

**SAN PATRICIO COUNTY TAX ABATEMENT  
GUIDELINES AND CRITERIA**

**EXHIBIT A**

SUBJECT: San Patricio County Tax Abatement (2023)  
TITLE: San Patricio County Tax Abatement Policy (2023-2024)  
EFFECTIVE: February 20, 2023 until February 19, 2024

**I. Introduction/General Purpose and Requirements**

Welcome to San Patricio County. The Judge and Commissioners look forward to working with you to make your investment in our area a positive experience. We are committed to the promotion of high quality development in all parts of the county and to an ongoing improvement in the quality of life for its citizens.

Taxing jurisdictions in Texas are authorized under Chapters 311 and 312 as well as Section 11.24 of the Texas Property Tax Code to provide tax abatements for housing and economic development. San Patricio County is authorized to work in conjunction with other taxing entities as part of an overall publicly supported incentive program, and our policy is designed to create job opportunities that bring new economic advantages and strengthen the current economic base of our community. The maximum term for any tax abatement agreement under this policy is ten years.

Insofar as these objectives are generally served by the enhancement and expansion of the local economy, San Patricio County will, on a case-by-case basis, give consideration not only to the investment amount of each project, but also to number of jobs created, payment in lieu of taxes proposed, filling an industry need in the county, and to businesses associated with current manufacturing and industry development.

The San Patricio County Tax Abatement Policy has been developed to help ensure that all tax abatement requests are consistently reviewed in order to provide incentives and/or assistance to the most effective and appropriate tax abatement projects.

To help ensure that all tax abatement requests are consistently reviewed and that only the most effective and appropriate tax abatement projects are undertaken, this San Patricio County Tax Abatement Policy has been developed.

- (a) It is the policy of San Patricio County that consideration of all abatement applications will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that San Patricio County is under any obligation to provide a tax abatement to any applicant.
- (b) Applicant and municipalities shall adhere to all San Patricio County application procedures and requirements including Section III (d) for Municipality-initiated tax abatement agreements and Section IV for County-initiated abatement agreements.
- (c) Requests for abatements will not be considered if, prior to the submission of an application, the project is already substantially underway or completed. A project

will be considered to be substantially underway if actions such as, but not limited to the following have occurred:

1. Demolition, site preparation, or the installation of infrastructure has begun;
2. A building permit has been issued for construction not associated with mitigating an environmental hazard;
3. Construction (including renovations or tenant finish-out) has begun;
4. Equipment, inventory, or employees have been relocated to the new site.

Execution of a lease, the mitigation of environmental problems, the purchase of land, the completion of an environmental assessment, or the preparation of architectural and engineering plans do not constitute a project being substantially underway.

- (d) Requests for an abatement will not be considered for property that will be used in whole or in part for a sexually-oriented business, including but not limited to condoning, legitimizing, or promoting obscene materials, nude or topless modeling or dancing, adult motel operations, escort services, sexual encounter centers, sex phone centers, or any other sexually-oriented business activity. Similarly, property receiving an existing abatement for another use cannot convert this property for use as a sexually-oriented business or an establishment and still retain this abatement.
- (e) Requests for an abatement will not be considered for an applicant with which the County is currently involved in or has within the past thirty-six months been involved in litigation, a pending claim, or unsatisfactory contractual performance, nor to any applicant indebted to the county for ad valorem taxes or other obligations.
- (f) The County Abatement Application must be submitted to the Government and Legal Affairs Office at [dvoth@sanpatriciocountytexas.gov](mailto:dvoth@sanpatriciocountytexas.gov) or by telephone at 361-364-6148. The application will then be submitted initially to appropriate County Representatives who are defined as the San Patricio County Judge and Commissioners Court member in whose precinct the property that is the subject of the abatement application is located. Because the availability of abatement assistance can facilitate the selection of a specific site when numerous sites are under consideration, the appropriate County Representative may issue or instruct staff to issue verbal or written proposed terms for a particular abatement agreement. Proposed terms are non-binding. San Patricio County reserves the right to request other information deemed necessary for evaluating the application.
- (g) The County Abatement Application shall be completed and delivered the Government and Legal Affairs Office initially. This Office shall then deliver to the appropriate County Representatives and the Auditor's Office.

