

Victoria County Junior College District Policy on Tax Abatement Guidelines and Criteria

(Adopted effective January 24, 2022 through January 23, 2024)

1. Introduction¹

1.01 Authority. Victoria County Junior College District (the “College”) has elected to become eligible to participate in Tax Abatement Agreements through the adoption of a resolution as required by the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code (the “Act”). Under the Act, the College Board of Trustees (the “Board”) may enter into a Tax Abatement Agreement with a property Owner in an area designated as a Reinvestment Zone or Enterprise Zone to exempt from ad valorem taxes all or part of the increased assessed value of the property on the condition that the Owner makes specified improvements or meets other conditions in the Tax Abatement Agreement. The Board must, and does hereby, adopt Guidelines and Criteria in accordance with the Act for granting Abatements; furthermore, these Tax Abatement Guidelines and Criteria are approved by the College’s Board on January 24, 2022, adopting the Guidelines and Criteria.

1.02 Discretion. The College reserves the right and authority to determine independently the suitability of projects for Abatement and whether the College elects to participate in any Tax Abatement Agreement. The Board further reserves the right and authority to specifically delegate to authorized employees the authority to determine whether or not the Board should consider a particular application for Abatement. The adoption of these Guidelines and Criteria does not create any property, contract, or other legal rights in any person to have the Board consider or grant any specific application for Abatement in whole or in part.

1.03 Purpose. In considering applications for Abatement, the Board will strive to ensure that any Abatement granted will assist the College, directly or indirectly, in meeting its general purpose as set forth in Texas Education Code Section 130.003(e), which states that the purpose of each public community college shall be to provide:

- (a) Technical programs up to two years in length leading to associate degrees or certificates;

¹ Certain terms and phrases are capitalized throughout this policy to indicate a specific intended definition as stated in Section 2, Definitions.

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- (b) Vocational programs leading directly to employment in semi-skilled and skilled occupations;
- (c) Freshman and sophomore courses in arts and sciences;
- (d) Continuing adult education programs for occupational or cultural upgrading;
- (e) Compensatory education programs designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students;
- (f) A continuing program of counseling and guidance designed to assist students in achieving their individual educational goals;
- (g) Work force development programs designed to meet local and statewide needs;
- (h) Adult literacy and other basic skills programs for adults; and
- (i) Such other purposes as may be prescribed by the Texas Higher Education Coordinating Board or local governing boards in the best interest of post-secondary education in Texas.

1.04 Sunset. In accordance with the Act, these Guidelines and Criteria are effective upon adoption and shall remain in force for two (2) years from the date of adoption, after which these Guidelines and Criteria are automatically void. These Guidelines and Criteria may be amended or repealed during the two-year period only by at least a three-fourths ($\frac{3}{4}$) vote of the membership of the full Board. Upon expiration of the two-year period, the Board may adopt new guidelines and criteria by a majority vote.

2. Definitions

- (a) “*Abatement*” means the full or partial exemption from ad valorem taxes of the increased assessed value of eligible real property and/or tangible personal property that are part of a Planned Improvement within a Reinvestment Zone or Enterprise Zone designated as such by a municipality, Victoria County, or the Texas Enterprise Zone Board

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for economic development purposes, the terms and conditions of which are specifically stated in a Tax Abatement Agreement between the property Owner and the College.

- (b) “*Abatement Period*” means the period during which a portion of the increase in assessed value of real property or tangible personal property is exempt from taxation in accordance with a Tax Abatement Agreement.
- (c) “*Guidelines and Criteria*” means this policy.
- (d) “*Enterprise Zone*” means an area declared by the Texas Enterprise Zone Board to be eligible for the benefits of the Texas Enterprise Zone Act.
- (e) “*New Value*” means the additional assessed value of eligible property through Planned Improvements made subsequent to and as specified in a Tax Abatement Agreement between the College and the property Owner.
- (f) “*Owner*” means the owner or prospective owner of property taxable by the College, including the owner of a leasehold interest in such property that is located in a Reinvestment Zone or Enterprise Zone.
- (g) “*Planned Improvement*” means the addition of new buildings, structures, facilities, machinery or equipment for the purpose of increasing production capacity and/or the modernization or expansion of an existing facility made subsequent to the approval of, and as specifically described in, a Tax Abatement Agreement.
- (h) “*Reinvestment Zone*” is an area officially designated as such by a municipality and/or Victoria County to influence development patterns and attract major investments that will contribute to the development of the municipality and/or Victoria County through the use of tax abatement for specified Planned Improvements.
- (i) “*Tangible Personal Property*” means tangible personal property classified as such under state law, but excludes inventory and/or supplies, and excludes any tangible personal property that was located

