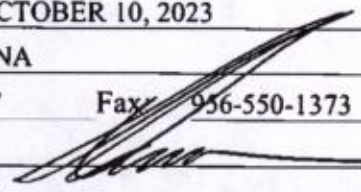


Cameron County Commissioners' Court Agenda Request Form

No. 4-G

Date: SEPTEMBER 26, 2023 Meeting Date Request: OCTOBER 10, 2023
 Deadline for Action: OCTOBER 10, 2023 Contact Person: DAN SERNA
 Department: ADMINISTRATION Phone: 956-544-0827 Fax: 956-550-1373
 Department Head Name: DAN SERNA Signature: 

Caption:

CONSIDERATION AND ACTION TO APPROVE ORDER # 2023O09004 TO REAUTHORIZE AND/OR AMEND THE 2023-2025 CAMERON COUNTY TAX ABATEMENT POLICY IN ACCORDANCE WITH TEXAS TAX CODE 312

Background: (Briefly summarize your request, if needed use separate sheet(s) or attach supporting documentation).

SEE ATTACHED BACK-UP

PLEASE FILL IN ALL BLANKS WITH REQUIRED INITIALS AND FISCAL DATA INFORMATION OR PLACE N/A IF IS NOT APPLICABLE:

County Judge NIA Auditor [Signature] Budget [Signature] Legal [Signature] Human Resources NIA Purchasing N/A
 1295 Form _____

Fiscal Data: Dept. Name: _____ Fund No. _____
 Funds Available: Yes ___ No ___
Funds From: Department: Yes ___ No ___ Amt. Expended : \$ _____
 General: Yes ___ No ___ Impact on future budget: Yes ___ No ___
 Grant: Yes ___ No ___

Comments:

Action taken by Commissioners' Court

Approved _____ Tabled _____ Denied _____ Motion made by _____ Seconded _____ Vote _____

County Judge's Office
Received by:
Crystal Flores2
10/02/2023 2:22pm

STATE OF TEXAS §
COUNTY OF CAMERON §

ORDER NO. 2023O09004

AN ORDER OF THE COMMISSIONERS COURT OF THE COUNTY OF CAMERON, TEXAS ADOPTING THE GUIDELINES AND CRITERIA GOVERNING THE TEXAS LOCAL GOVERNMENT CODE, CHAPTER 381 ECONOMIC DEVELOPMENT GRANT PROGRAM AND THE TEXAS TAX CODE CHAPTER 312, TAX ABATEMENT AGREEMENTS IN CAMERON COUNTY.

WHEREAS, Cameron County, Texas (County) is considered an economically distressed County due to a high incidence of poverty, unemployment and comparatively lower levels of educational attainment among its population; and

WHEREAS, as a distressed County, all of Cameron County qualifies as an Enterprise Zone under Chapter 2303 of the Texas Local Government Code, which permits the County to enter into tax abatement agreements for economic development purposes subject to applicable state codes, including Chapter 312 of the Texas Tax Code; and

WHEREAS, Chapter 381 of the Texas Local Government Code authorizes counties to establish and administer one or more economic development program to make loans and grants of public monies and provide property tax abatement to businesses that promote economic growth and create jobs; and

WHEREAS, a taxing unit must establish guidelines and criteria governing tax abatement agreements entered into by such unit pursuant to Texas Tax Code, Section 312 in order to participate in tax abatement; and

WHEREAS, the guidelines and criteria adopted under Section 312 are effective for two (2) years from the date adopted unless during that period they are amended or repealed by a vote of at least three fourths of the members of the governing body of the taxing unit; and

WHEREAS, the Cameron County Commissioners Court finds that it is in the best interest of the County to provide, as an incentive to encourage the development of a productive business environment, tax abatement to businesses that meet certain criteria and create jobs within the County;

NOW, THEREFORE BE IT ORDERED that pursuant to Section 312 of the Texas Tax Code and to the extent permitted by law, the County hereby establishes guidelines and criteria governing any and all Chapter 381 tax abatement agreements entered into by the County, in connection with its designation as an Enterprise Zone, which shall be effective for two (2) years from the date of the adoption of this Resolution:

