RR
12/15/16
Item No. 26

AN ORDINANCE **2016-12-15-1003**

ADOPTING THE CITY OF SAN ANTONIO TAX ABATEMENT GUIDELINES EFFECTIVE JANUARY 1, 2017 THROUGH DECEMBER 31, 2018.

* * * * *

WHEREAS, tax abatements are used by local governments to attract new companies and to encourage the retention and expansion of existing companies; and

WHEREAS, Chapter 312 of the Texas Tax Code governs the use of tax abatements and authorizes the City to offer an abatement of up to 100% of ad valorem taxes on real and personal property improvements, inventory and supplies for up to 10 years; and

WHEREAS, in order to offer tax abatements, this statutory authority requires that City Council must approve new Guidelines every two years and allows amendment to the Guidelines, subject to a vote of ¾ of the governing body; and

WHEREAS, the existing Tax Abatement Guidelines (the "Guidelines") were last approved for the period from January 1, 2014 through December 31, 2016; and

WHEREAS, the City Council finds that it is in the best interest of the City to adopt the attached Guidelines as recommended by staff to be effective January 1, 2017; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council adopts the Tax Abatement Guidelines attached hereto and incorporated herein as **Attachment I**.

SECTION 2. This Ordinance shall be effective immediately upon the receipt of at least nine (9) affirmative votes.

PASSED AND APPROVED this 15th day of December, 2016.

Ivy R. Taylor

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

M. Zertuche, for

City Attorney

Agenda Item:	**26 (in consent vote: 4, 5, 6, 8, 9, 10, 12A, 12B, 12C, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 26, 27, 30A, 30B)**
Date:	12/15/2016
Time:	09:27:16 AM
Vote Type:	Motion to Approve
Description:	An Ordinance adopting the City of San Antonio Tax Abatement Guidelines effective January 1, 2017 through December 31, 2018. [Carlos Contreras, Assistant City Manager; Rene Dominguez, Director, Economic Development]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				x
Alan Warrick	District 2		x			x	
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

Attachment I

CITY OF SAN ANTONIO

TAX ABATEMENT GUIDELINES

Effective January 1, 2017 through December 31, 2018
(Approved by City Council December 15, 2016)

CITY OF SAN ANTONIO
Economic Development Department
P.O. Box 839966
San Antonio, Texas 78283-3966
Telephone: (210) 207-8080
www.sanantonio.gov/edd

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Appendixes

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CITY OF SAN ANTONIO
Economic Development Department

Introduction

Chapter 312 of the Texas Tax Code authorizes local governments to abate up to 100 percent of ad valorem property taxes on the value of new property improvements for up to 10 years, including real property, tangible personal property, inventory and supplies. The City of San Antonio is also required by statute to develop and review guidelines at least every two years for the eligibility and criteria for the award of a tax abatement.

These Guidelines support the City's priorities for attracting new investment (including foreign direct investment) and job retention/creation in the targeted industries of Healthcare and Biosciences, Information Technology and Information Security, Advanced Manufacturing/Aerospace and the New Energy Economy. The City Council is committed to fully evaluating the merits and benefits of each individual project and retaining the flexibility to offer any project up to the maximum tax abatement allowed under the law. The City Council has also directed staff to carefully consider high-priority opportunities with significant investment and/or job creation in the targeted industries and high-wage jobs, and to exercise flexibility in offering the maximum tax abatement necessary to attract new projects and expand existing projects in San Antonio regardless of where they locate in the community.

The growth, sustainability and diversity of a regional economy are critical goals to the long-term prosperity of a community and its citizens. Communities must strategically plan and implement policies and incentive programs to achieve these goals. San Antonio's Tax Abatement Guidelines demonstrate a community focused job creation environment to help attract, retain and expand targeted industries, increase employment and high-wage jobs, expand the tax base, and create long-term capital investment (including foreign direct investment) and new wealth opportunities in the community in accordance with the SA Tomorrow Comprehensive Plan.

State law further requires that each taxing jurisdiction enter into a contract (Tax Abatement Agreement) with each owner of property or the owner of a leasehold interest in real property receiving an abatement or portion thereof. These contracts are binding legal documents governing all agreed provisions and requirements between the parties.