- (h) If an abatement is granted, the amount of the abatement shall consist of a percentage of the County Ad Valorem Tax obligation calculated as follows unless the Court finds that the permanent jobs created for the Project are substantial and justify the need for a variance, then a variance must be separately approved by the Court:

| <b>Minimum Permanent Full-Times Jobs Required for All Abatements: 50</b> |                                  |                    |
|--------------------------------------------------------------------------|----------------------------------|--------------------|
| <b>Minimum Capital Investment</b>                                        | <b>Tax Abatement Percentage</b>  |                    |
| \$150,000,000 to \$499,999,999                                           | Construction Year 1              | 50%                |
|                                                                          | Construction Year 2              | 50%                |
|                                                                          | Operation Year 1                 | 40%                |
|                                                                          | Operation Year 2                 | 30%                |
|                                                                          | Operation Year 3                 | 25%                |
|                                                                          | <b>Overall: 5 year abatement</b> | <b>39% Average</b> |
| \$500,000,000 to \$999,999,999                                           | Construction Year 1              | 50%                |
|                                                                          | Construction Year 2              | 50%                |
|                                                                          | Operation Year 1                 | 50%                |
|                                                                          | Operation Year 2                 | 50%                |
|                                                                          | Operation Year 3                 | 50%                |
|                                                                          | <b>Overall: 5 year abatement</b> | <b>50% Average</b> |
| \$1,000,000,000 +                                                        | Construction Year 1              | 60%                |
|                                                                          | Construction Year 2              | 60%                |
|                                                                          | Operation Year 1                 | 60%                |
|                                                                          | Operation Year 2                 | 60%                |
|                                                                          | Operation Year 3                 | 60%                |
|                                                                          | Operation Year 4                 | 60%                |
|                                                                          | <b>Overall: 6 year abatement</b> | <b>60% Average</b> |

- (i) An abatement agreement approved by the affirmative vote of super- majority of the Commissioners Court in a regularly scheduled meeting may authorize a variance resulting in percentage of the County Ad Valorem Tax obligation other than that found in Section I(h) above.

- (j) In order to enter into a tax abatement agreement, the Commissioners Court must find that the terms of the proposed agreement meet 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.
- (k) The final tax abatement agreement shall include one or more payment in lieu of taxes by applicant/property owner and/or lessee unless waived by super- majority vote of the Commissioners Court via an approved variance.

## **II. Definitions**

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real property and personal property in a reinvestment zone designated for economic development purposes; however, that any such exemption shall not apply for purposes of (i) any such ad valorem taxes collected for the County for the County Special Road and Bridge Tax Fund, and (ii) the Interest and Sinking Fund portion of each ad valorem tax imposed by the County with respect to current and future outstanding bonds, if any, of the County.
- (b) "Agreement" means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (c) "Applicant" means the firm, party, entity, or organization that would be receiving the tax abatement if granted.
- (d) "Authorized Facility" A facility may be eligible for abatement if it is a Manufacturing Facility, a Regional Distribution Center Facility, a Regional Service Facility, a Non-Manufacturing Facility, or Other Basic Industry as defined. The economic life of a facility and any improvements must exceed the life of the abatement agreement.
- (e) "Base Year Value" means the certified value of eligible property 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.
- (f) "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 County and the property owner and/or lessee, subject to such limitations as Commissioners Court may require.
- (g) "Economic Life" means the number of years a property improvement is expected to be in service in a facility.

