

AGENDA ITEM NO. 71

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
ECONOMIC DEVELOPMENT DEPARTMENT**

TO: Mayor and City Council

FROM: Ramiro A. Cavazos, Director, Economic Development Department

THROUGH: Terry M. Brechtel, City Manager

COPIES: J. Rolando Bono, Andrew Martin, Milo Nitschke, Lou Lendman, Jim Campbell
Trey Jacobson, Manuel Longoria, Jr., Ed Davis, File

SUBJECT: Ordinance to Adopt Tax Phase-In Guidelines

DATE: December 18, 2003

SUMMARY AND RECOMMENDATIONS:

This ordinance would adopt Tax Phase-In Guidelines for the City of San Antonio. The proposed Guidelines were developed by a Joint City of San Antonio and Bexar County Task Force.

Staff recommends approval of the ordinance.

BACKGROUND INFORMATION:

By State law, municipalities are required to revise their tax abatement guidelines every two years. The current City Guidelines were last revised in December 2001. The effort to revise the Guidelines began in February 2003 with the main goal of making the tax phase-in process simpler for companies and strengthening the coordination of the economic development efforts between the City and County.

Previously, the City and County have had separate processes for revising their respective Guidelines, with the City working through a City Council-appointed Tax Phase-In Advisory Committee. In order to integrate the two guidelines, a Joint Task Force was created consisting of five members from the City's Advisory Committee and five citizens appointed by the Commissioners Court.

The Task Force held three public hearings regarding the draft Guidelines during the months of September and October. To ensure the Task Force had the best opportunity to hear from all interested parties, invitations were sent to more than 600 people, press releases were issued, and the draft Guidelines and meeting notices were posted in advance on the web sites of both the City and County. The public hearings provided a forum for the stakeholders to receive a briefing on all components of the Guidelines and provide their feedback to the Task Force. The Task Force then held a meeting following each public hearing to discuss the ideas received.

The City's Tax Phase-In Advisory Committee approved the final recommendations of the Task Force on October 8, 2003. The Bexar County Commissioners Court then approved the Joint Guidelines on December 2, 2003 with some amendments. The Guidelines, as amended by the Commissioners Court, have also been presented to the City Council's Governance Committee and the Economic and Human Development Committee. Both Committees were generally supportive of the Guidelines. However, some Council members requested more information about the Contributing Zone and the Contributing Zone Within the Transition Zone. They also requested that staff prepare a report pertaining to development and population distribution over all of the Edwards Aquifer zones. Regarding the science issues, staff has received commitments from the Edwards Aquifer Authority and the San Antonio Water System to make presentations at subsequent meetings, including the December 18th City Council meeting, to answer questions.

It should be noted that in the event that City Council adopts a version of the Guidelines that differs from those adopted by the County, the Commissioners Court has suggested a joint meeting of the Council and the Court to provide further discussion on creating consensus.

POLICY ANALYSIS:

The Tax Phase-In Program is an important economic development tool that has been used to facilitate the growth of the San Antonio regional economy with a positive fiscal impact to the City of San Antonio. Since 1989, the City Council has approved 46 abatements. As of December 2002, these abatements have resulted in the creation of 17,132 jobs and a total investment of \$1.25 billion. These tax phase-in agreements provided for abated property taxes estimated at \$25.1 million. Moreover, the projected total amount of increased ad valorem taxes received as a result of these abatements is estimated to be \$41.5 million.

The proposed Guidelines will be a significant step toward achieving the goals of simplifying the Guidelines and the coordination of economic development activities between the City of San Antonio and Bexar County. Furthermore, through the improvements made and the achievement of the aforementioned goals, these Guidelines will enhance the effectiveness of the tax phase-in program for both the City and the County.

The improvements or revisions to the proposed Guidelines are in the following areas:

- Addition of two investment and job creation thresholds
- Adding manufacturing, high level business services (excluding outbound and contract call centers), and agribusiness as targeted industries
- Application of the wage standards to all employees at the project location
- Adding flexibility on the durable and non-durable wage standards for small businesses
- Adjustment to the area eligible for central city multi-family housing
- Targeting the Texas Research Park, Medical Center area, and the San Antonio International Airport as 10-year term areas
- Making projects over the Edwards Aquifer Recharge Zone ineligible for tax abatements
- Including a local hire requirement for local companies expanding their operations in Bexar County
- Seeking the advertisement of jobs through the Alamo Workforce Development, Inc.

