

RESOLUTION NO. R2016-009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENTON, TEXAS, AMENDING A POLICY FOR TAX ABATEMENT FOR THE CITY OF DENTON TO ESTABLISH GUIDELINES AND CRITERIA GOVERNING INCENTIVE AGREEMENTS AND TAX ABATEMENT AGREEMENTS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on June 6, 2000, the City Council adopted guidelines and criteria, known as The Denton Policy for Tax Abatement (sometimes referred to as "Policy"), passing by Resolution No. R2000-028; and

WHEREAS, on May 1, 2001, the City Council amended the Policy to allow waiver of the Five Million Dollar threshold and the maximum tax abatement percentage; to define professional positions; to make other changes as set forth in the amended Policy; and

WHEREAS, on August 19, 2003, the City Council amended the Policy to make additional changes in the Policy and under the provisions of the Tax Code the Policy expired on August 19, 2005; and

WHEREAS, on December 6, 2005, the City Council amended the Policy to make additional changes in the Policy and under the provisions of the Tax Code the Policy expired on August 19, 2005; and

WHEREAS, in accordance with Chapter 312 of the Texas Tax Code requiring that tax abatement policies be adopted every two years, the Policy was adopted on February 5, 2008; and

WHEREAS, on April 20, 2010, the City Council extended the Policy to make changes in the Policy and under the provisions of the Tax Code the Policy expired on February 5, 2010; and

WHEREAS, on April 17, 2012, the City Council amended the Policy to make additional changes in the Policy and under the provisions of the Tax Code the Policy expired on April 17, 2014; and

WHEREAS, on May 6, 2014, the City Council adopted Resolution R2014-016 amending the Policy to make additional changes in the Policy and under the provisions of the Tax Code the Policy expires on May 6, 2016; and

WHEREAS, the City Council desires to promote economic development within Denton; and

WHEREAS, providing tax abatement and other economic development incentives within the City and its extraterritorial jurisdiction will likely contribute to the economic development of Denton by encouraging major investment, the creation of jobs, and other economic development benefits; and

WHEREAS, the Property Development and Tax Abatement Act, Chapter 312 of the Tex. Tax Code, allows the City to establish its own criteria for tax abatement and the City has previously

adopted guidelines for tax abatement by passing Resolution Nos. R90-018, R98-004, R2000-028, R2001-020, R2003-021, R2005-057, R2008-003, R2010-009, R2012-009, and R2014-016; and

WHEREAS, the City Council deems it in the public interest to continue to be eligible for participation in tax abatement and to adopt policies, guidelines and criteria governing tax abatement agreements to be known as the Denton Policy for Tax Abatement and Incentives; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. The polices, guidelines and criteria found in the Denton Policy for Tax Abatement and Incentives, attached hereto as Exhibit A and made a part of this Resolution and incorporated herein for all purposes, are in all things amended, approved and adopted. From and after the effective date of this Resolution, the attached Denton Policy for Tax Abatement and Incentives shall constitute policy guidelines and criteria governing tax abatement agreements for the City of Denton in accordance with Chapter 312 of the Tex. Tax Code.

SECTION 2. Pursuant to Tex. Tax Code Section 312.002(c), the guidelines and criteria adopted herein shall be effective for two (2) years from the date of adoption of this Resolution, during which time the guidelines may be amended or repealed by a vote of 3/4 of the members of the Council.

SECTION 3. The City Council hereby reasserts its decision to become eligible to participate in tax abatement. The City Council provides certain tax incentives applicable to business enterprises in various reinvestment zones which are established in the City, in accordance with the applicable provisions of Chapter 312 of the Tex. Tax Code and in accordance with the guidelines and criteria established in the attached Exhibit A and in the amended Policy.

PASSED AND APPROVED this the 5th day of April, 2016.


CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: 

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: 

EXHIBIT A

CITY OF DENTON POLICY FOR TAX ABATEMENT AND INCENTIVES

I. GENERAL PURPOSE AND OBJECTIVES

The City of Denton (City) is committed to the promotion of high quality development in all parts of the city and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City will, on a case-by-case basis, give consideration to providing tax abatement or other incentive as a stimulus for economic development in Denton. It is the policy of the City that said consideration will be provided in accordance with the procedures and criteria outlined in this document. Nothing herein shall imply or suggest that the City is under any obligation to provide an incentive to any applicant.

All applicants shall be considered on a case-by-case basis. Incentives will not be considered if construction of a project already has begun.

Tax abatements, as described in this Policy, will be available for businesses wanting to locate, expand or modernize, existing or new facilities and structures, including, without limitation, basic industries, corporate office headquarters or distribution centers, except as this Policy may be limited for property described in Section 312.211(a) of the Texas Property Tax Code (Vernon's Texas Civil Statutes Annotated, hereinafter referred to as "Tax Code.")