- (h) "Eligible Jurisdiction" means San Patricio County and any municipality or other entity located in San Patricio County that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.
- (i) "Eligible Property" Abatement may be extended to the value above base year value of buildings, structures, fixed machinery and equipment, fixed personal property, site improvements, and any other real and/or business personal property plus that office space and related fixed improvements necessary to the operation and administration of the facility.
- (j) "Expansion" means the addition of buildings, structures, fixed machinery and equipment, and fixed personal property for purposes of increasing production capacity.
- (k) "Facility" mean property improvements completed or in the process of construction, which together comprise an integral whole.
- (l) "Fixed Machinery and/or Personal Property" means tangible machinery, equipment, and fixed personal property that is securely placed or fastened and stationary within a building or structure, or which is movable but remains at and is used solely at the project site.
- (m) "Ineligible Property" The following types of property shall be fully taxable and ineligible for abatement: land, and any property included in the calculation of base year value as defined.
- (n) "Manufacturing Facility" means buildings and structures, including fixed machinery and equipment, and fixed personal property, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (o) "Modernization" means the replacement and upgrading of existing facilities. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery and equipment and fixed personal property. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- (p) "New Facility" means a property previously undeveloped that is placed into service by means other than or in conjunction with expansion or modernization.
- (q) "New and Existing Facilities" Abatement may be granted for new facilities and improvements to existing facilities for the purposes of modernization or expansion.
- (r) "Non-Manufacturing Facilities" means building and structures used to service and/or house individuals on a permanent or temporary basis.
- (s) "Other Basic Industry" means buildings and structures including fixed machinery and equipment, and fixed personal property not elsewhere described, used or to be used for the

production of products or services that result in the creation of new permanent jobs and bring new wealth into San Patricio County.

- (t) "Owned/Leased Facilities" means if a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee.
- (u) "Regional Distribution Center Facility" means buildings and structures, including fixed machinery and equipment, and fixed personal property, used or to be used, primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- (v) "Regional Service Facility" means buildings and structures, including fixed machinery and equipment, and fixed personal property, used or to be used to service goods.
- (w) "Research Facility" means building and structures, including fixed machinery and equipment and fixed personal property, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials, or to improve or develop the production processes thereto.
- (x) "Reinvestment Zone" means a geographical area of the County that meets the criteria of Chapters 311 or 312 of the Texas Property Tax Code.
- (y) "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 shall be fully taxable;
  - 2. The base year value of existing eligible property shall be fully taxable;
  - 3. The additional value of the eligible property shall be taxable in the manner and for the period provided for in the abatement agreement; and
  - 4. The additional value of the new eligible property shall be fully taxable at the end of the abatement period.

### **III. Municipality-Initiated Agreements – Additional Criteria/Information**

- (a) The San Patricio County Commissioners Court recognizes that each municipality within the County has a different vision and goal for its economic development efforts. San Patricio County will endeavor to work in concert with other taxing authorities as part of an overall publicly supported incentive program designed to create job opportunities that bring new economic advantages or strengthen the current economic base of our community. The terms and conditions of a tax abatement agreement entered into between a municipality and an applicant are separate from the terms and conditions of any tax abatement agreement entered into between said applicant and the County. Commissioners Court will determine, in accordance with this Policy and applicable law, what terms and conditions to include in

its agreement (if any) with said applicant, which terms and conditions may be additional to and/or different from those in municipality's agreement.

(b) It is the intent of the Commissioners Court to consider granting an abatement to an applicant that has a tax abatement agreement with a municipality, provided that:

1. Granting the requested abatement would not encourage the applicant to move its project from one San Patricio County municipality to another, unless both municipalities have expressed their approval of the requested abatement in writing.
2. Granting the requested abatement would not provide one San Patricio County municipality with a competitive advantage over another San Patricio County municipality seeking the same project.
3. The level of abatement requested does not exceed the level of abatement granted by the municipality.

Notwithstanding subsection 3 above, Commissioners Court may, in its discretion, consider and grant a request for abatement that exceeds the abatement granted by the municipality.

(c) In the case where the property is located within a municipality's extraterritorial jurisdiction, the municipality shall be the initiating taxing entity unless expressly deferred to the County.

(d) Application Procedures. In addition to the general application requirements found in Section I, Municipality-Initiated Abatements will only be awarded when the following procedures have been followed:

1. Municipality in which the project is located makes County aware of applicant request for Municipality abatement and invites County comments during negotiation. County makes Municipality aware of concerns/changes prior to final action by Municipality.
2. Applicant makes application to appropriate County Representatives for County Tax Abatement after applying with municipality.
3. County Representatives ensure County's Policy is met and make a recommendation regarding proceeding with approval of a County tax abatement agreement.
4. Commissioners Court shall not approve County tax abatement agreement until municipality's agreement has been approved and executed and applicant has signed a County tax abatement agreement.

