



**CITY OF FOREST HILL  
GUIDELINES AND CRITERIA POLICY  
FOR ENTERING INTO  
ECONOMIC DEVELOPMENT INCENTIVES  
AGREEMENTS**

This Policy establishes the criteria and method to be used for economic development incentives for qualified commercial projects within the City of Forest Hill (The City). Potential Economic Development Agreements shall comply with the following:

**WHEREAS**, the City is committed to move forward in a progression of Economic Development;

**WHEREAS**, the competitive nature of municipalities necessitates additional inducements under certain circumstances to attract commercial development and business to the City;

**WHEREAS**, certain projects will not happen without entering into a public-private partnership;

**WHEREAS**, the City may consider, on a case-by-case basis, the use of economic incentives and tax abatements to attract economic growth and promote the expansion of the local economy and create jobs in Forest Hill;

**WHEREAS**, the City's GUIDELINES AND CRITERIA establishes, as the ultimate goal and public purpose to recruit quality developments and businesses to Forest Hill as well as the expansion of existing businesses, increase the property and sales tax revenues and provide community services to those who live, work and play within Forest Hill;

**WHEREAS**, it is in the best interest of the City, on a case-by-case basis, to work with commercial developers and businesses towards the development of mutually agreeable terms and conditions that, if approved and executed by both parties, may allow property to develop more quickly and easily within the City;

**NOW, THEREFORE**, as a result of the above and foregoing premises (which are true and correct and made a part hereof), the City Council desires to outline in this GUIDELINES &

CRITERIA certain provisions which may be included within a definitive agreement which may be negotiated between the Developer and the City regarding the same, as follows:

## **Section 1: PURPOSE**

The City Council of the City of Forest Hill's primary goal in offering incentives is to recruit quality developments and businesses to Forest Hill, increase property and sales tax revenues and provide community services to those who live, work and play within Forest Hill;

- (a) To meet these objectives, the City Council of the City of Forest Hill will, on a case-by-case basis, consider providing economic development incentives to assist in the recruitment of quality developments and businesses and expansion of existing businesses. The individualized design of a total incentives package for each applicant will provide the City with maximum flexibility in order to best provide for the needs of the developer and the City.
- (b) Participation in economic incentives or tax abatement does not remove any obligation to satisfy all codes and ordinances issued by the City Council or any affected taxing jurisdiction that may be in effect and applicable at the time a project is implemented.

## **Section 2: DEFINITIONS**

- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain eligible property for economic development purposes.
- (b) "Agreement" means a contractual agreement between a property owner and/or lessee and an eligible jurisdiction for the purposes of tax abatement.
- (c) "Base Year Value" means the assessed value of eligible property January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1, but before the execution of the agreement.
- (d) "City" means the City of Forest Hill, Texas.
- (e) "Deferred Maintenance" means improvements necessary for continued operations that do not improve the productivity or alter the process technology.
- (f) "Developer" means the person or organization that develops property in the City of Forest Hill.
- (g) "Distribution Center Facility" means buildings and structures, including machinery and equipment, used primarily to receive, store, service or distribute goods or materials owned by the facility operator.
- (h) "Eligible Jurisdiction" means the City of Forest Hill, Tarrant County, or other special taxing districts that levy ad valorem taxes upon and provide services to property located within a proposed or existing reinvestment zone.
- (i) "Entertainment/ Tourism Facility" means buildings and structures, including machinery and equipment, used or to be used to provide entertainment and/or tourism related services.

- (j) "Expansion" means the addition or enlargement of buildings, structures, fixed machinery, or equipment for purposes of increasing production capacity.
- (k) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (l) "Infrastructure" means the costs associated with paving, water, sewer, and drainage facilities. It may also include the costs associated with telephone, Internet, telecommunications equipment, cable, and electricity.
- (m) "Manufacturing Facility" means buildings and structures including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change, including the assembly of goods and materials from multiple sources, in order to create a finished or semi-finished product.
- (n) "Modernization" means the replacement and upgrading of existing facilities, which increases the productivity input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing, or repairing except as may be integral to or in direct connection with an existing expansion.
- (o) "New Facility" means a property previously undeveloped that is placed into service by means other than or in conjunction with expansion or modernization.
- (p) "Professional Office Facility" means buildings or structures including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which results in the creation of new permanent jobs and creates wealth in the City.
- (q) "Project" means any property improvement including expansions, modernization, and new facilities; but excluding any deferred maintenance.
- (r) "Reinvestment Zone" means any area of the City that has been designated a reinvestment zone for tax abatement purposes and which is located within the taxing jurisdiction of the City. It is the intent of the City to designate reinvestment zones on a case-by-case basis in order to maximize the potential incentives for eligible enterprises to locate or expand in the City.
- (s) "Research Facility" means buildings and structures including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (t) "Retail Facility" means buildings and structures including fixed machinery and equipment, used or to be used to provide retail services.
- (u) "Service Facility" means buildings and structures, including machinery and equipment.