I. PURPOSE & POLICY

- A. The County's governing body, the Commissioners' Court, seeks to create opportunities for job creation for the citizens of the County, provide economic incentives for industries that will benefit the businesses within the County, and encourage new industries to participate in community efforts.
- B. Cameron County encourages business, commercial, manufacturing and industrial concerns to locate, remain, and expand in the County. As a form of economic development incentive, the County offers property tax abatement to qualified companies seeking to locate or expand in the area.
- C. Tax abatement is primarily offered to manufacturing or industrial operations, but other types of businesses may be considered on a case by case basis. Final decisions on whether a project will be considered for or will receive tax abatement will be made by the County's governing body, the Cameron County Commissioners Court.
- D. An applicant granted tax abatement under these Policies and Procedures must enter into a formal agreement with the County. The agreement shall contain all terms required by these Policies and Procedures and by state law to protect the public interest and ensure that an applicant that receives a public benefit in the form of tax abatement provides a corresponding capital investment that will stimulate economic development and generate job growth.

II. PUBLIC NOTICE AND HEARING REQUIREMENTS

- A. **Application:** An application must be delivered to the County to be considered for tax abatement. Exhibit A is the application form. An application for consideration as a tax abatement program shall be made on forms supplied by the County. An applicant may be required to provide additional information to show compliance with minimum program requirements. If the County determines minimum program requirements have been met, the applicant may present a formal request to the County for consideration by the Cameron County Commissioners Court.

After a formal request is made, the Cameron County Commissioners Court in accordance with state statutes may take action on the proposal as it deems appropriate. Nothing in these Policies and Procedures and nothing in the application form and process shall create any vested property interest, contract, or other legal right for a business to receive approval of program incentives.

- B. **Fee:** An application nonrefundable/ non-assignable fee of One Thousand Dollars and No Cents (\$1,000.00) is required to commence the application process. If a proposed project's investment, job creation, wages or construction schedule change significantly following the submittal of a completed application and payment of the fee, or if an agreement has not been finalized within one calendar year following application submission, the County of Cameron may close the pending application. Any submission of a new or subsequent application following such a closing will require another accompanying application fee.
- C. **Public Notice:** The County shall provide public notice at **least thirty days** prior to the regularly scheduled meeting where a vote regarding the approval of an abatement is on the Commissioners Court's agenda. The notice will be provided in a paper of general circulation within the County and the County's website. The public notice will contain:

1. The name of the property owner that would be party to the agreement;
 2. the name and location where the property is located; and
 3. a general description and estimated costs of the improvements in the agreement.
- D. **Public Hearing:** Changes or adoption of this policy will be made only after a public hearing is held which the public is given the opportunity to be heard regarding the reauthorization, repeal or amendment of the guidelines or criteria of the tax abatement policy and guidelines.
- E. **Website:** The new policy and guidelines shall be posted on the County's website. All notices of tax abatement hearings for specific projects or changes, amend, or adoption of tax abatement guidelines will be posted on the County's website.

III. PROGRAM REQUIREMENTS

- A. To qualify for a Texas Local Government Code, grant program or a Texas Tax Code, Chapter 312 tax abatement program, a business, whether a sole proprietorship, a partnership, or corporation, must meet the following criteria:

Active business: The business must be engaged in the active conduct of a trade or business in the County. The Commissioners Court may consider factors including but not limited to industry, geographic location, occupations, wages and blight mitigation when evaluating a potential tax abatement.

1. **Local Hire Requirement:** Employees of the business must be residents of the County, at least thirty-five percent (35%) of which must be "economically disadvantaged individuals" or veterans as may be defined in the tax abatement or Chapter 381 agreement.
2. **Workforce Development Requirement:** Companies receiving tax abatements must participate in at least one Cameron Works Workforce Commission programs which may include Job Shadow Day, Summer High School Internships, or an Educator Externship (unless it is mutually agreed that such a program would have a negative impact on the student(s)/ intern(s) or the company.). For businesses that require a specialized and/or highly skilled labor force, there must be a requirement in the agreement for the business to work with the local Workforce Commission, the local technical training college, junior college, or university to develop educational and skills training programs to meet the skills requirements necessary for the company's success. Additionally, the business must commit to using best efforts to fill employment positions with trainable County residents.
3. **Employee Health Care Benefits:** companies must provide each full-time person employed at the project location and his or her dependents with access to affordable health insurance within one year from the date of employment
4. **Location:** Only investments and employment located wholly within the County will be considered.

