

THE CITY OF DESOTO TAX ABATEMENT AND ECONOMIC DEVELOPMENT INCENTIVE GUIDELINES

I. GENERAL PURPOSE AND OBJECTIVES

The City of DeSoto is committed to the promotion and retention of high quality development in all parts of the City; and to the continuous improvement of 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 of DeSoto will, on a case-by-case basis, give consideration to providing tax abatement and other economic development incentives to promote economic development in the City. The consideration of tax abatement and other economic development incentives shall be in accordance with these guidelines. Nothing herein shall imply or suggest that the City of DeSoto is under any obligation to provide tax abatement or economic development incentives to any applicant. All applicants and projects shall be considered on a case-by-case basis. The purpose of this policy is to establish guidelines for providing economic development incentives. Notwithstanding these guidelines the City Council retains the right to take any action allowed by law without the necessity of amending these guidelines.

II. CRITERIA

Applications for tax abatement or other economic development incentive will first be reviewed by the Board of Directors of the DeSoto Economic Development Corporation (“DEDC”), who will then make a recommendation to the City Council of the City of DeSoto. The decision of the Board of Directors and the City Council shall be based upon an evaluation of the following criteria that each applicant will be requested to address in a narrative format.

Employment Impact

1. How many jobs will be brought to DeSoto?
2. What types of jobs will be created?
3. What will be the total amount of payroll?

Fiscal Impact

1. How much taxable value will be added to the tax rolls?
2. How much sales tax attributed to the sale of taxable items in the City will be generated?
3. How will this project impact existing businesses and industry?
4. What infrastructure additions or improvements are required?
5. What is the annual projected operating budget of the project or facility?

Community Impact

1. What impact will the project have on the local housing market?
2. What environment impact, if any, will be created by the project?
3. Whether the project is compatible with the City’s comprehensive plan?

III. TYPES OF INCENTIVES

It is the policy of the City of DeSoto to provide the economic development incentives on a case-by-case basis. This individualized design of a total incentive package is intended to allow maximum flexibility in addressing the unique aspects of each applicant while enabling the City to better respond to the changing demands and needs of the community. The City will consider providing any type of economic development incentives not prohibited by state or federal law including, but not limited to, tax abatements, economic grants in-lieu-of free port exemption, sales tax grants, cost participation in the construction of infrastructure and the waiver of certain development fees. Tax abatement and economic development incentives will be provided by contract with the applicant, and shall be subject to procedural and other requirements set forth in such contract as well as applicable federal, state and local law. Nothing in these guidelines shall imply or suggest that the City is under any obligation to provide tax abatement or any economic development incentive to any applicant. All applicants will be considered on a case-by-case basis.

IV. VALUE OF INCENTIVES

After review of the application for tax abatement and/or the economic development incentive the DEDC will make a recommendation to the City Council. The City Council will then determine whether it is in the best interests of the City of DeSoto to provide the economic development incentive to the applicant. The City Council may consider criteria other than that set forth in these guidelines, including but not limited to, such matters as the relative degree to which the project/applicant furthers the goals and objectives of the community or meets or compliments a special need identified by the City.

V. APPLICATION PROCEDURE

Any person or company requesting that the City of DeSoto and/or the DEDC provide an economic development incentive shall comply with the following procedure:

1. The Applicant shall submit a completed application form for the requested incentive on a form provided by the City and/or the DEDC.
2. The Applicant shall address all criteria set forth in section II of the guidelines in letter format.
3. The Applicant shall: provide a plat, map or survey showing the location of the property and the proposed project, all streets, land uses, and zoning within 500 feet of the site.
4. The applicant shall provide a legal description of the property; the name, address, phone number, fax number of the owner of the property; the tenants or proposed tenants, if any; and whether the property is to be owner occupied or leased.
5. The Applicant shall describe in detail the proposed project and the type of economic development incentive requested.
6. The completed application shall be submitted in duplicate copies to the Director of the DEDC and to the City Manager for the City of DeSoto.
7. The application will be reviewed initially by the DEDC, which, if favorably approved, shall make a recommendation to the City Council, as and when necessary to provide the economic development incentive. The application will be distributed to the applicable

departments of the City for review and comment. Additional information related to the application and the project may be requested by the DEDC and/or the City. Failure to timely submit and additionally requested information will cause the application to be rejected and will be deemed withdrawn by the Applicant without further action by the DEDC and/or the City.