The City Council has adopted these Guidelines and will utilize them to ensure that any abatement of property taxes achieves the community's economic development goals. Each taxing jurisdiction independently decides whether or not to abate taxes for any given project and approval from one governmental entity does not guarantee approval from any other.

Section 1. Eligibility Criteria

1.1. To be eligible for consideration by City Council for a tax abatement under these Guidelines, a new company or existing local company must meet or exceed all of the criteria described below:

- Minimum amounts of new real and/or personal property capital investment;
- Minimum levels of full-time job creation, excluding data center projects and solar farms;
- Employee and dependent access to health care benefits;
- Minimum living and all-industry wage requirements for new and existing employees at project site; and
- Applicant must be in a targeted industry, a qualifying project or business activity.

1.2. The amount and term of the tax abatement offered will be dependent upon the location and industry of the project, other public incentives offered for the same project and the overall benefit to the City and community.

Section 2. Targeted Areas for Investment and Job Creation

To promote balanced growth, certain areas are targeted for job creation and investment (including foreign direct investment). Depending on the location and industry of the project, the length and percentage of the tax abatement will vary. City Council has adopted policies such as the Inner City Reinvestment/Infill Policy (ICRIP), amended on January 10, 2013, which identifies areas of the City eligible for increased financial incentives, such as tax abatements and development fee waivers, to promote growth and development in the center city and downtown areas, Brooks City-Base, Port San Antonio, and certain commercial corridors. These Guidelines are aligned with ICRIP policy. The following are the specific tax abatement terms as identified in Appendix A hereto.

2.1. **Areas eligible for a tax abatement of up to a 10-year term**:

- Projects located in the ICRIP area and/or targeted industry.

2.2. **Areas eligible for a tax abatement of up to a 6-year term**:

- Projects located outside the ICRIP; however, projects with investment of over $30 million and/or job creation of over 500 new jobs are eligible for up to a 10-year term.

2.3. **Areas *not* eligible for tax abatement**:

- Projects involving new construction over the Edwards Recharge or Contributing Zones (see map in Appendix B), except for those projects that will not result in additional impervious cover at the project site.
- New or existing projects that encroach upon or may have a potentially negative impact on military missions.

City Council adopted the SA Tomorrow Comprehensive Plan on August 8, 2016. Any future Regional Center plans adopted by City Council as a result of the SA Tomorrow Comprehensive Plan will also be considered once those plans are developed and approved.

Section 3. Capital Investment and Job Creation Requirements

3.1. State statute allows the City to offer tax abatements for up to 10 years on up to 100 percent of real and personal property capital improvements. The City will consider offering up to this maximum allowable tax abatement on "Exceptional" projects that meet or exceed a total capital investment of $30 million (particularly data center projects) and/or create at least 500 new full-time jobs. The City is focused on attracting investment and creating/retaining jobs in the targeted industries and on those projects locating in the ICRIP. For projects not meeting the "Exceptional" investment and/or job creation thresholds mentioned above, companies may use the following table as a guide in determining the "potential" maximum tax abatement incentive for a qualifying project:

City of San Antonio Tax Abatement Criteria		
Location of the Project	Non-ICRIP	ICRIP and/or Targeted Industries
Term of Abatement	Up to 6 Years	Up to 10 Years
Investment in Real & Personal Property	$10 Million	$1 Million
New Full-Time Jobs (Note 1)	100	25
Amount of Tax Abatement (Note 2)	Up to 50% on real and personal property improvements	Up to 100% on real and personal property improvements

Notes:

(1) Data centers, solar farms, and mixed use projects in the ICRIP are exempt from the minimum job creation requirements.

(2) City staff will primarily consider the following criteria in determining the amount to offer a project: (a) Targeted Industry; (b) location of the project; (c) corporate, U.S. or regional headquarters; (d) total number of jobs; (e) total capital investment; (f) number of high-wage jobs (see definition in Appendix D); (g) project meets Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ standards or equivalent acceptable methodology; (h) project enrolls in CPS Energy's renewable energy program.

In order to receive consideration for a tax abatement, the company must agree to sponsor a student for an internship through the SA Works program for at least one year during the abatement period (unless mutually agreed that this practice would not operationally feasible for the business) and also agree to do one or more of the following at least once during the abatement period:

(1) Enter into a R&D collaboration with local college or university;
(2) Host a community blood drive with the South Texas Blood and Tissue Center;
(3) Participate in no less than two job fair events in the two years following the effective date of the abatement agreement.