5. **Current on taxes and fees:** Be and remain current on the payment of any and all taxes, of any nature, owed to the state, cities, school districts, and Cameron County and all remaining taxing entities within the County.
 6. **Obey laws, regulations and statutes:** Conform to the requirements of applicable city ordinances and all other applicable laws and regulations of the County, state, and federal government.
 7. **Timely construction:** Complete improvements including renovation, repairs, remodeling, or construction within a period of time to be approved by the County. Changes in construction deadlines and material changes in the project must be submitted to Commissioners Court for consideration and possible approval prior to expiration of deadline.
 8. **Timing:** in order to be eligible for consideration, companies must submit an application prior to commencement of the project. No tax abatement for a proposed project will take effect until a tax abatement agreement has been approved and fully executed by Commissioners Court. Additionally, the timing and acquisition of personal property related to this project is crucial and will impact its eligibility for abatement. Personal property acquired before Commissioners Court executes a tax abatement agreement is **NOT** eligible for an abatement. The base year will always commence on the January 1 prior to the commencement of the tax abatement period, unless specifically approved by the County's governing body. The Tax abatement period will commence on the following January 1, after the agreement is executed, unless a different commencement date is specifically approved by the County's governing body.
- B. **Guidelines on eligible amounts:** The following general guidelines and criteria shall be applicable to all Chapter 381 economic development grant program agreement or Chapter 312 tax abatement agreements executed by the County:
1. The base value of real property and personal property is never eligible for an abatement of property tax. The base value is the market value as specified by the Cameron Appraisal District (CAD) of property on January 1 of the base year.
 2. Only the increase in property value above the base value is eligible for tax abatement. The percentage and/or duration of the abatement will be determined by the County based on the expected economic impact of the performances planned and proposed by the business. In no case, however, will the duration of the abatement program exceed ten (10) years. Such determination of the percentage and duration is at the sole discretion of the County's governing body.
- C. **Evaluation of Proposal:** An eligible business will be considered for a tax abatement program based on its expected economic impact. Such assessment of a company's economic impact is at the sole discretion, determination and assessment of the County's governing body. Factors that will be considered in this determination include but are not limited to:
1. Permanent jobs created
 2. Construction jobs created
 3. Annual anticipated total salaries or wages, including benefits
 4. Minimum wage policy adoption

5. Nature of benefit programs offered to employees
 6. Amount investment new improvements
 7. Amount investment in personal property
 8. Use of local suppliers and vendors
 9. Implementation of Community Benefits Agreement and participation in County social and recreational programs, and
 10. Activity that enhances existing County programs.
- D. The factors above will be incorporated in the tax abatement agreement with the proposed business. Each agreement will specifically set employment percentages regarding local hires, and agreed upon investment levels, and targeted gross payroll amounts. The County Commissioner Court may entertain an abatement period less than the Ten-Year maximum allowed.
- E. Each agreement shall contain all provisions required by state law, including, but not limited to, provisions for monitoring performance and for recapturing property tax revenue lost as a result of the agreement if the business enterprise fails to perform as promised. Tax abatement agreements provide for recapture of abated property taxes in the event contract terms and requirements are not met. These recapture provisions will survive any subsequent assignment of an agreement. Multiply the amount of taxes abated by the percentage in the recapture period. Assignments discussed in Section IV (9) are subject to the sole discretion of the Cameron County Commissioners' Court.

Payments-In-Lieu-Of-Taxes (P.I.L.O.T.) are to be considered property tax payments when calculating recapture of abated taxes and will offset recapture amount. Payments subject to Community Benefits Agreements will NOT be considered payments of property tax.