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in a Reinvestment Zone or Enterprise Zone at any time before the Abatement Period.

- (j) “*Tax Abatement Agreement*” means a written contractual agreement between the College and a property Owner made pursuant to Chapter 312 of the Texas Tax Code for the purpose of exempting from taxation by the College an agreed upon percentage of the increase in assessed value of eligible property during the Abatement Period. In accordance with Tax Code Section 312.207, a Tax Abatement Agreement must be approved by the Board at a regularly scheduled board meeting and may not be approved unless the Board finds that the terms of the agreement and the property subject to the agreement meet the applicable Guidelines and Criteria adopted by Board.

3. Procedures

3.01 Application. The College will accept an application for consideration of Abatement from a property Owner that meets the application requirements of the relevant municipality or Victoria County, provided the College may, at its discretion and at any time during the process, require additional information from the applicant. The application will be reviewed by the College President, or designee(s) for completeness and accuracy, and compiled for distribution to the Board members. Any application to the College must be done in conjunction and as a part of an application to Victoria County or the City of Victoria. Any agreement for an Abatement must include language canceling said agreement in the event of a cancelation or termination of the agreement by the Victoria County or the City of Victoria to which entity the application to the College is tied. Before the approval of an application for an Abatement, the College must first give at least thirty (30) days’ notice of the proposed action. Such notice must include the requirements set out in the statute requiring the notice.

3.02 Confidentiality of Proprietary Information. In accordance with Tax Code Section 312.003, the College will maintain the confidentiality of information that is provided in connection with an application and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which Abatement is sought. Such information is confidential under Tax Code Section 312.003 until the Tax Abatement Agreement is executed with the College. Nothing herein waives the confidentiality of information maintained by the College that is otherwise confidential by law.

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4. Tax Abatement Agreements

4.01 General Eligibility. In order for an application to be considered, the Owner of property within a Reinvestment Zone or Enterprise Zone must show that its proposed Planned Improvement will:

- (a) Be a major investment in the zone that will substantially increase the appraised value of property within the zone; and
- (b) Directly or indirectly serve a College purpose as stated in Section 1.03 herein.

4.02 Eligibility Threshold. For consideration for Abatement by the College, an Owner must demonstrate that the Planned Improvement is reasonably expected to increase the assessed value of the property by at least \$100 million.

4.03 Duration of Abatement. The Abatement Period begins on January 1 of the year following the year in which substantial completion of the Planned Improvement is reached as evidenced by a certificate of substantial completion. The maximum duration of any Abatement with the College is up to ten (10) years, subject to the restraints of the Maximum Available Abatement Tiers Table (Table 1) in Section 4.04.

4.04 Value of Abatement. The maximum amount of assessed value to be exempt in any given year is calculated using the Maximum Available Abatement Tiers Table below (Table 1). The percentages in Table 1 are the maximum percentages that the College may agree to apply to New Value for the Years and Tiers shown. Table 2 below shows a hypothetical calculation using \$600 million in New Value.

- Tier 1 percentages apply to the portion of New Value up to \$250 million;
- Tier 2 percentages apply only to the amount of New Value between \$250-500 million; and
- Tier 3 percentages apply only to the amount of New Value greater than \$500 million.