### **Section 3: TEXAS LOCAL GOVERNMENT CODE CHAPTER 380.001 ECONOMIC DEVELOPMENT INCENTIVES**

(a) Economic Development Incentives. The City by resolution may enter into an economic development incentives agreement as permitted by Chapter 380.001 of the Texas Local Government Code. An incentive may include but is not limited to:

(1) Sales Tax Rebate. The City will consider rebating all or an agreed upon percentage of the City sales tax generated from a project back on new or increased sales tax dollars upon approval of the City Council. The City shall not provide any sales tax rebates for any period during the term of which the City has not received sales tax revenue from taxable sales from the project. Rebates shall only be given upon documentation from the business receiving the sales tax rebate showing that all terms and conditions in the agreement between the City and the business have been met.

(2) Development Fee Rebate. The City will consider rebating all or an agreed upon percentage of certain permit and development fees upon approval of the City Council. The City shall allow building fees, permit application fees and fees associated with planning and zoning processes to be rebated back to a business. The City shall not provide any development fee rebates for any period during the term of which the City has not received development fees from a business. Development fee rebates shall be issued only after a business has received a certificate of occupancy. Rebates shall only be given upon documentation from the business receiving the development fee rebate showing that all terms and conditions in the agreement between the business and the City have been met.

(3) Loans and Grants. The City may provide loans or grants upon approval of the City Council. Any loans and grants shall be paid solely from lawful available funds, which have been appropriated for such purposes by the City.

a. Provide Personnel. The City may provide personnel and services of the municipality upon approval of the City Council.

b. Waiving of Fees. The City shall allow building fees, permit application fees and fees associated with planning and zoning processes to be waived.

c. The Extension, Construction or Reconstruction of Infrastructure. The City may assist with the extension, construction or reconstruction of infrastructure necessary for the development of a project. Within the agreement between the business and the City, the City Manager will determine maximum dollar amounts that the City cannot exceed in assisting in infrastructure improvement projects. This is to protect the City from unforeseen costs and rising market rates.

(4) General Review Criteria. Incentives will be considered on a case-by-case basis. A request for economic development incentives or tax abatement shall be considered only on the increased value received from a project, which means that the City shall continue to receive all taxes that it is currently receiving at a project site. Only the increased value created by the project may be considered for economic development incentives or tax abatement. A request for economic development incentives or tax abatement shall not be granted if the City Council finds that the request for economic incentives or a tax abatement was filed after the commencement of construction, alteration or installation of improvements related to a new facility or expansion.

(5) General Review Process.

a. Any consideration of economic development incentives or tax abatement shall be accompanied by an application and shall be reviewed by the City Manager. The City Manager shall forward a recommendation for approval or denial to the Community Development Corporation. The Community Development Corporation shall forward a recommendation for approval or denial to the City Council. The City Council shall make the final decision regarding the request.

b. Prior to a recommendation being made to the City Council, an in depth analysis of the project will be completed. The analysis will include a description of the project, statement of improvements, map of location, project time schedule for completion, due diligence into soundness of the business, financial ability to complete the project in a timely manner, a determination as to the number of jobs created, the pay level of the jobs created, level of investment to be made, tax return anticipated in amount of property and sales tax generated, other City revenue anticipated, fiscal, social, and community impact of the project, the cost/benefit to the City among other items that may be specific to the project and enable the City to make an informed decision.

c. The City Council will conduct a public hearing when required by law.

(6) Agreement.

a. The agreement shall define the project by acreage, location, and projected land use.

b. The agreement shall state the amount and type of economic incentives and/or tax abatement requested. If incentives for infrastructure are requested, the request shall present a detailed list of infrastructure costs.

c. Amount of investment in and average number of jobs associated with the project during the economic development incentives or tax abatement agreement.

d. An applicant's promise to meet and maintain these qualifications over the term of the agreement. This may require the submission of an annual report to the City Manager demonstrating that the terms and conditions required to receive

an incentive have been met, and the City will be allowed, upon written request and reasonable notice, to conduct a performance review at any time, inspect and audit such records as are necessary to substantiate that the applicant is meeting the criteria agreed upon during the term of the economic incentives or tax abatement. If the performance review shows that the criteria established in the incentives agreement are not being met, the City reserves the right to cancel the agreement for lack of performance.