- Retail stores, retail centers, or businesses that competitively provide goods or services to consumers, including hotel or motel facilities are not eligible for consideration for tax abatements, regardless of the project investment or jobs created.

FISCAL IMPACT:


There is no fiscal impact.

COORDINATION:

The Economic Development Department (EDD) staff has coordinated this closely with the Bexar County staff and the members of the City's Advisory Committee as well as the Task Force. EDD has also coordinated with several other City departments including the City Attorney's Office, Neighborhood Action Department, Asset Management, Aviation, CPS, and SAWS. Furthermore, EDD has also coordinated this effort with several interested parties such as the Edwards Aquifer Authority, chambers of commerce, San Antonio Economic Development Foundation, San Antonio Manufacturers Association, COPS/Metro Alliance, Sierra Club, and others.

DISCRETIONARY COMMENTS:

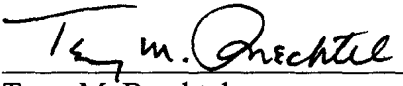
The proposed Guidelines are attached.



Ramiro A. Cavazos, Director
Economic Development Department

J. Rolando Bono
Deputy City Manager

Approved:



Terry M. Brechtel
City Manager

Attachments

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**PROPOSAL OF THE JOINT CITY OF SAN ANTONIO/BEXAR COUNTY TAX
PHASE-IN TASK FORCE**

TAX PHASE-IN GUIDELINES

FOR

BEXAR COUNTY

AND

CITY OF SAN ANTONIO

Policy Statement

The growth and diversity of a regional economy is critical to the long-term well being of a community and its citizens. Today, perhaps more than ever, communities must strategically plan and implement policies to achieve these goals. Through joint Tax Phase-in Guidelines for Bexar County and the City of San Antonio, the collaborative efforts of San Antonio's economic development partners are refining strategies to attract and grow targeted industries in order to increase employment, expand the tax base, and create long-term investment and new wealth opportunities in the community.

Both the City Council of the City of San Antonio and the Commissioners Court of County of Bexar, Texas will consider these guidelines to ensure that any abatement of property taxes achieves these community economic development goals.

While these Guidelines represent the joint economic development interests of Bexar County and the City of San Antonio for projects located within the corporate limits of San Antonio, the County will use the guidelines when considering abatements for any project to be located within its jurisdictional boundaries.

Introduction

Chapter 312 of the Texas Tax Code authorizes local governments to abate ad valorem property taxes on the value of new improvements to the property, including real property, tangible personal property, and inventory and supplies. Taxing jurisdictions (e.g., Bexar County and the City of San Antonio) are required by this statute to develop and periodically review guidelines every two years for the eligibility and award of this tax incentive.

State law further requires that each taxing jurisdiction enter into a 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 agreements are binding legal documents between all parties involved. Additional provisions and requirements are included in those agreements.

Eligibility Criteria

Under these Guidelines, to be eligible for consideration by these jurisdictions for a tax abatement, a company or project must meet and/or exceed all of the criteria, as described below:

- Minimum amounts of real or personal property investment must be achieved
- Minimum levels of full-time job creation must be achieved
- Employee access to health care benefits must be provided
- Minimum wage requirements for employees must be achieved
- Applicant must be in a targeted industry, or non-targeted industry but meeting exceptional investment requirements

The amount and term of the tax abatement will also be impacted by:

- The location of facility
- Other incentives used for same project
- Overall benefit to the community

These eligibility criteria, with the exception of the requirement of employee access to health care, do not apply to central city multi-family housing or mixed-use projects. The criteria for these projects can be found in Appendix A.

Investment

If the project meets the following investment criteria, as well as the other criteria in these Guidelines, the Applicant will be eligible for an abatement of taxes on either the real property improvements **AND/OR** the new personal property investment. The following eligibility criteria do not apply to central city multi-family housing or mixed-use projects.

LEVEL 1 PROJECT

Should the project meet the following investment criteria:

1. Real property improvements of at least \$1,000,000 in the property of interest **OR**
2. Investment of at least \$10,000,000 in new tangible personal property located at the property of interest, **AND**
3. Creation and maintenance of at least 25 new, full-time, permanent jobs

the company will be able to select an abatement of taxes of:

1. Up to 100% (40% from the County) on the real property improvements **OR**
2. Up to 100% (40% from the County) on the new personal property investment.