Section 4. Timing

In order to be eligible for consideration, the company must submit an application prior to commencement of the project and prior to the issuance of any building permits or a Certificate of Occupancy, including any conditional permits. No tax abatement for a proposed project will take effect until a final negotiated agreement has been approved and fully executed. The timing and acquisition of personal property related to this project will impact its eligibility for abatement.

Section 5. Local Hire Requirement

Any project seeking a tax abatement must hire at least 25 percent of its new employees at the project location from residents of the City of San Antonio or Bexar County.

Section 6. Employee Health Care Benefits

The company seeking a tax abatement from the City must provide each full-time person employed at the project location and his or her dependents with access to a benefits package, including a health insurance program, within one year from date of employment.

Section 7. Wage Requirements and Threshold

Companies receiving a tax abatement from the City must meet certain minimum wage requirements for all new and existing (i.e., retained) jobs at the project site (average wages are not considered). Companies surpassing wage thresholds may be eligible for greater tax abatement terms and percentages and may be eligible for the Economic Development Incentive Fund which provides a flexible cash grants for high-wage targeted industry jobs. If the company does not meet and maintain these wage requirements for all new and existing employees at the project location, the company will be in default of its Tax Abatement Agreement, which could result in termination of the Agreement and the recapture of all or a portion of the previously abated property taxes.

7.1 <u>Living Hourly Wage Requirement</u>**:** In order to be eligible for a tax abatement, one hundred percent (100%) of the company's new and existing employees ***at the project location*** must earn no less than a "living wage" throughout the full term of the Tax Abatement Agreement. This wage is based on the poverty level for a family of four, as determined annually (January) by the U.S. Department of Health and Human Services (HHS). As of January 25, 2016, the living wage requirement is $11.68 per hour.

7.2 <u>All Industries Median Hourly Wage Requirement</u>: In addition to the "Living Wage" requirement, after one year of initiating full operations at the project location, but not more than two years after execution of the Tax Abatement Agreement with the City, at least seventy percent (70%) of all new and existing employees, with at least one year of full employment with the company at the project location, must earn a cash wage at or exceeding the annual San Antonio Metropolitan Statistical Area (MSA) Median Hourly Wage for All Industries (Companies) for the most recent year available. This wage is compiled by the Bureau of Labor Statistics (BLS) Occupational Employment Survey and published annually by the Texas Workforce Commission (TWC). This wage is updated annually, and for 2016 the current applicable wage is $15.68 per hour.

7.3 State of Texas High-Wage Job Threshold: Additional consideration associated with the Tax Abatement term and/or percentage will be provided based on the proportional number of jobs that meet the State of Texas High-Wage Job Threshold which also provides access to the Texas Enterprise Fund (TEF) and/or a State Enterprise Project designation. This wage is compiled by the Bureau of Labor Statistics (BLS) Occupational Employment Survey and published annually by the Texas Workforce Commission (TWC). This wage is updated quarterly, and for 2016 the current applicable wage is $22.74 per hour.

Section 8. Targeted and Qualifying Industries/Business Activities or Projects

The majority of the company's business at the project location must be engaged in one of the following qualifying industries, business activities or projects:

Targeted Industries:

- Aerospace & Advanced Manufacturing
- Bioscience/Healthcare
- IT & Cyber-Security
- Energy

All Other:

- Corporate, U.S., and Regional Headquarters activities
- Finance
- Logistics and Distribution
- Oil and Gas Industry, excluding storage and distribution facilities
- Telecommunications
- Creative Industries: Those industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property. The Creative Industries sectors primarily include advertising, architecture, arts and crafts, design, film and video, interactive leisure software, music, the performing arts, publishing, software and computer games, and television and radio.

Section 9. Companies and Projects Not Eligible for a Tax Abatement

Regardless of the investment or number of jobs created, the following types of businesses and projects are not eligible for a tax abatement:

a. Projects involving new construction over the Edwards Recharge or Contributing Zone that will result in additional impervious cover at the project site.
b. Retail stores, retail centers and/or businesses that primarily provide goods and services, including medical and professional services, directly to consumers on a competitive basis. Staff, however, may consider offering a tax abatement to such projects located in the ICRIP.
c. Outbound or contract call centers. Staff, however, may consider offering a tax abatement to such projects locating in the ICRIP.
d. Hotels and motels.
e. Projects that may negatively impact military missions and/or installations.
f. Projects that have already been issued a building permit, including any conditional permits.
g. Projects that do not meet the Wage Requirements.

