

RESOLUTION ADOPTING ECONOMIC INCENTIVE POLICY

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 1-D THAT:

WHEREAS, in accordance with the authority of the Constitution and laws of the State of Texas, the Board of Directors of Denton County Fresh Water Supply District No. 1-D (the "District") desires to adopt an economic incentive policy in order to promote and retain a high quality of development in all part of the District and in order to allow continued improvement of the quality of life for its citizens;

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS;

Section 1. The Economic Incentive Policy, as set forth in Exhibit "A" attached hereto, is hereby adopted and approved;

Section 2. Such Economic Incentive Policy shall be in effect from the date hereof and shall remain in effect until amended or rescinded by further action of the Board of Directors of the District.

ADOPTED this 16th day of June, 2009.



Mark E. Channels
President, Board of Directors

ATTEST:



Julie Koustoubardis
Secretary, Board of Directors

(DISTRICT SEAL)

EXHIBIT "A"

Copy of Economic Incentive Policy attached hereto

Effective Date: 8-5-09

Approved: [Signature]

**DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 1-D
Economic Incentive Policy**

I. GENERAL PROVISIONS

A. Purpose

The Denton County Fresh Water Supply District No. 1-D (hereinafter the "District") is committed to the promotion and retention of high quality development in all parts of the District 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 District will, on a case-by-case basis, consider tax abatements or other economic incentives as stimulation for quality economic development in the District. Nothing herein shall imply or suggest that the District is precluded from considering other options which would further the best interest of the District.

The purpose of such tax abatements or other incentives is to provide District with an additional planning tool, providing incentives to those companies judged to enhance the overall economic strength of the District economy through the creation of a broader tax base, revitalization to distressed areas and/or quality jobs for the District citizens. Equally, the purpose is to attract and/or retain those companies that will become good corporate citizens, meeting the goals and objectives of the District.

B. Obligation

Nothing herein shall imply or suggest that the District is under any obligation to provide any incentive to any applicant. **All applications shall be considered on a case-by-case basis**, and the decision to approve or deny a financial incentive shall be at the discretion of the District Board. Special terms and conditions may be set in the agreement governing each specific incentive package.

C. Authority

This policy is adopted under the authority of the Constitution and laws of the State of Texas, and rules and regulations of the District.

D. Jurisdiction

Provisions of this policy shall apply to area comprising the boundaries of the District.

II. Definitions

- A. **Abatement.** The full or partial exemption for ad-valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes.
- B. **Agreement.** A contractual agreement between a property owner and the District for the purpose of economic incentive.
- C. **Base Year Value.** The taxable value of real and personal property for the project on January 1 of the year of the execution of the agreement.
- D. **District.** Denton County Fresh Water Supply District No. 1-G.
- E. **District Board.** The Board of Directors of Denton County Fresh Water Supply District No. 1-G.
- F. **Expansion.** The addition of buildings, structures, fixed machinery or equipment for the purpose of increasing production capacity.
- G. **Facility.** Property improvements completed or in the process of construction which together comprises an integral whole.
- H. **Freeport Exemption.** A taxing exemption as allowed by the State of Texas, Property Tax Code and applies to goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, are exempt from ad valorem taxation if: (1) the property is acquired in or imported into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this State; (2) the property is detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property; and (3) the property is transported outside of this State not later than 175 days after the date the person acquired or imported the property in this State.
- I. **Improvement.** A building, structure or fixture erected on or affixed to land.
- J. **Incentive.** Is any District contribution in the form of tax abatement, tax rebate, Freeport tax exemptions, participation in infrastructure costs, waiver of fees or development requirements only as allowed by law, or any other incentives not prohibited by State or Federal law.
- K. **Job.** A permanent, full-time employment position that has provided or will result in employment of at least 1,820 hours per position in a year. Part-time positions may be aggregated to create a full-time position for consideration in this policy.

- L. **Modernization.** The replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of operation, and extends the economic life of the facility. 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, repairing, or completion of deferred maintenance.
- M. **Personal Business Property.** Shall mean that property which is not real property and excluding inventory.
- N. **Project.** A facility that is to be considered for an economic incentive.
- O. **Real Property.** Shall mean land or an improvement.
- P. **Reinvestment Zone.** An area designated as such for the purpose of tax abatement as authorized by law.

III. **Incentive Options**

A. **In General**

Incentives may be granted for new facilities and for the expansion or modernization of existing facilities. The economic life of a facility and/or eligible property must exceed the duration of the incentive granted or for a period of time determined appropriate by the District Board.

B. **Eligible Projects**

Incentives may be considered in either or all of three categories, Real Property, Business Personal Property or Inventory, and must be located within the area comprising the District.

C. **Project Consideration**

The following criteria will be considered in determining the maximum terms of incentives.