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LEVEL 2 PROJECT

Should the project meet the following investment criteria:

1. Total capital investment (real property improvements and new personal property investment) of at least \$25,000,000 in the property of interest **AND**
2. Creation and maintenance of at least 250 new, full-time, permanent jobs at the property of interest

the company will be able to select an abatement of taxes from one of the following categories, but not both:

1. Up to 100% (40% from the County) on the real property improvements **AND** up to 50% (20% from the County) on the new personal property improvements **OR**
2. Up to 100% (40% from the County) on the new personal property improvements **AND** up to 50% (20% from the County) the real property improvements.

LEVEL 3 PROJECT

A project will be considered an "exceptional investment" if the project meets the following criteria:

1. Total capital investment (real property improvements and new personal property investment) of at least \$50,000,000 in the property of interest **AND**
2. Creation and maintenance of at least 500 new, full-time, permanent jobs at the property of interest

Such projects will be eligible for an abatement of taxes of up to 100% (40% from the County) on the real property improvements **AND** the new personal property investment.

Additionally, a local company expanding its operations in Bexar County must hire at least 25% of its new employees from residents of Bexar County, regardless of the size of the project.

Employee Health Care Benefits

The company seeking an abatement under these Guidelines must provide each full-time person employed at the project location and his or her dependents with access to affordable health insurance within a reasonably timely manner from the date the employee starts employment. **This criteria also applies to employees of central city multi-family housing projects.**

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Wage Requirement

In order to be eligible for a tax abatement, companies must meet the following wage requirements:

1. Throughout the term of the abatement, all (100 percent) new and existing employees of the company requesting a tax abatement, *at the project location*, must earn a cash wage exceeding the poverty level for a family of four, as determined annually by the U.S. Department of Health and Human Services (HHS). This Wage Requirement is indexed in April of each year. As of April 2003, this Wage Requirement equals \$8.85 per hour.
2. Within one year of project location opening, 70 percent of all new and existing employees *at the project location* must earn a cash wage exceeding the average hourly durable goods or non-durable goods (which includes services) wage standard, depending on how the company's activities at the project location are categorized.
 - a. Average Hourly Wage for Durable Goods: This is the wage standard for those companies engaging in durable goods manufacturing at the project location, at the time the tax phase-in agreement is executed. As published by the Texas Workforce Commission, the wage standard is determined by the average annual hourly wage for durable goods manufacturers in the San Antonio Metropolitan Statistical Area. This Wage Requirement is indexed in April of each year. As of April 2003, this wage is currently \$10.94 per hour.
 - b. Average Hourly Wage for Non-Durable Goods and Services: This is the wage standard for those companies engaging in non-durable goods manufacturing at the project location, at the time the tax phase-in agreement is executed. As published by the Texas Workforce Commission, the wage standard is determined by the average hourly wage for non-durable goods manufacturers in the San Antonio Metropolitan Area. This wage standard also applies to those companies engaged in services activities at the project location. This Wage Requirement is indexed in April of each year. As of April 2003, this wage is currently \$10.70 per hour.
 - c. For small, minority, or women-owned businesses with 100 or fewer employees, the City and County may consider abatements for firms whose wage levels may not meet the Average Hourly Wage for Durable Goods or the Average Hourly Wage for Non-Durable Goods and Services (outlined above).

If the company does not meet and maintain this Wage Requirement for all pertinent employees going forward, the company will be considered in default of the Agreement, possibly resulting in termination of the Agreement and subject to recapture of prior abated property taxes.

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Targeted Industries

The majority of the company's business at the project location must be engaged in one of the following Targeted Industries, as defined in Appendix A:

- Agribusiness
- Aviation/Aerospace
- Biotechnology
- High Level Business Services
- Information Technology and Security
- Logistics and Distribution
- Manufacturing
- Telecommunications

Additionally, the following projects, as defined in Appendix A, are also eligible for consideration:

- Corporate and Regional Headquarters
- Central City Multi-Family Housing or Mixed-use Project

Non-targeted Industry

Companies whose majority business is not in a Targeted Industry may still be eligible for a tax abatement only if they meet the criteria of a Level 3 Project as defined above.