Section 10. Additional Terms and Conditions

Recipients of tax abatements must agree to work with Workforce Solutions Alamo to facilitate the posting and advertisement of new jobs at the property of interest, as well as for the recruitment of potential qualified applicants from the City of San Antonio and Bexar County for these positions. Workforce Solutions Alamo offers other employer services, such as assessment of basic skills and work aptitudes of potential employees, job matching services, labor market information, assistance in arranging workforce training and outplacement services which the recipient may access.

Section 11. Recapture of Abated Taxes

Tax abatement agreements will 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 the Agreement. The following are the standard schedules that show what percentage of taxes abated will be recaptured (multiply the amount of taxes abated by the percentage in the recapture period):

6-Year Abatement Period		10-Year Abatement Period	
Termination of Abatement	Recaptured Taxes	Termination of Abatement	Recaptured Taxes
Abatement Period	100%	Abatement Period	100%
Year 1 of Recapture Period		Year 1 of Recapture Period	
Year 2 of Recapture Period	75%	Year 2 of Recapture Period	80%
Year 3 of Recapture Period	50%	Year 3 of Recapture Period	60%
Year 4 of Recapture Period	25%	Year 4 of Recapture Period	40%
		Year 5 of Recapture Period	20%
		Year 6 of Recapture Period	10%

Section 12. Non-Refundable Application Fee

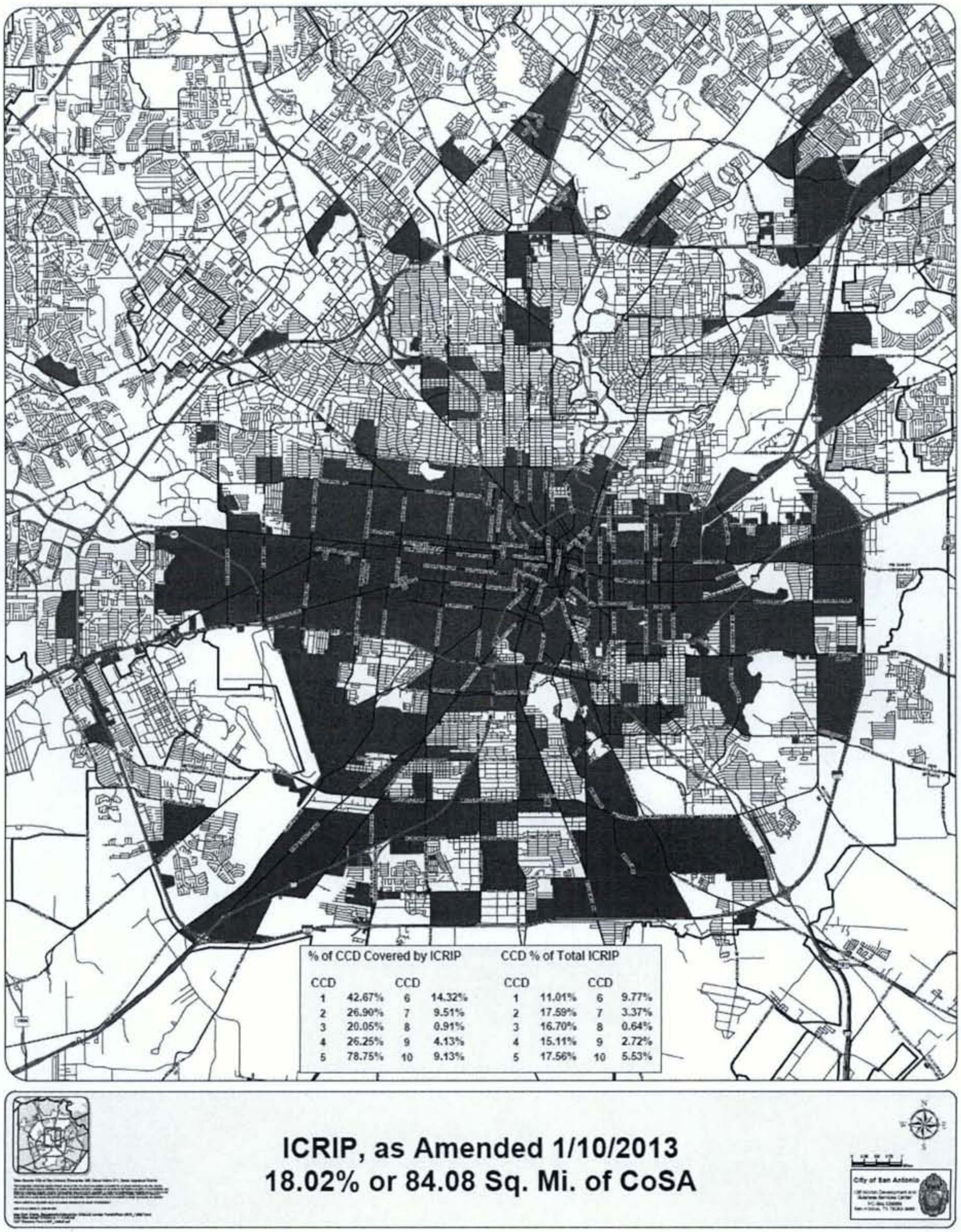
12.1 Companies seeking a tax abatement must submit the minimum, non-refundable application fee <u>with its application</u> and the an additional fee upon acceptance of the Tax Abatement based upon number of employees in the amount detailed in the following schedule:

No. of Total Employees Worldwide	Application Fee
Minimum Fee	$500
100-499	$1,000
500+	$1,500

12.2. Any project that requires an assignment or amendment to the existing tax abatement agreement will pay a fee of $1,000 to the City of San Antonio. If an Agreement has not been finalized within one calendar year following application, the City of San Antonio may close out a pending application. Any submission of a new and subsequent application following such a close out will require another application fee for reconsideration of the tax abatement request.

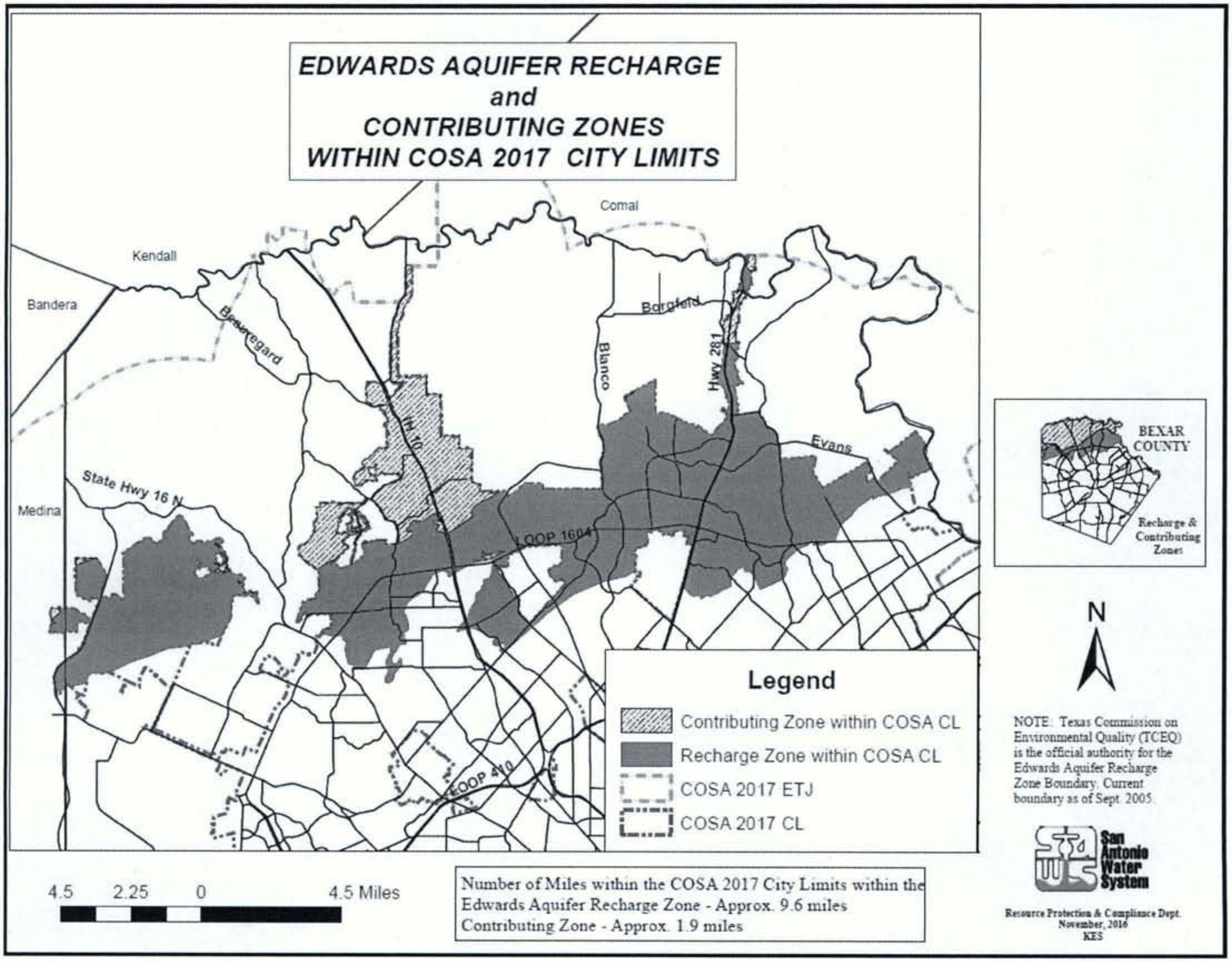
APPENDIX A

Map of the Inner City Reinvestment/Infill Policy Area



APPENDIX B

Edwards Recharge and Contributing Zones



APPENDIX C

Definitions

Data Center: Includes co-located data centers and enterprise data centers. Co-located data centers are those where equipment space and bandwidth are available for rental to retail customers. Co-location facilities provide space, power, cooling and physical security for the server, storage, and networking equipment of other firms—and connect them to a variety of telecommunications and network service providers—with a minimum of cost and complexity. Enterprise Data Centers consist of multiple data centers, each with a duty of sustaining key functions. These data centers can be classified into three types: internet, extranet and intranet.

Edwards Recharge and Contributing Zones: The Edwards Aquifer Recharge Zone is that area where the stratigraphic units constituting the Aquifer crop out, including the outcrops of other geologic formations in proximity to the Aquifer, where caves, sinkholes, faults, fractures or other permeable features would create a potential for recharge of surface waters into the Aquifer. The Contributing Zone is the drainage area or the catchment area. Here the land surface "catches" water from rainfall that averages about 30" per year, and water runs off into streams or infiltrates into the water table aquifer of the Edwards Plateau.