1. Degree to which the project makes a substantial contribution to development efforts or special area plans by enhancing either functional or visual characteristics, e.g. historical structures and facades, traffic circulation, parking, materials and urban design.
2. Number and types of jobs to be created or retained as a result of the project.
3. Sales taxes or other incomes that would be generated by the project to the benefit of local taxing authorities.

4. Offsite infrastructure investment to be made by applicant as a result of the project.
5. Degree to which the project minimizes investment by the taxing authorities in order to serve the project.
6. Incentive requests may not be considered by the District until the Board of Directors for the Denton County Fresh Water Supply District No. 1-A (“District 1-A”), as managing district, has considered and voted to approve the incentive request.

D. **Incentive Level**

1. **Tax Incentive.** This shall apply to applicants which pursue the construction of a new facility, expand an existing facility or pursue the purchase or long-term lease of an existing facility in which to house the applicable project. For expansion or modernization of existing facilities, tax incentives will be considered only for the increase in valuation above the existing valuation of a particular property.
2. **Development Assistance.** This shall apply to applicants which pursue the construction of a new facility, expand an existing facility or pursue the purchase or long-term lease of an existing facility in which to house the applicable project. For expansion or modernization of existing facilities, tax incentives will be considered only for the increase in valuation above the existing valuation of a particular property.
3. **Value of Incentives.** The value of incentives will be considered on a case-by-case basis based on the overall merits of project or the impact that the project will have on the District.

IV. **APPLICATION SUBMITTAL AND APPROVAL PROCEDURES**

A. **General Provisions**

The criteria outlined in this section will be used to determine whether or not it is in the best interests of the District to recommend that economic 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 well as the relative impact of the project.

B. **Application Required**

1. ***Required Information.*** In order for the District to evaluate a request for economic incentive and to determine the level at which an applicant qualifies for incentive, the applicant must complete a Project Impact

Worksheet (Attachment A) which will be used to perform an economic impact analysis for the proposed project. Additional information may be included to further describe the project and may be required to provide a comprehensive evaluation.

Companies are encouraged to include any information regarding ancillary benefits associated with the project such as the ability of the project to attract other projects or revitalize an area of the District.

2. *Application Submittal.* Complete applications should be submitted to:
Denton County Fresh Water Supply District No. 1-A
Attn: General Manager
2960 King Arthur, Suite 220
Lewisville, Texas 75056
3. *Application Review.* All applications for incentive will be reviewed by the General Manager of District 1-A for completeness. Once an application has been accepted as complete, the General Manager will determine the eligible level of incentives available for consideration by the Board of Directors of District 1-A and the District Board.
4. *Application Consideration.* Applications must be in complete form, as determined by the General Manager, 15 days prior to a District Board meeting at which the item will be considered. Substantive changes to the Draft Incentive Agreement, initiated by the applicant, within seven days of a District Board meeting could result in the removal from consideration during that meeting. Several steps may be required in order to consider a Tax Abatement or other economic incentive. Those items are as follows:
 - (a) The District Board may consider a resolution calling a public hearing to consider creation of a reinvestment zone as required by law.
 - (b) The District Board may hold a public hearing and determine whether the project is “feasible and practical and would benefit the land to be included in the zone and to the municipality.”
 - (c) The District Board may consider adoption of an Order designating the area description of the proposed project as a Reinvestment Zone.
 - (d) The District Board may consider adoption of a resolution approving the terms and conditions of a contract between the District and the applicant governing the provisions of the economic incentive.
 - (e) Information provided to the District Board in connection with an application or request for economic incentive is confidential and

not subject to public disclosure until an economic incentive agreement is executed, except as required by law.

The District will forward copies of approved economic incentive agreements, as required by law.

5. Program Approval. The District Board authorizes the District Manager of District 1-A or designee to fully execute Agreements for Projects that meet minimum eligibility requirements of this Policy, when the incentive value is less than \$50,000. Incentive requests that are larger than \$50,000 or require specific District Board action required by law will be heard on a case-by-case basis.
6. Acceptance Period. Should the District Board approve an Agreement for a project, the agreement must be fully executed and returned to the District within 60 days from the District Board approval date or the agreement will be considered void.

C. **Denial of Incentive**

1. All eligible applications for incentive will be considered on a case-by-case basis. The decision to approve or deny tax incentive shall be made at the discretion of the District Board in accordance with the District's Incentive Policy.
2. Provided, however, an incentive may not be authorized if it is determined that:
 - (a) There would be an adverse impact on the provision of government service or tax base;
 - (b) The applicant has insufficient financial capacity to complete the project;
 - (c) Planned or potential use of the property would constitute a hazard to public safety or health; or
 - (d) Violation of other codes or laws exists.
3. Nothing herein shall imply or suggest that the District is under any obligation or duty to provide an incentive to any eligible applicant, or that any applicant has an entitlement to an incentive except as may be determined on a case by case basis by the District Board.