8. The City Council will, when necessary, consider the DEDC recommendation and the requested incentive pursuant to these guidelines.
9. The City Council may call and conduct public hearings when required by law.
10. When necessary under these guidelines the City Council will, at a regular meeting and when allowed by law at a special meeting, consider the approval of an economic development incentive agreement.
11. Information submitted by the Applicant regarding the requested incentive is confidential to the extent allowed by law.

VI. TAX ABATEMENT

Tax Abatement may be offered for improvements to real property and/or for business personal property. Tax abatement for improvements to real property may be offered to an applicant that pursues the construction of new or expanded facilities to house the applicable project. The tax abatement will apply to the taxable value of the new or expanded improvements. Tax abatement for business personal property may be offered to an applicant that pursues the purchase or long-term lease of existing or new facilities. The tax abatement for business personal property will apply to the taxable value of the business personal property added to the facility after the execution of the tax abatement agreement. Once a determination has been made that tax abatement should be offered, the project could be eligible for tax abatement up to, but not exceeding, the percentages and years of the abatement according to the following schedule:

Minimum Taxable Value of Property	Years of Abatement	Percentage of Abatement
\$ 1,000,000 to \$ 1,999,999	1	Up to 100%
\$ 2,000,000 to \$ 2,999,999	2	Up to 100%
\$ 3,000,000 to \$ 3,999,999	3	Up to 100%
\$ 4,000,000 to \$ 4,999,999	4	Up to 100%
\$ 5,000,000 to \$ 5,999,999	5	Up to 100%
\$ 6,000,000 to \$ 6,999,999	6	Up to 100%
\$ 7,000,000 to \$ 7,999,999	7	Up to 100%
\$ 8,000,000 to \$ 8,999,999	8	Up to 100%
\$ 9,000,000 to \$ 9,999,999	9	Up to 100%
\$ 10,000,000 or more	10	Up to 100%

The City may consider granting tax abatement for a lesser percentage or term of years than set forth based upon the City’s evaluation of economic development factors, including but not limited to, the addition of taxable business personal property inventory to the project site, the amount of sales tax revenue that the project will generate for the City, and the amount of any rollback taxes triggered by the development of the project.

After the DEDC recommends to the City Council that tax abatement be offered to an applicant the City Council will designate the project site as a tax reinvestment zone by ordinance. This is an area that is eligible for tax abatement pursuant to the tax abatement guidelines. In order to streamline the process and to provide greater assurance to an applicant that tax abatement will be granted, the ordinance designating the reinvestment zone will authorize the Mayor to execute tax abatement agreements with the owners/lessees of eligible property in the designated zone. Thus, once the City Council has designated a reinvestment zone the applicant can be assured that the agreement will be forthcoming without further City Council. The City has adopted a model form of tax abatement agreement, a copy of which is available to any applicant. The terms and conditions of the model form of tax abatement agreement are not subject to negotiation.

VII. FREEPORT EXEMPTION¹

The City of DeSoto has adopted the equivalent of the Freeport exemption. The City of DeSoto has not adopted the Freeport Exemption as provided by Texas Constitution, Article VIII, Section 1-j and section 11.251 of the Tax Code, but will provide a new business in DeSoto or a business that relocates to DeSoto an economic development incentive agreement for a maximum term of twenty years equivalent to the Freeport Exemption pursuant to section 380.001 of the Texas Local Government Code. This statute provides express statutory authority for municipalities to provide economic development incentives consisting of loans and grants of city funds, use of city personnel, facilities and services with or without charge for economic development.