New Jobs: means employees associated with the authorized facility on a full-time permanent basis (Approximately 2,080 hours a year) in the City of San Antonio within one year of the start of operations. These jobs must be dependent upon the proposed project (i.e., the positions would not exist if the project is not completed). These jobs must NOT simply relocate current employees from within the San Antonio MSA. Full-time permanent contracted employees will be considered new jobs, if their annual salary exceeds the minimum wage requirement in Section 3. and provide substantially similar benefits as those of regular full time employees.

High-Wage Jobs: High-wage jobs as a general term for the purposes of consideration for Tax Abatement and other incentives are jobs for which earnings are above the county average weekly wage (average for the most recent four quarters) as reported quarterly by the Bureau of Labor Statistics. This wage is updated quarterly, and for 2016 the current applicable wage is $22.74 per hour or annualized at $47,307 at 2,080 annual hours.

Inner City Reinvestment/Infill Policy (ICRIP): Area adopted by City Council, last amended on January 10, 2013, and subject to future modifications to the current area boundaries as approved by City Council. The ICRIP includes Brooks City-Base and Port San Antonio. The current ICRIP area also encompasses Downtown, City-designated Reinvestment Plan Areas, and City-initiated Tax Increment Reinvestment Zones within Loop 410. . Projects locating in the ICRIP are eligible for increased incentives, including development fee waivers to stimulate business activity and investment in the Downtown and surrounding areas (Exhibit A).

Reinvestment Zone: is a specific parcel or parcels of property designated by the City within which a tax abatement can be granted.

Tax Abatement: The full or partial exemption from ad valorem taxes of certain real and personal property improvements in a Reinvestment Zone designated by the City of San Antonio for economic development purposes.