In addition to tax abatements, the City may provide alternative or additional incentives to businesses utilizing its authority under Chapter 380 of the Texas Local Government Code (hereinafter referred to as "Chapter 380.") Chapter 380 of the Texas Local Government Code states that a municipality may establish and provide for the administration of one or more programs for making loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality.

The City of Denton will consider, on a case-by-case basis, the use of grants and loans as incentives to accomplish one or more of the following economic development objectives:

- Development and diversification of the economy
- Elimination of unemployment or underemployment
- Expansion of transportation or commerce
- Attraction of major investment
- Expansion of primary employment
- Stimulation of agricultural innovation

The City of Denton may establish targeted incentive programs to accomplish one or more of the above objectives. Such programs could include, but are not limited to:

- Targeted industry cluster or supply chain recruitment initiatives
- Capital grants or loans for start-up and small businesses to promote entrepreneurship
- Special incentive programs within certain boundaries of the City in order to promote infill redevelopment and attract businesses that meet pre-determined desirable criteria
- Grants to offset costs associated with public infrastructure improvements and/or impact fees
- Cash incentives to gain a competitive position when in direct competition for a project

II. ECONOMIC DEVELOPMENT PARTNERSHIP BOARD

Requests for tax abatement or other incentives shall be reviewed by the Economic Development Partnership (EDP) board, on a case-by-case basis unless otherwise directed by City Council, the EDP board being comprised of two City Council members, two Chamber of Commerce board members, two representatives from the top twenty taxpayers, one representative from the University of North Texas, one member with aviation experience, one representative nominated by the Denton Black Chamber of Commerce, one representative nominated by the Denton Hispanic Chamber of Commerce, and one member at-large.

The EDP board serves as a recommending body to the City Council regarding whether economic development incentives should be offered in each individual case. Its recommendation shall be based upon an evaluation of information submitted in the incentive application and any additional information requested by the EDP board or presented to the EDP board. The Incentive Application shall be substantially in the form of Exhibit A of this Policy. All meetings of the EDP board shall be held in compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

III. VALUE OF INCENTIVES

The criteria outlined in the Application will be used by the EDP board in determining whether or not it is in the best interests of the City to recommend that incentives be offered to a particular project. Specific considerations will include the degree to which the individual project furthers the goals and objectives of the community as described in the Denton Comprehensive Plan, as well as the relative impact on growth, employment, expansion of the tax base, economic development and human health and the environment.

Tax Abatements

New, expanding and modernizing businesses may be considered for a tax abatement if the minimum threshold, as described in Table 1 below, is met. Once a determination has been made that a project is eligible for a tax abatement, the following table will serve as a basis for determining amount and term of abatement:

TABLE 1: Establishes a framework for considering the length and percentage of abatement according to assessed property value of improvements and of tangible personal property located on the real property.

VALUE OF STRUCTURE AND PERSONAL PROPERTY IN MILLION DOLLARS	YEARS OF ABATEMENT	PERCENTAGE OF ABATEMENT
100	10	25%
80	9	25%
65	8	25%
50	7	25%
35	6	25%
20	5	25%
15	4	25%
10	3	25%
5	2	25%

To qualify, companies must meet the minimum threshold of the Policy in the first 24 months from the execution of the agreement or as specified in the tax abatement agreement.

If upon initial application a project qualifies for tax abatement under the guidelines set forth in this Policy, the City may consider granting an additional 5% abatement for each one of the following factors provided, however, that the total tax abatement does not exceed 50% annually or continue for a period of more than ten years. No applicant may receive credit for more than five of the following factors:

- The project will occupy a building that has been vacant for at least two years;
- The project will create high-skilled, high-paying jobs as documented by the applicant; (A breakdown of number of jobs per job classification and entry level wage per classification will be used to determine eligibility);
- The project will involve a significant relationship with one of the two universities in Denton;
- At least 25% of the new jobs created by the project will be filled by Denton residents;
- A minimum of 25% of local contractors and local subcontractors will be utilized during construction of the project;
- The project will provide knowledge-based jobs (at least 25 percent of jobs require college bachelors degree at entry level);
- The project will donate significant public art to the community. (To qualify, donation must be approved by Greater Denton Arts Council and City Council);
- The project will donate significant materials/equipment to the public schools (to qualify, donation must be approved by DISD and City Council);
- The project will create improvements to the Denton Downtown Implementation Plan area;
- The project will result in the formation of a business park;
- The project is an international or national headquarters facility.
- The project is a medical manufacturing or research facility.
- The project incorporates significant environmentally sustainable practices that includes: Leadership in Energy and Environmental Design (LEED) certification, recycling initiatives, the manufacture of sustainable materials or products that support sustainable industries, or the incorporation of clean technology.