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Table 1 - Maximum Available Abatement Tiers Table

Year	Maximum Percentage Abatement applied to the <u>Tier 1</u> portion of New Value <u>up to \$250 Million</u>	Maximum Percentage Abatement applied to the <u>Tier 2</u> portion of New Value from <u>\$250-500 Million</u>	Maximum Percentage Abatement applied to the <u>Tier 3</u> portion of New Value <u>over \$500 Million</u>
Year 1	50%	75%	100%
Year 2	50%	75%	100%
Year 3	50%	75%	100%
Year 4	50%	50%	75%
Year 5	50%	50%	75%
Year 6	---	50%	75%
Year 7	---	50%	50%
Year 8	---	---	50%
Year 9	---	---	50%
Year 10	---	---	50%

Table 2 (Example Only) - Calculation of Maximum Available Abatement assuming hypothetical of **\$600 Million in New Value**

Year	Maximum Percentage Abatement applied to the <u>Tier 1</u> portion of New Value up to <u>\$250 Million</u>	Maximum Percentage Abatement applied to the <u>Tier 2</u> portion of New Value from <u>\$250-500 Million</u>	Maximum Percentage Abatement applied to the <u>Tier 3</u> portion of New Value <u>over \$500 million</u>	<u>Total Maximum</u> Annual Assessed Value Abatement
Year 1	\$125,000,000 (\$250 mil X .50)	\$187,500,000 (\$250 mil X .75)	\$100,000,000 (\$100 mil X 1.00)	<u>\$412,500,000</u> (Tiers 1 + 2 + 3)
Year 2	\$125,000,000 (\$250 mil X .50)	\$187,500,000 (\$250 mil X .75)	\$100,000,000 (\$100 mil X 1.00)	<u>\$412,500,000</u> (Tiers 1 + 2 + 3)
Year 3	\$125,000,000 (\$250 mil X .50)	\$187,500,000 (\$250 mil X .75)	\$100,000,000 (\$100 mil X 1.00)	<u>\$412,500,000</u> (Tiers 1 + 2 + 3)
Year 4	\$125,000,000 (\$250 mil X .50)	\$125,000,000 (\$250 mil X .50)	\$75,000,000 (\$100 mil X .75)	<u>\$325,000,000</u> (Tiers 1 + 2 + 3)

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Year 5	\$125,000,000 (\$250 mil X .50)	\$125,000,000 (\$250 mil X .50)	\$75,000,000 (\$100 mil X .75)	<u>\$325,000,000</u> (Tiers 1 + 2 + 3)
Year 6	\$0 (\$250 mil X .00)	\$125,000,000 (\$250 mil X .50)	\$75,000,000 (\$100 mil X .75)	<u>\$200,000,000</u> (Tiers 1 + 2 + 3)
Year 7	\$0 (\$250 mil X .00)	\$125,000,000 (\$250 mil X .50)	\$50,000,000 (\$100 mil X .50)	<u>\$175,000,000</u> (Tiers 1 + 2 + 3)
Year 8	\$0 (\$250 mil X .00)	\$0 (\$250 mil X .00)	\$50,000,000 (\$100 mil X .50)	<u>\$50,000,000</u> (Tiers 1 + 2 + 3)
Year 9	\$0 (\$250 mil X .00)	\$0 (\$250 mil X .00)	\$50,000,000 (\$100 mil X .50)	<u>\$50,000,000</u> (Tiers 1 + 2 + 3)
Year 10	\$0 (\$250 mil X .00)	\$0 (\$250 mil X .00)	\$50,000,000 (\$100 mil X .50)	<u>\$50,000,000</u> (Tiers 1 + 2 + 3)

4.05 Required Terms. In accordance with the Act, a Tax Abatement Agreement must:

- (a) List the kind, number, and location of all proposed improvements of the property;
- (b) Provide access to and authorize inspection of the property by College employees to ensure that the improvements or repairs are made according to the specifications and conditions of the Tax Abatement Agreement;
- (c) Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that Abatement is in effect;
- (d) Provide for recapturing property tax revenue lost as a result of the Tax Abatement Agreement if the Owner of the property fails to make the improvements or repairs as provided by the Tax Abatement Agreement;
- (e) Contain each term agreed to by the Owner of the property;

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- (f) Require the Owner of the property to certify annually to the Board that the Owner is in compliance with each applicable term of the Tax Abatement Agreement; and
- (g) Provide that the Board may cancel or modify the Tax Abatement Agreement if the property Owner fails to comply with the Tax Abatement Agreement.