1 to 6-Year Term		10-Year Term	
Termination of Abatement	Recaptured Taxes	Termination of Abatement	Recaptured Taxes
Year 1 of Recapture Period	100%	Year 1 of Recapture Period	100%
Year 2 of Recapture Period	80%	Year 2 of Recapture Period	80%
Year 3 of Recapture Period	60%	Year 3 of Recapture Period	60%
Year 4 of Recapture Period	40%	Year 4 of Recapture Period	40%
Year 5 of Recapture Period	20%	Year 5 of Recapture Period	20%
Year 6 of Recapture Period	10%	Year 6 of Recapture Period	10%
		Year 7 of Recapture Period	5%
		Year 8 of Recapture Period	5%
		Year 9 of Recapture Period	2%
		Year 9 of Recapture Period	1%

Example: If in Year 5 of a 10-Year tax abatement period, a company with a \$100 million assessed value terminates the agreement prior to the end of the agreement or fails to cure on non-compliance with the agreement, Sixty percent of the net abated property taxes would be subject to recapture. County's tax rate is \$0.431893 per \$100 valuation. A PILOT of \$125,000 per year is negotiated. A community Benefits Agreement of \$300,000 is also negotiated.

Year 1	Taxes Abated \$436,893	PILOT \$125,000	Net Taxes Abated \$311,893
Year 2	Taxes Abated \$436,893	PILOT \$125,000	Net Taxes Abated \$311,893
Year 3	Taxes Abated \$436,893	PILOT \$125,000	Net Taxes Abated \$311,893
Year 4	Taxes Abated \$436,893	PILOT \$125,000	Net Taxes Abated \$311,893
Year 5	Taxes Abated \$436,893	PILOT \$125,000	Net Taxes Abated <u>\$311,893</u>
			Total Net Taxes Abated \$1,559,465
			Recapture percentage <u>20%</u>
			Recapture amount \$311,893*

*Essentially the amount of current year's property taxes

- F. Even if a business is deemed eligible for tax abatement, the County is under no obligation to execute an agreement. All tax abatement requests will be considered on a case by case basis.
- G. A business requesting tax abatement that is relocating from one part of the County to another will not be considered.
- H. The abatement of taxes will be based upon the impact of the creation of jobs and revenues to the County and the importance of the same to the community. Individual agreements with a business shall be structured to specifically define the methods of securing abatements in the event jobs are created throughout the operational years included in the program. Such abatement shall be in the form of an exemption from taxes or a refund of taxes paid equal to the percentages determined by the County, as applied to the valuation set by CAD for the subject real and personal property.
- I. The County will be responsible for monitoring employment and all other applicable performance records assuring that the business complies with the terms of the agreement. Monitoring will start when the construction begins and will continue for each operational year during the term of the tax abatement agreement. The business shall be solely responsible for providing all information necessary for the County to adequately monitor according to the terms of the agreement on a timely basis.
- J. In the event that the business facility is completed and begins production or services, but subsequently discontinues production or service for any reason except 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 the provision for Property tax Recapture will be implemented and amount paid within sixty (60) days.
- K. Should the County determine that the business is in default according to the terms and conditions of its tax abatement agreement, the County shall notify the business in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days from the date of such notice, then the agreement may be terminated.

- L. In the event that the business violates any of the terms and conditions of the abatement agreement and the agreement is terminated then all taxes previously abated by virtue of the agreement will be recaptured according to the above schedule and paid within sixty (60) days of the termination.
- M. All tax abatements, exemptions, and refunds set forth herein are subject to the provisions of outstanding bond issues of the County. Unless agreed upon specifically by the County's Commissioners Court such tax abatements will include abatement of only the County's Maintenance and Operation Tax Rate (M&O Tax Rate). The tax rate set to support the County's bonded indebtedness (I&S Tax Rate) and the Road and Bridge Tax will not be considered subject to the tax abatement process unless specifically agreed upon by the Commissioners Court. To the extent that a tax abatement or exemption conflicts with any of the provisions of such bond issues, such bond issues and the attendant documents thereto shall control.

