reviewing, analyzing, negotiating and drafting the abatement agreement.

C. Value and Term of Abatement. Abatement shall be granted effective with the execution of the agreement. The value of the abatement will be determined based on the merits of the project, including, but not limited to, total capital investment value and added employment. Up to one hundred percent (100%) of the value of new eligible properties may be abated for a total term of abatement not to exceed ten (10) years. However, a project must provide an extraordinary economic benefit to the County to be considered for a one hundred percent abatement (100%). The County may approve a sliding scale of abatement percentages, may limit the abatement to maintenance and operations tax revenues, or may require a payment in lieu of taxes for all or part of the costs of project to the County. The abatement period may be deferred by written agreement of the parties, provided the duration of an abatement agreement does not exceed ten (10) years. An abatement agreement granted to a lessee may not exceed the terms of a lessee's lease.

D. Time limit. Such agreement shall be executed within thirty (30) days after passage of the resolution approving the agreement, unless the County and the applicant mutually agree otherwise.

E. Recapture. Commissioners Court reserves the right to review compliance for full or partial recapture in the event that the applicant fails to perform in "good faith." If a project is not completed as specified in the tax abatement agreement, the County has the right to cancel the abatement agreement and abated taxes shall become due to the County and other affected taxing units as provided by law. If any of the provisions contained in the tax abatement agreement, i.e., employment, amount of investment, etc., are not met, the County shall have the right to reduce or cancel the abatement agreement. If a project granted a tax abatement ceases to operate or is no longer in conformance with the tax abatement agreement, the agreement shall not be in effect for the period of time during which the project is not operating or is not in conformance.

V. Administration of Tax Abatement Agreement

A. Inspections. County employees or their designated representatives shall have reasonable access to the property for initial and intermittent inspection purposes in order to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement.

B. Evaluation. Upon completion of construction, the County and/or the jurisdiction creating the

reinvestment zone shall annually (or at such other times as deemed appropriate by the Commissioners Court) evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the contract and agreement to the Commissioners Court and the District Attorney. On or before April 30th of every year during the life of the abatement agreement, the company or individual receiving the abatement shall complete and file a Tax Abatement Evaluation Report, along with other required written documentation, detailing and certifying the abatement recipient's compliance with the terms of the abatement agreement. Failure to provide information requested in the compliance evaluation by the prescribed deadline may result in taxes abated in the prior year being due and payable. The company or individual receiving a tax abatement shall provide information to the County for the evaluation which shall include, but not be limited to, the following:

i. the number and dollar amounts of all construction contracts and subcontracts awarded on the project;
ii. the total number of employees of the company, their gross salaries, and the number of employees residing in Tarrant County and their gross salaries, reported in job classifications appropriate to the employee; the gross dollars spent on supplier and professional service contracts, indicating the amounts by contract awarded and performed by Frio County business and individuals;
iii. the dollar amount of contracts awarded to Disadvantaged Business Enterprises;
iv. detail of actions taken to mitigate any adverse environmental impacts of the project, if applicable; and
v. should the dollars, percentages, or actions not meet the original or modified requirements of the abatement agreement, a statement shall be provided explaining the reason for the failure to meet the requirements and a recommended course of rectification.

C. Cure Provisions. Should Frio County determine that the company or individual receiving the abatement is in default of the tax abatement agreement, it shall notify the company or individual of such default in writing at the address specified in the agreement, and if such is not cured within sixty (60) days' of notice, the agreement may be terminated by the County.

D. Modification and Termination. At any time before the expiration of a tax abatement agreement, an agreement may be modified by the parties to include other provisions that could have been included in the original agreement or to delete provisions that were not necessary to the original agreement. The modification must be made by the same procedure by which the original agreement was made. An agreement may also be terminated by the mutual consent of the parties in the same way the agreement was made, or by other means as agreed by the parties according to the provisions of the agreement.

E. Reporting. The chief appraiser for the County's appraisal district shall report annually the designation of reinvestment zones and executed abatement agreements as required under the Act.

F. Posting. This Policy, as may be amended from time to time, shall be posted on the County's website.

VI. Assignment

An abatement granted by Frio County may be transferred and assigned by the holder to a new owner or lessee of the same property, upon the approval by resolution of Frio County, subject to the financial capacity of the assignee and provided that all conditions and obligations in the tax abatement

agreement with Frio County are fulfilled. Approval shall not be unreasonably withheld by Frio County.

VI. Sunset and Amendment of Guidelines and Criteria

These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two (2) years, unless amended by three-fourths (3/4) vote of the Frio County Commissioners Court.

Passed and approved at a regular meeting of the Frio County Commissioners Court, at which a quorum was present on the ____ day of _____, 2019.

_____
Arnulfo C. Luna
County Judge

_____
Vickie "Coach" Camacho
Commissioner, Precinct 1

_____
Richard Graf
Commissioner, Precinct 2

_____
Ruben Maldonado
Commissioner, Precinct 3

_____
Jose Asuncion
Commissioner, Precinct 4

EXHIBIT A
FORM OF APPLICATION

Applications for Tax Abatement shall be organized as follows:

Section A

1. Name and contact of the property owner and the name and contact information of the applicant for the abatement agreement.

2. Name and location of the reinvestment zone in which the property subject to the agreement is located.

Section B

1. Overview. General description of the project, including a descriptive list of the improvements for which the abatement is requested.

2. Criteria. Information showing how the project meets the requirements of the criteria outlined herein, including employment and contract information.

   a. Site and Improvements
      i. Existing value of land and existing improvements, if any;
      ii. Type and value of proposed improvements, including estimated costs of all improvements and/or repairs;
      iii. Productive life of proposed improvements;
      iv. Overall compatibility with the zoning ordinances and comprehensive plan, if any, for the area; and
      v. Environmental impacts of project.

   b. Economic Spinoff
      i. Number and dollar amounts of all construction contracts and subcontracts award on the project;
      ii. Impact on the business opportunities of existing businesses and the attraction of new business to the area, if any; and
      iii. Disadvantaged business entity and Frio County contractors represented in total construction, suppliers, and services contracts.

   c. Jobs
      i. Number of existing jobs to be retained by proposed improvements, if any;
      ii. Number and type of new jobs, if any, to be created by proposed improvements;
      iii. Diversity of employment base;
      iv. Local employment opportunities; and
      v. Competitive wages and benefits for employees.

   d. Public Costs and Benefits
      i. Costs to be incurred by Frio County, if any, to provide facilities or services directly resulting from the new improvements;
      ii. Types and values of public improvements, if any, to be made by applicant seeking abatement; and
      iii. Amount of ad valorem property tax to be paid to Frio County during and after expiration of the abatement agreement.

3. Map. A map and description of the property showing the existing uses and conditions of the property and a map and description of the property showing the proposed improvements and uses of the property.

4. Schedule. A time schedule for completing the planned improvements; the estimated taxable value or range of values of the project or facility.

5. Financial Capability. Basic financial information about the principles sufficient to enable evaluation of the applicant's financial capacity. Note: The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant, to be attached to the application.

6. Feasibility Study. A feasibility study estimating the economic impact of the project and effect on the County and any other participating jurisdictions, and the applicant.

7. Modernization Criteria (if applicable). In the case of modernization, a statement of the assessed value of the facility separately stated for real and personal property, shall be provided for the three years immediately preceding the application.

Section C. Variance request, if any.

Each application shall be accompanied by an application fee of $1,000.00 payable to Frio County.