- Renewable Energy will be generated, stored or utilized for the project on an ongoing basis;
- The applicant is committed to actively supporting the Denton Community.

The total tax abatement may not exceed 50% annually for ten years. All abatements are subject to final approval of the City Council. **Even though a project may meet the criteria as set forth in this Policy, an application may be denied at the discretion of the City.** Tax abatement shall not apply to any portion of the land value of the project. The thresholds as described in Table 1 are considered guidelines for establishing the Tax Abatement Agreement terms. However, the City may determine that a lower or higher percentage and/or a shorter or longer term of abatement may be more appropriate for an individual project. If the abatement is approved, the City may consider applying all or a portion of the abatement in the first year or during any shorter period within the term of the tax abatement agreement. For example, an approved abatement of 25 percent for four years may be applied as 100 percent abatement for one year.

When the City of Denton determines that incentives are required to retain existing businesses, which propose to improve or redevelop property within the City limits, the Denton City Council may consider these “special projects” on a case-by-case basis and reserve the right to waive the minimum threshold and/or exceed fifty percent (50%) in tax abatement. The City of Denton may also take into consideration as “special projects” the expansion/redevelopment of existing businesses that create new or additional professional jobs. New or existing businesses that incorporate environmentally sustainable practices or have a renewable energy component may also be considered “special projects.” Abatement hereunder will only apply to the increased valuation of the improvements over the appraised value of the property prior to such improvements as same is established by the Denton Central Appraisal District the year in which the tax abatement agreement is executed. The City may also consider other tax incentives authorized by law.

Chapter 380 Incentives

At times when alternative incentives may be preferable to a tax abatement, the City Council has the authority under Chapter 380 to create a custom incentive in order to accomplish specific economic development goals. Chapter 380 incentives will be considered on a case-by-case basis, and may be considered for one or more of the following criteria:

- A certain number of net new jobs with wages above Denton’s median household income
- The relocation of a company that promotes the growth of targeted industry clusters such as high-tech companies, aviation/aerospace industry, or supply chain clusters that support Denton’s existing primary employers
- Incentives for businesses that cause infill redevelopment or other desirable development objectives
- Any other activity which the City Council determines meets a specific public purpose for economic development

Definitions:

Local contractors and local sub-contractors refers to vendors that have their “principal office or place of business,” as reported to the Texas Secretary of State Office, located within Denton City Limits or

Extraterritorial Jurisdiction (ETJ). The minimum requirement of 25%, to be eligible under this consideration, will be based on the estimated construction valuation of the project.

Knowledge-based jobs are defined as occupations which:

- Require specialized and theoretical knowledge, usually acquired through a college education or through work experience or other training which provides comparable knowledge;
- Require some research, analysis, report writing and presentations;
- Require special licensing, certification, or registration to perform the job task;

A **Business Park** is defined as a multi-building, multi-tenant, master planned complex of approximately one million square feet or more under roof, constructed to house manufacturing, distribution, assembly, and office facilities.

Leadership in Energy and Environmental Design (LEED) certification is a voluntary internationally recognized green building certification system, with verification by a third-party that a building or community was designed and built using strategies aimed at improving performance across the following metrics:

- energy savings
- water efficiency
- CO₂ emissions reduction
- improved indoor environmental quality
- stewardship of resources.

The certification levels consist of the following: Basic, Silver, Gold and Platinum and are weighted on a 100 point system. The LEED system measures: innovation in design; sustainable sites; water efficiency; energy and atmosphere; materials and resources; indoor environmental quality; and locations and linkages.

The manufacture of sustainable materials or products may include but is not limited to: biobased, recyclable and reclaimed goods. Denton is located in an air quality nonattainment region designated by the Environmental Protection Agency for air pollution levels that continually exceed national standards. Products and equipment that support sustainable industries or clean technologies that reduce environmental pollution are encouraged and may qualify for consideration under this section. Community support and involvement may include but is not limited to monetary or active investment in local non profits, public institutions or community organizations. Membership and participation in a Denton chamber of commerce is an example that may qualify under this consideration. The EDP board will consider criteria proposed by the applicant, review and make a recommendation on the eligibility of the applicant's community support and recommend whether an additional five percent should be added to the overall incentive percentage.

When the City determines that abandoned property may require additional incentives to promote economic development that generally satisfies the requirements of this Policy, the City may waive the minimum threshold and/or exceed fifty percent (50%) in tax abatement, or consider other tax incentives for special projects to redevelop abandoned buildings consistent with existing law. For the purpose of this Policy, an abandoned building is defined as a building that has been identified as being suitable for commercial or industrial development, has been vacant for a minimum of five years or has substantially declined in appraised value. Abatement would only be considered on the increased valuation of the improvements in each year covered by the tax abatement agreement over the value of the property for

the year in which the tax abatement agreement is executed. The City may also consider other tax incentives authorized by law.