- e. The agreement shall determine an appropriate schedule for project completion. Benchmarks will be established for the developer to reach project completion within a reasonable amount of time. If the developer fails to begin construction and reach benchmarks established by the City, the City may cancel the agreement for lack of performance.
- f. A provision for recapturing City expenditures and/or cost of labor associated with the agreement, in the event the company or individual is found to be in default according to the terms and conditions of the economic incentives or tax abatement agreement.
- g. Such agreement shall normally be executed within 60 days after the applicant has forwarded all necessary information for evaluation of the application to the City.

#### **Section 4: ABATEMENT AUTHORIZED**

(a) Authorized Facility. A facility may be eligible for abatement if it is a:

- Retail Facility;
- Manufacturing Facility;
- Research Facility;
- Distribution Center Facility;
- Service Facility;
- Entertainment/Tourism Facility; or
- Other Basic Industry.

(b) Authorized Date. A facility shall be eligible for tax abatement if it has applied for such abatement prior to the commencement of construction, provided that such facility meets the criteria granting tax abatement in reinvestment zones created in the City of Forest Hill pursuant to the GUIDELINES AND CRITERIA adopted by the City Council.

(c) Creation of New Value. The Abatement will apply only to the incremental increase in valuation, for the additional value of eligible property improvements made subsequent to and listed in an abatement agreement between the City of Forest Hill and the property owner and/or lessee, subject to such limitations as the City Council may require.

- (d) New and Existing Facilities. Abatement may be granted to new facilities and improvements to existing facilities for purposes of modernization and expansion.
- (e) Eligible Property. Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements, office space and related fixed improvements, inventory and supplies necessary to the operation and administration of the facility and inventories.
- (f) Ineligible Property. The following classes of property shall be fully taxable and ineligible for abatement: land, vehicles, vessels, aircraft, deferred maintenance investments, residential property, furniture and property that is associated with any activity that is illegal under federal, state, or local law, property owned or used by the State of Texas or its political subdivisions, or property owned by an organization which is owned, operated or directed by a political subdivision of the State of Texas.
- (g) Leased Facilities. If an authorized facility eligible for tax abatement is leased, the agreement shall be executed with both the lessor and the lessee.
- (h) Value and Term of Abatement. Abatement shall be granted effective with the January 1 valuation date of the year immediately following the date of execution of the agreement and following the issuance of a Certificate of Occupancy unless otherwise specified in the agreement. The value and term of abatement shall be granted on a scale approved in the agreement. The value of the abatement shall not exceed 500 percent of investment by the business in eligible property as described in Section 4(e). The City Council, or its designated representative shall work with the applicant prior to the execution of an abatement agreement to determine the abatement schedule. For qualifying facilities, the City Council may approve abatement agreements lasting no longer than ten years. However, the length of the abatement agreement shall not exceed one-half of the estimated economic life of the facility, as determined by the City Council. Each year's abatement shall not exceed 100 percent.
- (i) Taxability. From the execution of the abatement agreement to the end of the agreement period, taxes shall be payable as follows:
- (1) The value of ineligible property shall be fully taxable,
  - (2) The base year value of existing eligible property as determined each year shall be fully taxable, and
  - (3) The additional value of new eligible property shall be taxable.
- (j) Conflict of Interest. Property that is in a reinvestment zone and that is owned or leased by a member of the governing body of the City of Forest Hill shall be excluded from tax abatement.

## **Section 5: TAX ABATEMENT APPLICATION**

- (a) Any present or potential property owner of taxable property in the City of Forest Hill may request the creation of a tax abatement by filing an application with the City Manager. The same requirements and procedures outlined in Section 3 applies to an applicant that requests a tax abatement, with the exception of one additional requirement outlined below in section 4(b).

## **Section 6: PUBLIC HEARING**

- (a) Should any affected jurisdiction be able to show cause in the public hearing why the grant of abatement will have a substantial adverse affect on its bonds, tax revenue, service capacity, or the provision of services, that showing shall be reason for the City to deny the grant of abatement.
- (b) An abatement agreement shall not be authorized if it is determined that:
  - (1) There would be a substantial adverse effect on the provision of government services or tax base,
  - (2) The applicant has insufficient financial capacity,
  - (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals, or
  - (4) Planned or potential use of the property violates other codes or laws.