Regardless of the investment or jobs created, retail stores, retail centers, or businesses that competitively provide goods or services to consumers are not eligible for an abatement. In addition, hotel or motel facilities and outbound or contract call centers (see definition in Appendix A) are not eligible for an abatement. Furthermore, Neighborhood Empowerment Zones may not be used to grant abatements of sales taxes.

Targeted Areas for Investment and Job Creation

Certain areas are targeted for job creation and investment. Depending on the location of the project, the term of the abatement will vary, as follows (see map in Appendix B):

Areas eligible for a 10-year term:

- Projects located within Loop 410 or located south of U.S. Highway 90 will be eligible for an abatement term up to 10 years.
- Projects located within the Medical Center area, the boundaries of the San Antonio International Airport, or the Texas Research Park Foundation.

Areas eligible for a 6-year term:

- Projects located outside of Loop 410 and also located north of U.S. Highway 90 will be eligible for an abatement term up to 6 years.

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Areas *not* eligible for a tax abatement:

- Projects located in whole or in part over the Edwards Aquifer Recharge Zone, as defined in Appendix A, are not eligible for an abatement.

These criteria will not be used to favor one location over another in Bexar County, except as permitted by the Guidelines.

Additional Terms and Conditions

Each jurisdiction reserves the right to negotiate additional terms and conditions on a case-by-case basis.

Recipients of tax abatements will also agree to work with Alamo Workforce Development Inc. to facilitate the posting and advertisement of new jobs at the property of interest, as well as for the recruitment of potential qualified applicants for these positions. Alamo Workforce Development Inc. 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 also access.

Amount of County Abatement

Property taxes are the single largest source of operating funds for Bexar County (70% of its General Fund revenue), while they are the third largest source of operating revenue for the City of San Antonio. So, dollar for dollar, a tax abatement has a greater organizational impact on the County government than on the City government. To help equitably invest in economic development projects using tax abatements, the County may grant an abatement of taxes up to 40% on the qualified real property improvements and new personal property investment. Applicants may, however, negotiate for additional County abatement participation if the project meets certain other criteria, as defined below. Commissioners Court shall not grant a tax abatement for the Flood Control tax levied by the County or for taxes levied on behalf of the University Health System.

Bexar County may increase the amount of the abatement up to 80% of taxes on qualified real property improvements and new personal property investment after considering these other project criteria:

- **Local Hire Incentive:** Applicant agrees to fill at least 25% of the employment positions created and maintained with individuals whose place of residence, for at least six months prior to employment with the applicant, is located in Bexar County.
- **Hiring of Economically Disadvantaged or Dislocated Individuals Incentive:** Applicant commits that at least 25% of the employment positions created will be filled with economically disadvantaged and/or dislocated individuals.
- **Small, Minority, Women-owned Business Enterprise (SMWBE) Incentive:** Applicant agrees to make a good faith effort to award at least 25% of its

contracted work to minority and women-owned business and will make a good faith effort to award at least 10% of its contracted work to small businesses. A good faith effort is defined as the applicant increasing involvement of SMWBEs in the projects procurement process within the areas of commodities, equipment, services (non-professional and operations), maintenance and construction.

- **Environmental Practices Incentive:** Applicant commits to demonstrating sound environmental practices when constructing, operating and maintaining the project. This includes, but is not limited to, the utilization of clean and renewable energies; the implementation of water conservation practices and flood protection measures; the provision of incentives for mass transportation alternatives to employment positions created and maintained; and the sponsorship of other innovative practices that serve to minimize the project's environmental impact and to protect water, land and energy resources for the economic benefit of the community.

Firms may also be considered for an additional 20% County tax phase-in on a case by case basis. For the final 20%, a County negotiating team composed of the County Judge, the Commissioner in whose Precinct the project will be located, and appropriate staff will negotiate, at the County's discretion, terms and conditions for any abatement of the final 20%. The County will give preference for payments in lieu of taxes in an amount equal to the final 20% being abated. These payments will be used for designated purposes, such as educational grants and funding, and other non-profit assistance. Consideration will be given for payments in lieu of taxes that will serve as cash matches to help leverage private sector investment in such educational and non-profit uses. In any case, these agreements are subject to final approval of the Commissioners Court as a whole, as is the case for all tax phase-in agreements.