Preliminary Application

IV. PROCEDURAL GUIDELINES

Any person, organization or corporation desiring that the City consider providing incentives to encourage location or expansion of facilities within the limits of the jurisdictions shall be required to comply with the following procedural guidelines. **Nothing within these guidelines shall imply or suggest that the City is under any obligation to provide an incentive to any applicant.**

- A. Applicant shall complete the attached "Incentive Application." —
- B. Applicant shall prepare a map or other documents providing the following:
 - precise location of the property and all roadways within 500 feet of the site
 - existing uses and conditions of real property
 - proposed improvements and uses
 - any proposed changes in zoning
 - compatibility with the Denton Comprehensive Plan and applicable building codes and City ordinances.
 - A complete legal description.
- C. Applicant shall complete all forms and information detailed in the Application and submit all information to the City Manager (or his/her designee), City of Denton, 215 E. McKinney, Denton, TX 76201.
- D. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be requested as needed.
- E. The application will be distributed to the appropriate City departments for internal review and comments. Additional information may be requested as needed.
- F. Copies of the complete application package and staff comments will be provided to the EDP board.
- G. Fiscal agents of the City will review the application for comments and recommendation. Additional information may be requested as needed.

Consideration of the Application

- H. The EDP board will consider the application at a regular or special-called meeting(s). Additional information may be requested as needed.

- I. The recommendation of the EDP board will be forwarded, with all relevant materials, to the City Council.
- J. If the City Council decides to grant a tax abatement, it shall call a public hearing to consider establishment of a tax reinvestment zone in accordance with Section 312.201 of the Tax Code. The reinvestment zone must meet one or more of the criteria of Section 312.202 of the Tax Code.
- K. The City Council may consider adoption of an ordinance designating the area described in the legal description of the proposed project as a commercial/industrial tax abatement zone.
- L. The City Council may consider adoption of an ordinance or resolution approving the terms and conditions of a contract between the City and the applicant governing the provision of the tax abatement or incentive and the commitments of the applicant, including all the terms required by Section 312.205 of the Tax Code and such other terms and conditions as the City Council may require. Should the commitments subsequently not be satisfied, the tax abatement or other incentive shall be null and void (unless the tax abatement agreement provides for a recapture of the property tax revenue lost proportionate to a partial failure to meet the minimum thresholds set forth in the agreement) and all abated taxes or other incentive shall be paid immediately to the City of Denton. Provisions to this effect shall be incorporated into the agreement.
- N. The City reserves the authority to enter into tax abatement agreements at differing percentages and/or terms as set forth in the guidelines of this Policy, consistent with the requirements of the Tax Code. The City also reserves the authority to enter into incentive agreements under Chapter 380 of the Texas Local Government Code.

Any incentive agreement will address various issues, including but not limited to, the following:

- 1. General description of the project
- 2. Amount of the tax abatement and percent of value to be abated each year
- 3. Method of calculating the value of the abatement
- 4. Duration of the abatement, including commencement date and termination date
- 5. Legal description of the property
- 6. Kind, number, location and timetable of planned improvements
- 7. Specific terms and conditions to be met by applicant
- 8. The proposed use of the facility and nature of construction
- 9. Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, any decrease in valuation, administration and assignment

Annual Evaluation

Upon completion of construction and/or other threshold criteria, the City Council shall receive from the City Manager (or his/her designee) an annual evaluation of each incentive to insure compliance with the agreement and to report possible violations of the agreement to the appropriate taxing entities. After new tax base numbers are received in July of each year, the City Manager and his staff will have ninety (90) days to review and prepare a breakdown of those figures.

Local Businesses and Historically Underutilized Businesses

Businesses receiving an incentive are asked to use diligent efforts to purchase all goods and services from Denton businesses whenever such goods and services are comparable in availability, quality and price.

The City of Denton also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers who are historically underutilized businesses based on information provided by the General Services Commission pursuant to Chapter 2161 of the Government Code. In the selection of subcontractors, suppliers or other persons or organizations proposed for work on this Agreement, the OWNERS agree to consider this Policy and to use their reasonable and best efforts to select and employ such companies and persons for work on this Agreement.

Job Recruiting from Low-Moderate Income Census Tracts

Businesses receiving incentives are asked to endeavor to make available, or endeavor to cause lessees or assignees to make available, full-time or part-time employment with on-the-job training for Denton citizens. In this effort, the business, lessee or assignee is encouraged to recruit from the low-moderate income Census tracts as further defined by the U.S. Department of Housing and Urban Development's (HUD) Qualified Census Tracts (QCT) map shown in Figure 1. HUD defines QCTs as "census tracts in which one-half or more of the households have incomes below 60 percent of the area median income or the poverty rate is 25 percent of [or] higher.