A new business in DeSoto or a business that relocates to DeSoto that receives the Freeport Exemption for the Dallas Central Appraisal District for its property located on the project site for taxes imposed by Dallas County and/or the Dallas or DeSoto Independent School Districts may be granted the equivalent of the Freeport Exemption for its property located in the City of DeSoto. After recommendation by the Board of Directors of the DEDC that the applicant satisfies the criteria under these guidelines and qualifies for the Freeport Exemption Incentive, the Mayor is authorized to execute an incentive agreement to provide annual grants in lieu of the Freeport Exemption, without further City Council approval. This procedure will streamline the process and provide assurance to an applicant that this type of incentive is available just as if the City has adopted the Freeport Exemption. The City has adopted a model form of agreement, a copy of which is available to an applicant. The terms and conditions of the model form of agreement are not subject to negotiation.

Under the Freeport Exemption Incentive Agreement the City contracts with the applicant to provide an annual grant in an amount equal to the amount of ad valorem taxes that would have been exempt if the City had adopted the Freeport Exemption for that tax year. The city may condition the incentive upon the creation of employment, construction of improvements, certain development, continued operations for a stated period, or other public consideration. The agreement will require the applicant to construct or occupy certain improvements, and contain at a minimum the following terms:

¹ The City offers the equivalent of the Freeport Exemption for qualified applicants through cash incentives payable under the contract authorized by Section 380.001 of the Texas Local Government Code

- (1) annual written certification that the applicant is in compliance with the agreement;
- (2) authority to terminate or modify the agreement if the applicant fails to comply with the agreement;
- (3) minimum term of occupancy or continued operations within the City; and
- (4) applicant must have been granted Freeport Exemption for its freeport goods located on the project site by the Dallas Central Appraisal District for purposes of ad valorem taxes due the county of Dallas County, and/or the Dallas or DeSoto Independent School Districts.

VIII. COST PARTICIPATION IN INFRASTRUCTURE AND WAIVER OF DEVELOPMENT FEES

The City and/or the DEDC may, by contract, agree to participate in the cost of the extension, construction, or reconstruction of public infrastructure necessary for the development of a project. In addition, the City may approve the waiver of permit and development fees.

IX. SALES TAX GRANTS

For a new business in DeSoto or a business that relocates to DeSoto, the City and/or the DEDC may by contract provide an economic development incentive consisting of annual grants based on a percentage of the sales and use tax received ("sales and use tax receipts") by the City and the DEDC from the sale of taxable items by the applicant consummated in the City. The City is authorized by Section 380.001, Local Government Code to provide such grants. The DEDC is authorized by the Development Corporation Act to provide such grants.

For purposes of this type of incentive sales and use tax means the City's one percent (1%) and the DEDC's three-eighth of one percent (3/8 of 1%) sales and use tax imposed on the sale of taxable items by the applicant consummated at the applicant's business location in the City. Sales tax receipts consist of the City's and the DEDC's receipts from the State of Texas from the collection of sales and use tax by the applicant attributed to the sale of taxable items consummated at the applicant's business location in the City for the previous twelve calendar month period. The applicant by contract will be required to provide a sales tax certificate setting forth the applicant's collection of sales and use tax for the sale of taxable items consummated at the applicant's business location in the City for the previous ending twelve calendar month period, together with such supporting documentation as may be required by the City and the DEDC.

The sales tax grants will be for a maximum period of five (5) years in an amount equal to a percentage of the sales tax receipts in accordance with the schedule below, provided there is a minimum of \$2 Million Dollars in taxable sales for each twelve calendar month ending period. The City and DEDC may grant an option to renew the contract for an additional five (5) year period.