Recapture of Abated Taxes

Tax abatement agreements will provide for recapture of abated property taxes in the event contract requirements are not met.

APPENDIX A

DEFINITIONS

Agribusiness: Businesses engaged in the research, development, manufacturing, or refining of agricultural products into foodstuffs or for use as intermediate products in the processing of other agricultural finished goods or products, including those related to defense operations.

Aviation/Aerospace: Companies primarily engaged in one or more of the following activities:

- (1) Manufacturing complete aircraft, missiles, or space vehicles

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- (2) Manufacturing aerospace engines, propulsion units, auxiliary equipment or parts
- (3) Developing and making prototypes of aerospace products
- (4) Aircraft conversion (i.e., major modifications to systems)
- (5) Complete aircraft, missile, or space vehicle or propulsion systems maintenance, repair, overhaul and rebuilding (i.e., periodic restoration of aircraft to original design specifications)
- (6) Research and development
- (7) Defense-related operations
- (8) Regional air passenger operations

Biotechnology: This industry comprises establishments primarily engaged in conducting research, development, and manufacturing in the physical, bio-engineering, and life sciences, such as pharmaceutical, agriculture, environmental, biology, botany, biotechnology, chemistry, food, fisheries, forests, health, and defense-related operations.

Call Center: A business in which the main task of a predominant number of the employees at the location is to receive communications via telephone, fax, electronic mail, or postal service for the purposes of providing customer service may be eligible for a tax abatement. A business whose predominant function is to make outbound calls or a business who contracts their call center services to other companies, regardless of whether or not the communications are inbound or outbound, are not eligible for a tax abatement.

Central City Multi-family Housing or Mixed-use Project: Multi-family market rate housing project or mixed-use project, defined as a project with housing units constituting at least 75 percent of the usable enclosed space, located within boundaries of the Empowerment Zone. Any tax increment reinvestment zones or tax increment financing zones within the aforementioned areas are excluded. See map in Appendix C.

Corporate and Regional Headquarters: The firm's corporate or regional legal principal place of business is located in Bexar County, and its total assets will be at least \$500,000,000 and/or its total revenues will be at least \$500,000,000 for the corporate fiscal year preceding the date of the filing of its application for Tax Phase-In with the City of San Antonio or Bexar County. This does not include the corporation's retail outlets.

High Level Business Services: Includes businesses or divisions of corporations that are primarily engaged in business support functions that require a high level of technical expertise, including, but not limited to finance/accounting, insurance/risk management, marketing, real estate/planning, project management, and other analytical services or transactional operations. It does not include call center operations, as previously defined. It is required that a majority of the positions at the project site require a bachelors degree, professional degree, or equivalent relevant professional experience.

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Information Technology and Security: This industry comprises establishments primarily engaged in planning and designing computer systems that integrate computer hardware, software, and communication technologies. The hardware and software components of the system may be provided by this establishment or company as part of integrated services or may be provided by third parties or vendors. These establishments often design and develop software, install the system and train and support users of the system.

Companies in this industry are engaged in the following activities:

- (1) Producing and distributing information and cultural products
- (2) Providing the means to transmit or distribute these products as well as data or communications
- (3) Research and development
- (4) Defense-related operations
- (5) Processing data

Logistics/Distribution: Businesses involved in the receiving, storage, service, or distribution of goods or materials, where a majority of the goods or services are distributed to points outside the San Antonio metropolitan statistical area. This includes defense-related operations.

Manufacturing: Businesses engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products - includes related research and development and defense-related operations.

Medical Center Area: The area bound by Louis Pasteur to the South, Babcock Road to the West, Fredericksburg Road to the East, and Huebner Road to the North.