#### IV. County-Initiated Agreements – Additional Criteria/Information

For those areas within San Patricio County that are not located within the boundaries of an incorporated municipality or are within the extraterritorial jurisdiction of a municipality and the

municipality has deferred to the County, or are in unincorporated areas not located in a municipality's extraterritorial jurisdiction, the following criteria contained in these guidelines will be applied by the Commissioners Court when considering the establishment of a reinvestment zone and adopting a County tax abatement agreement.

- (a) Economic Qualification. In order to be eligible for designation as a reinvestment zone and receive a Tax Abatement, the planned improvement:
  - 1. Must be reasonably expected to have an increase in positive net economic benefit to San Patricio County as described in Section I(h) over the life of the Abatement, computed to include new sustaining payroll and/or capital improvements. The number and type of new jobs will also factor into the decision to grant an Abatement; and
  - 2. Must not be expected to solely or primarily have the effect of transferring employment from one part of San Patricio County to another without a super-majority vote of approval from the Commissioners Court.
- (b) Application Procedures. In addition to the general application requirements found in Section I, County-Initiated Abatements will only be awarded when the provisions of Chapters 311 or 312 of the Texas Local Government Code have been met, including the following:
  - 1. Any present or potential owner of taxable property in unincorporated San Patricio County may request the creation of a reinvestment zone and tax abatement by filing a written request with the appropriate County Representatives as defined in Section I(f).
  - 2. All applications for creation of reinvestment zones and Abatements shall include an application fee of \$1,000 and incorporate a feasibility study estimating the economic effect of the proposed reinvestment zone and Tax Abatement on San Patricio County, other eligible participating jurisdictions, and the applicant.
  - 3. Upon receipt of a completed application for creation of a reinvestment zone, the appropriate County Representatives shall notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible jurisdiction.
  - 4. The Commissioners Court may not adopt a resolution creating a reinvestment zone until it has held a public hearing at which interested parties are entitled to speak and present evidence for or against its designation. Notice of the hearing shall be clearly identified on the Commissioners Court agenda at least 30 days prior to the hearing and a public notice shall be published in a general circulation publication at least 30 days prior to the hearing.



## V. Assignment

Tax abatement agreements may be assigned to a new owner of the entire property with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld. Any assignment shall provide that the assignee shall irrevocably and unconditionally assume all the duties and obligations of the assignor upon the same terms and conditions as set out in this Policy and the tax abatement agreement.

## VI. Administration and Evaluation

- (a) The County will have the right to inspect the facility to determine if the terms and conditions of the tax abatement agreement are being met. All inspections will be made after the giving of twenty-four (24) hours' notice and will be conducted in such a manner as to not unreasonably interfere with the construction or operation of the facility. All inspections will be made with one or more representatives of the recipient and in accordance with its safety standards.
- (b) The County shall annually evaluate each facility receiving a County tax abatement to ensure compliance with this Policy and the tax abatement agreement. On or before January 30th of every year during the life of the County tax abatement agreement, the recipient of said agreement shall complete and file a Tax Abatement Evaluation Report with the appropriate County Representatives detailing and certifying the recipient's compliance with the terms of said Agreement. Failure to provide information requested in the Tax Abatement Evaluation Report, or other requested information, by the prescribed deadline may result in previously abated taxes becoming being due and payable.

## VII. Recapture

If a County tax abatement agreement recipient is not in compliance with this Policy or said agreement, then said agreement shall not be in effect for the period of time during which non-compliance occurs. If a recipient's project is not completed as specified in the County tax abatement agreement, the County has the right to modify or cancel said agreement and determine which previously abated taxes are due to the County. The decision to seek full or partial recapture lies solely with the County.

## VIII. Sunset Provision

This County Policy is effective upon the date of its adoption. Commissioners Court may review this Policy on a periodic basis, along with any tax abatements granted and reinvestment zones created under it, to evaluate its use and its effectiveness in achieving intended goals. The term of this Policy is governed by Texas Tax Code Section 312.002, as is its amendment, repeal or renewal.

Approved by:

San Patricio County Commissioners Court

A handwritten signature in cursive script, reading "David R. Krebs", written in dark ink.

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David R. Krebs  
County Judge