Taxable Sales	Percentage of Sales Tax Receipts
2 Million Dollars	25%
3 Million Dollars	30%
4 Million Dollars	35%
5 Million Dollars	40%
6 Million Dollars	45%
7 Million Dollars	50%
8 Million Dollars, or more	55%

The sales tax grants are paid in annual installments within ninety (90) days after the end of each twelve calendar month period following the issuance of the certificate of occupancy for the facility, or other commencement date if no certificate of occupancy is required. The grants will not include any of the City and DEDC's sales and use tax receipts from the imposition and collection of sales and use tax for sale of taxable items consummated at any other location, business, establishment or by any other entity in the City, other than from the applicant's sale of taxable items at the applicant's business location in the City.

The sales tax grants are limited to the extent that the City and the DEDC have received sales tax receipts from taxable sales by the applicant. The City and the DEDC will not be required to provide any grant for any twelve calendar month period during the term of the agreement for which the City and the DEDC have not received sales tax revenue from taxable sales by the applicant for such twelve calendar month period.

The City's and the DEDC's obligation to pay the sales tax grants will be conditioned upon the applicant providing the following:

- (1) A schedule detailing the amount of sales and use tax collected and paid by the applicant to the State of Texas for the previous twelve calendar month period for the sale of taxable items consummated at the applicant's business location in the City;
- (2) A copy of all sales and use tax returns and reports, sales and use tax prepayment returns, direct payment permits and reports, including amended sales and use tax returns or reports, filed by the applicant with the State of Texas for the previous twelve calendar month period showing sales and use tax collected and paid by the applicant for the sale of taxable items consummated at the applicant's business location in the City;
- (3) A copy of all direct payment and self-assessment returns, including amended returns, filed by the applicant for the previous twelve calendar month period showing sales and use tax collected and paid by the applicant for the sale of taxable items consummated at the applicant's business location in the City;
- (4) Information concerning any refund or credit received by the applicant of sales and use tax paid or collected by the applicant which has been reported by the applicant in a sales tax certificate for a previous twelve month period and for which a sales tax grant has been paid by the City and/or the DEDC; and

- (5) A schedule detailing the total sales of taxable items by the applicant consummated at the applicant's business location in the City for the previous twelve month period. The City and DEDC will agree to the extent allowed by law, to maintain the confidentiality of the sales tax certificate.

The City may condition the incentive upon the creation of employment, construction of improvements, certain development, continued operations for a stated period, or other public consideration. The agreement will require the applicant to construct and/or occupy certain improvements or expansions and contain at a minimum the following terms:

- (1) generation of certain level of sales tax;
- (2) annual written certification that the applicant is in compliance with the agreement;
- (3) authority to terminate or modify the agreement if the applicant fails to comply with the agreement;
- (4) minimum term of occupancy or continued operations within a city.

In the event the applicant files an amended sales and use tax return, or report with the State of Texas, or if additional sales and use tax is due and owing, as determined or approved by the State of Texas, affecting sales tax receipts for a previous twelve calendar month period, the sales tax grant payment for the next twelve calendar period immediately following such State of Texas approved amendment may be adjusted accordingly provided the City and the DEDC have received sales tax receipts attributed to such adjustment. As a condition precedent to payment of such adjustment, the applicant will be required to provide the City and the DEDC with a copy of any such amended sales and use tax report or return, and the approval thereof by the State of Texas.

In the event the State of Texas determines that the City and the DEDC erroneously received sales tax receipts, or that the amount of sales and use tax paid to the City and the DEDC exceeds the correct amount of sales and use tax for a previous twelve calendar month period, for which the applicant has received a sales tax grant, the applicant will be required, within thirty (30) days after receipt of notification thereof from the City and the DEDC specifying the amount by which such sales tax grant exceeded the amount to which the applicant was entitled pursuant to such State of Texas determination, repay such amount to the City and the DEDC.

After recommendation by the Board of Directors of the DEDC, City Council will consider the incentive request and if approved authorize the Mayor and/or the City Manager to execute an incentive agreement. The City has adopted a model form of agreement to provide the Freeport Exemption Incentive, a copy of which is available to an applicant. The terms and conditions of the model form of agreement are not subject to negotiation.