## **Section 7: AGREEMENT**

- (a) The same requirements for agreements outlined in Section 3 for economic development incentives also applies to an applicant that requests a tax abatement, with the exception of one additional requirement outlined below in section 6(b).
- (b) Upon approval, the City shall formally pass a resolution and execute an agreement with the owner of the facility and/or lessee, which shall include the following:
  - (1) Estimated value to be abated and the base year value,
  - (2) Percent of value to be abated each year.



## **Section 8: RECAPTURE**

- (a) In the event that the facility is completed and begins producing goods and/or services, but subsequently discontinues such production for any reason excepting fire, explosion, or other casualty or accident or natural disaster for a period of one year during the abatement period, then the agreement shall terminate and so shall the abatement of taxes for the calendar year during which the facility no longer produces. The taxes otherwise abated for the calendar year shall be paid to the City within sixty (60) days from the date of termination.
- (b) Should the City determine that the company or individual is in default according to the terms and conditions of the abatement agreement, the City shall notify the company or individual, in writing, at the address stated in the agreement, and if such non-compliance is not resolved within sixty (60) days from the date of such notice, then the agreement shall be terminated.
- (c) In the event that the company or individual:
  - (1) Allows its ad valorem taxes owed the City or other affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or
  - (2) Violates any of the terms and conditions of the abatement agreement and fails to resolve such violations within sixty (60) days from the date of written notice of such violations, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

## **Section 9: ADMINISTRATION**

- (a) Each year, the company or individual receiving abatement shall furnish the city manager with such information as may be necessary for the abatement, including the number of new or retained employees associated with the facility. Once the value has been established, the city manager shall notify the company or individual receiving abatement the amount of the assessment.
- (b) The agreement shall stipulate that employees and/or designated representatives of the City will have access during the term of the abatement agreement to inspect the facility to determine if the company or individual is in-compliance with the terms and conditions of the abatement agreement. All inspections will be made only after notification of not less than twenty four (24) hours and will only be conducted in such a manner as not to unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual present and in accordance with the company's safety standards.

- (c) Upon completion of construction, the City shall annually evaluate each facility receiving abatement to ensure compliance with the agreement and report possible violations to the City Council and City Attorney.
- (d) All proprietary information required by the City for purposes of monitoring compliance by a business with the terms and conditions of an abatement agreement shall be considered confidential consistent with the Texas Public Information Act.

### **Section 10: ASSIGNMENT**

- (a) Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the prior approval by resolution of the City Council subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with the City of Forest Hill.
- (b) The expiration date of the new contractual agreement shall not exceed the termination date of the abatement agreement with the original owner and/or lessee.
- (c) No assignment or transfer shall be approved if the parties to the existing agreement, or the new owner or new lessee are liable to the City of Forest Hill or any affected taxing jurisdiction for outstanding taxes or other obligations.
- (d) Approval of a transferred and assigned agreement shall not be unreasonably withheld.

### **Section 11: DEVIATION**

A request for a deviation from these Guidelines and Criteria shall be made in written form to the City Manager. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a deviation. Approval of a request for deviation requires a majority vote of the governing body.

### **Section 12: SEVERABILITY AND LIMITATION**

In the event that any section, clause, sentence, paragraph, or any part of these GUIDELINES AND CRITERIA shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid such invalidity shall not affect, impair, or invalidate the remainder of these GUIDELINES AND CRITERIA.

### **Section 13: CITY COUNCIL DISCRETION**

Notwithstanding any provision of this Policy, and the statements and goals expressed herein, are made with the understanding that the decision of whether or not to grant any economic incentive with respect to any project is a matter solely within the discretion of

the City Council, and any economic incentives which may be considered pursuant to this Policy are expressly conditioned upon and subject to the parties negotiating and entering into a mutually satisfactory definitive written agreement or agreements memorializing the mutually agreeable terms and conditions of any economic development incentive agreement. If the City Council, in its sole discretion, determines that it is in the best interests of the City to grant incentives to a particular applicant, a resolution shall be adopted approving the terms and conditions of an economic development incentive agreement with the applicant. Nothing contained herein shall constitute or be construed to constitute, a commitment or approval, express or implied, tacit or otherwise, on the part of the City to grant economic development incentives for any project or development within the City.