The Board retains the right to require additional terms and conditions for abatement and the listing of mandatory provisions specified in this section is not a limitation on the terms and conditions that may be required by the Board.

4.06 Discretionary Terms. In accordance with the Act, a Tax Abatement Agreement may include, at the option of the Board, provisions for:

- (a) An economic feasibility study, including a detailed list of estimated improvement costs, a description of the methods of financing all estimated costs, and the time when related costs or monetary obligations are to be incurred;
- (b) A map showing existing uses and conditions of real property in the Reinvestment Zone;
- (c) A map showing proposed improvements and uses in the Reinvestment Zone;
- (d) Proposed changes of zoning ordinances, the master plan, the map, building codes, and city ordinances;
- (e) The recapture of all or a portion of property tax revenue lost as a result of the Tax Abatement Agreement if the appraised value of the property subject to the Tax Abatement Agreement does not attain a value specified in the Tax Abatement Agreement, or if the Owner fails to meet any other performance criteria provided by the Tax Abatement Agreement, and payment of a penalty or interest, or both, on that recaptured property tax revenue, as calculated pursuant to the terms of the Tax Abatement Agreement; and

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(f) Any other provisions permitted by law.

4.07 “Buy Local” Efforts. As part of a Tax Abatement Agreement, an Owner will use its best efforts to use “local” entities or individuals such as manufacturers, suppliers, contractors and labor related to materials and labor needed for the construction and operation of the Planned Improvement. “Local” means such individuals or entities residing in or headquartered in Victoria County, a county contiguous to Victoria County, and/or the College’s service area.

4.08 No Delinquent Taxes. No Abatement will be granted if an applicant (or any affiliate or subsidiary) is delinquent in the payment of ad valorem taxes to any local taxing entity, including the College.

4.09 Conflict of Interest. Property within a Reinvestment Zone or Enterprise Zone that is owned or leased by a College Board member is excluded from consideration for Abatement.

4.10 Appraisal. Each year the applicant receiving an abatement shall furnish the Chief Appraiser of the appropriate Central Appraisal District (“CAD”) with such information as may be necessary for the abatement. After the value has been established by the CAD, the CAD shall notify the affecting taxing jurisdictions of the certified appraised value of the property.

4.11 Assignment. An Agreement may be assigned only with the prior written consent of the Board. Assignment is subject to the financial capacity of the proposed assignee and other factors at the discretion of the Board. No assignment shall be approved if the assignor or the assignee is indebted to the College or to other affected taxing jurisdictions for past due ad valorem taxes or other obligations. 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 set forth in the Agreement. Any assignment shall be to an owner that continues the same improvements or repairs to the property (except to the extent that such improvements or repairs have been completed, in which event the assignor and assignee shall each certify as to such completion) and continues the same use of the facility as stated in the Agreement with the Applicant (now proposed assignor). Approval of assignment shall not be unreasonably withheld.

4.12 Severability. If any provision of these Guidelines and Criteria is held invalid by a court of competent jurisdiction, the invalidity shall not affect the other

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provisions of these Guidelines and Criteria as Amended that can be given effect without the invalid provision, and to this end the provisions of these Guidelines and Criteria are severable. Additionally, for purposes of clarification, Section 312.209 of the Tax Code, titled “Application of Nonseverability Provision,” pertains to the regulation and removal of outdoor signs and compensation thereof by municipalities, and the provisions amending the Property Redevelopment and Tax Abatement Act in Chapter 221, Acts of the 69th Legislature, Regular Session (1985) and currently codified within Chapter 216 of the Local Government Code, pertain to signage and the method of compensation when a sign is required to be relocated, reconstructed, or removed and do not prohibit or even pertain to the allowance of severability in construing these Guidelines and Criteria.

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