Recharge Zone: 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 recharge zone is identified as that area designated as such on official maps located at the Authority and in 30 TEX. ADMIN. CODE § 213.22. See map in Appendix D. (From Edwards Aquifer Authority rules, Chapter 713.1(45))

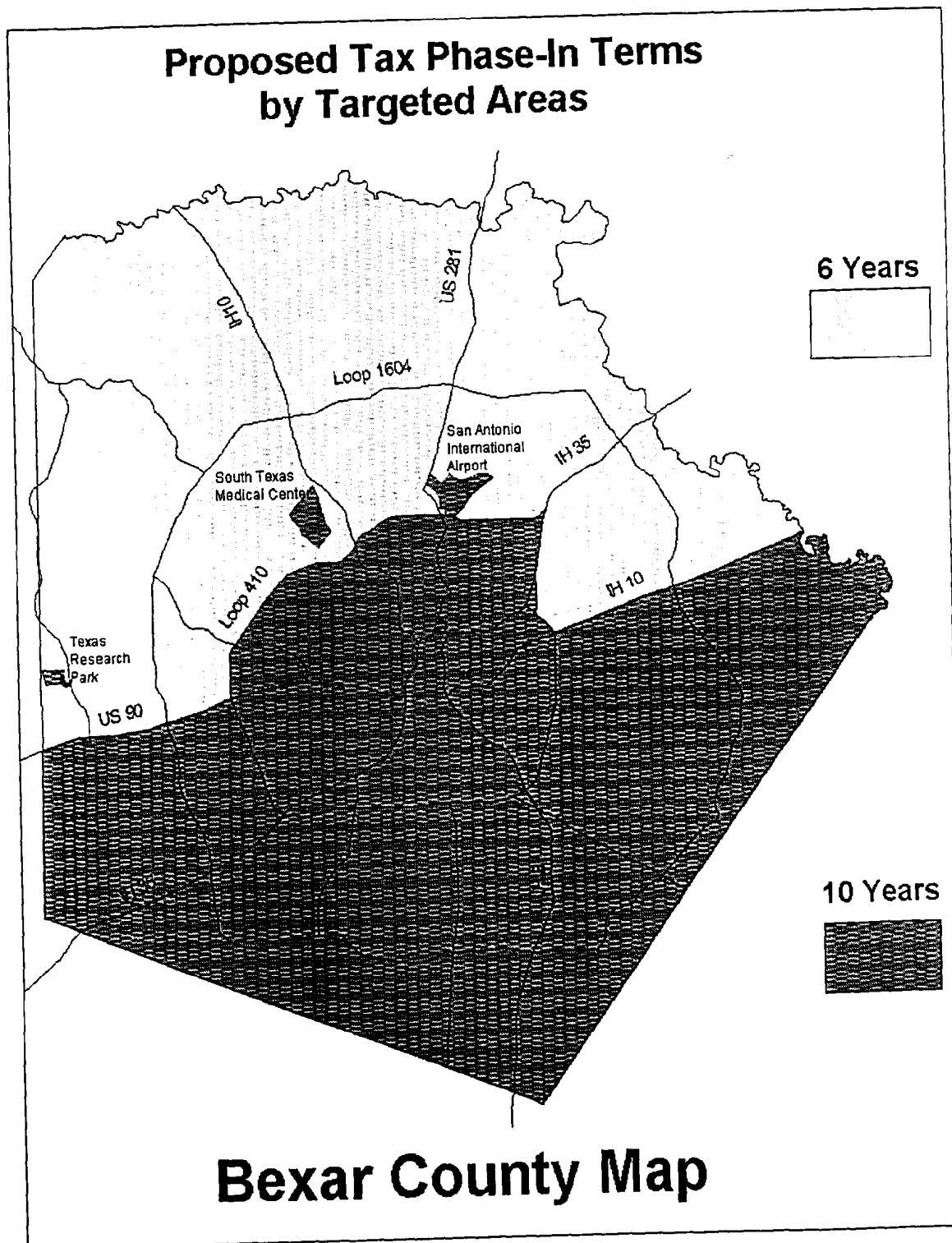
San Antonio International Airport Area: San Antonio International Airport is located in the north central portion of the city and is generally bounded by Wurzbach Parkway to the north, US 281 to the west, Loop 410 to the south and Wetmore Road to the east.

Telecommunications: Businesses primarily engaged in research & development, regional distribution, defense-related operations and the manufacturing of telecommunication-related products and services. It does not include operations involved in the retail sale of telecommunications products and services. It also does not include operations categorized as call centers.

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Texas Research Park: The Texas Research Park is a 1,236-acre site, located in West Bexar County and connected to U.S. Highway 90 and Potranco Road (State Highway 1957). The Texas Research Park supports the development of a world-class center of bioscience research and medical education.

APPENDIX B



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APPENDIX D