IV. ADDITIONAL CONSIDERATIONS

- A. Additional factors may be considered by the County in determining whether to authorize a tax abatement agreement for incentives as a Chapter 381 economic development program, including the following.
 - 1. The financial capacity of the business to undertake and complete the proposed project.
 - 2. Other incentive programs for which the business applicant has applied or is qualified for.
 - 3. Current market conditions and growth potential for the business activity.
 - 4. Any other factors the County finds helpful and relevant to accomplishing the County's economic development objectives.
- B. Nothing contained in these Policies and Procedures shall prevent the County from clarifying, defining, or negotiating provisions of an agreement with a business.

V. AGREEMENT TERMS AND CONDITIONS


- A. A tax abatement agreement established under Chapter 312 of the Tax Code or for a Chapter 381 Program must include:
 - 1. A timetable and list of improvements or development that the program will include.
 - 2. A complete legal description of the location of the proposed project or projects included in the program.
 - 3. A schedule of the expected business performances by year of operation.
 - 4. Evidence of legal authority from regulating agency that applications, determination or permits have been granted from appropriate city, County, state or federal authority.

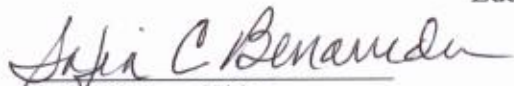
4. A provision establishing the duration the agreement and amount of tax abatement for each operational year included in the program.
5. A provision for benchmarks or other tangible means for measuring whether the business meets its obligations under the agreement.
6. A provision providing for access to and authorizing inspection of property and the applicant's pertinent business records by County employees in order to determine compliance with the agreement.
7. A provision for termination or cancellation of the agreement and/or suspension of incentives if the business is determined not to be in compliance with the agreed terms.
8. A provision for recapturing County funds abated or refunded, if the business does not meet its duties and obligations under the terms of the agreement.
9. A provision that allows assignment of the agreement with prior written approval of the County, provided that:
 - (a) all rights, duties, obligations and liabilities under the agreement are assigned from the assignor to the assignee; and
 - (b) the assignment is made subject and subordinate to the agreement and the Chapter 381 Policies and Procedures; and
 - (c) the assignment document is in a form and contains content acceptable to the Cameron County Civil Division Office.
10. Provisions relating to administration, delinquent taxes and reporting requirements.
11. A provision that the agreement may be amended by the parties to the agreement by using the same procedure for approval as is required for entering into the agreement.
12. A provision for the auditing of the program, incentives, performances, and pertinent business records and information.
13. Such other provisions that the County may deem appropriate.

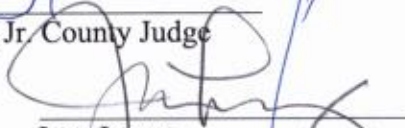
VI. SPECIAL TERMS AND CONDITIONS REGARDING INDUSTRIES WITH SIGNIFICANT INVESTMENT

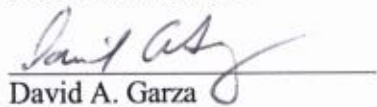
- A. For large investment industries, in the event that the Commissioners Court finds that a project (i) is significantly impactful to the County, and (ii) has the potential to exceed an aggregate investment of \$100 million, the Commissioners Court may deviate from the requirements of these tax abatement guidelines and criteria contained in Sections III.A., III.I., III.J., III.K., III.L. and V., so long as the deviations uphold the spirit and intent of the guidelines and the goal of promoting economic development and job creation in the County.

PASSED AND APPROVED BY A THREE-FOURTHS VOTE OR MORE THIS 10th DAY OF OCTOBER, 2023, BY THE COMMISSIONERS COURT OF CAMERON COUNTY, TEXAS


Eddie Treviño, Jr. County Judge


Sofia C. Benadvides
Pct. 1 Commissioner


Joey Lopez
Pct. 2 Commissioners


David A. Garza
Pct. 3 Commissioner


Gus Ruiz
Pct. 4 Commissioner

Attest:


Sylvia Garza-Perez, County Clerk