V. **COMPLIANCE**

A. **Annual Evaluation**

A company receiving an incentive from the District shall be required to submit an annual compliance report to the District Board based on the executed Agreement. The report should also include the company's performance on all other criteria set forth in the policy.

B. Recapture

Should the terms of the incentive policy not be satisfied, the incentive shall be subject to cancellation as provided in the agreement, and all incentives provided shall be paid to the District and all other taxing jurisdictions participating in the Agreement as provided by law. If a project granted an incentive ceases to operate or is no longer in conformance with this policy statement, the incentive Agreement shall not be in effect for the period of time during which the project is not operating or is not in conformance.

C. Transfer or Assignment

A Agreement for an incentive may be transferred or assigned by the owner upon approval of all taxing jurisdictions participating in the Agreement.

D. Access to Facility

The Agreement shall stipulate that employees and/or designated representatives of the taxing authorities will have access to the facility during the term of the agreement to inspect the facility during the term of the agreement to determine if the terms and conditions of the agreement are being met. All inspections shall be conducted in a manner as to not unreasonably interfere with the construction and/or operation of the facility; provided, however, that the District may conduct "spot" inspections requiring no advance notification to applicant. All inspections will be made with one or more representatives of the company or individual, and in accordance with its safety standards.

E. Reports, Audits and Inspections

Owners of facilities and/or other eligible property for which an incentive is granted shall annually certify to taxing authorities that they are in compliance with the terms of the agreement. In addition, owners shall provide reports and records reasonably necessary to support each year of the agreement. Such reports and records shall include information supporting job creation and retention requirements, information on property purchases, and status reports on the project's progress. This final report shall be accompanied by the opinion of an independent certified public accountant as to its accuracy and completeness. Taxing authorities shall periodically evaluate each facility receiving incentives to ensure compliance with the agreement and report possible violations of the agreement. Taxing authorities shall have the right to audit the books and records related to the eligible property and supporting the eligible property reports.

ATTACHMENT A

- Confidential Project Worksheet

INCENTIVE WORKSHEET

**DISTRICT USE
THIS SECTION**
Project Name Given _____

Date _____

Taken By _____

PROJECT CONTACT

Name _____
Address _____

Company _____
Phone () _____
Fax () _____
E-Mail _____

GENERAL PROJECT DATA

Company Name _____

Web Address _____

Publicly Traded _____
Private _____

Listing Code _____

Expansion Y N

New Company Y N

Headquarters Y N

Relocation Y N

Anticipated
Open Date _____

If Relocation list
current location: _____

Primary Type of Product _____

SIC Code(s) _____

Local Suppliers for this Facility

#1 Name _____
#2 Name _____
#3 Name _____
#4 Name _____
#5 Name _____

SIC Code _____
SIC Code _____
SIC Code _____
SIC Code _____
SIC Code _____

SALES AND INVENTORY

	Estimated Annual Sales by Facility	Percent Subject to Local Sales Tax	Estimated Inventory Value	Percent Subject to Freeport Tax Exemption
Year 1	\$ _____	%	\$ _____	%
At Full Operation	\$ (year _____)	%	\$ (year _____)	%
Estimated Annual Growth (percent)	%		%	%

**Estimated Annual
Purchases of Operating
items Subject to Local
Sales Tax**

Year 1	\$ _____
At Full Operation	\$ _____
Estimated Annual Growth (percent)	%

FACILITY AND CONSTRUCTION INVESTMENT

	Amount	Percent Subject to Local Sales Tax
Estimated Construction Material Purchases:	\$	%
Estimated Construction Workers Payroll:	\$	%
Estimated New furniture and Equipment Purchases:	\$	%
Estimated Amount of Facility Purchases from Local <u>Wholesalers</u> :	\$	
Estimated Amount of Facility Purchases from Local <u>Service Firms</u> :	\$	

Anticipated Size of Facility (Square Feet)	Value of Property <u>before</u> Improvements		
	Land	Real Property	Business Personal Property
Year 1	\$	\$	\$
Year 2			
Year 5			

Investment in Improvements		
Land	Real Property	Business Personal Property
\$	\$	\$

UTILITY IMPACT

	Water	Sewer
Average monthly usage by the facility:	Gal	Gal
Investment needed for the new facility:	\$	\$

EMPLOYMENT CHARACTERISTICS

Total Number of Employees	Type Employee	By		Number of Employees With Salary Over \$30,000
		Percentage	Average Salary	
Year 1	Executive	%	\$	
At Full Operation	Professional	%	\$	
Percent Annual Growth	Administrative	%	\$	
	Technical	%	\$	
	Skilled Trades	%	\$	
	Semi-Skilled Trades	%	\$	
	Unskilled Trades	%	\$	
Total Facility Payroll			\$	

Number of jobs that due to this project that will be:
 Retained in Lewisville: _____ New Jobs Created: _____
 Relocated to Lewisville from the DFW Metroplex or other locations: _____

TOURISM

Number of Visitors Annual:	
Average Duration of Stay:	