

RESOLUTION NO. 0555-23-RES

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, ESTABLISHING AND ADOPTING GUIDELINES AND CRITERIA FOR TAX ABATEMENT AGREEMENTS AND ELECTING TO BECOME ELIGIBLE TO PARTICIPATE IN TAX ABATEMENT AGREEMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Lewisville desires to continue the redevelopment and revitalization of targeted areas of the City; and

WHEREAS, the increase in economic development is a high priority issue for the City; and

WHEREAS, the City of Lewisville is committed to the promotion of high-quality development throughout the City; and

WHEREAS, the City, on a case-by-case basis, gives consideration to providing economic incentives, including tax abatements, as stimulation for economic development; and

WHEREAS, it is the intent of the City to provide said consideration in accordance with applicable local, state and federal law; and

WHEREAS, taxing jurisdictions in Texas are authorized under Chapters 311 and 312 of the Texas Tax Code to provide tax abatements for housing and economic development; and

WHEREAS, a municipality may not enter into a tax abatement agreement nor designate an area as a reinvestment zone unless the governing body has established guidelines and criteria governing tax abatement agreements; and

WHEREAS, the City Council adopted an economic incentive policy statement, effective June 7, 2021, which provides guidelines and criteria for all available economic development incentives, including tax abatement agreements; and

WHEREAS, pursuant to section 312.002(c) of the Texas Tax Code, the guidelines and criteria for tax abatement agreements adopted by a municipality are effective for only two (2) years from the date adopted; and

WHEREAS, the City must therefore once again adopt guidelines and criteria for tax abatement agreements; and

WHEREAS, the City reaffirms its absolute discretion to participate in tax abatement agreements on a case-by-case basis.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, THAT:

SECTION 1. The foregoing recitals stated above shall be and are hereby incorporated in this Section 1 as if said recitals were fully set forth herein.

SECTION 2. The guidelines and criteria for granting tax abatements, as set forth in **Exhibit “A” attached hereto and incorporated as if fully set forth herein**, are hereby adopted by the City and shall not limit the discretion of the City Council to decide whether to provide an economic development incentive, including entering into a specific tax abatement agreement; limit the discretion of the City Council to delegate to City employees the authority to determine whether or not the City Council should consider a particular application for an economic development incentive, including a request for tax abatement; or create any property, contract, or other legal

right in any person to have the City Council consider or grant a specific application for an economic development incentive, including a request for tax abatement.

SECTION 3. The City of Lewisville elects to participate in tax abatement agreements, on a case-by-case basis, in accordance with the City's Economic Incentive (Commercial) Policy Statement and Chapters 311 and 312 of the Texas Tax Code.

SECTION 4. This resolution shall become effective from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, ON THIS THE 5TH DAY OF JUNE, 2023.

APPROVED:



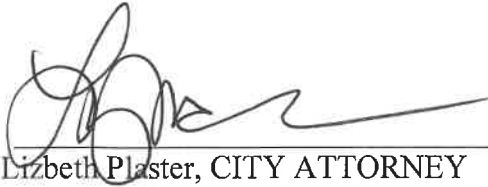
TJ Gilmore, MAYOR

ATTEST:



Julie Worster, CITY SECRETARY

APPROVED AS TO FORM:



Lizbeth Plaster, CITY ATTORNEY

EXHIBIT A
Economic Incentive Policy Statement

**CITY OF LEWISVILLE
POLICY STATEMENTS**

TOPIC: 1.0 – ADMINISTRATION
REFERENCE: SECTION V.A. – ECONOMIC INCENTIVE (COMMERCIAL)

I. GENERAL PURPOSE AND OBJECTIVES

The City of Lewisville is committed to economic growth and high-quality development in all parts of the city and to an ongoing improvement in the quality of life of its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Lewisville will, on a case-by-case basis, consider providing incentives as stimulation for economic development in Lewisville. It is the intent of the City of Lewisville that said consideration will be provided in accordance with the procedures and criteria herein and all applicable local, state, and federal laws. Nothing herein shall imply or suggest that the City of Lewisville is under any obligation to provide incentives to any applicant. All applicants shall be considered on a case-by-case basis and must be approved prior to any work or relocation commencing.

II. CRITERIA

All requests for incentives shall be evaluated based upon a review of the following criteria that each applicant must address in a narrative as well as on an application form to be provided by the City's Economic Development Department.

A. Criteria for Incentives (Other than Tax Abatements):

1. Fiscal Impact

- How much real and personal property value will be added to the tax roll?
- How much direct sales tax will be generated?
- How will this project affect existing business?
- What infrastructure construction would be required?
- What is the total projected annual operating budget of this facility?

2. Community Impact

- What effect would the project have on the local housing market?
- What environmental impact, if any, will be created by the project?
- How compatible is the project with the City's comprehensive plan?
- What effect would the project have on other taxing entities?

3. Employment Impact

- How many jobs will be brought to Lewisville?
- What types of jobs will be created?
- What will be the total annual payroll?

B. Minimum Criteria for Tax Abatements (outside a designated Neighborhood Empowerment Zone):

A project requesting a tax abatement must meet at least two of the following minimum qualifications to be considered:

- Corporate/Regional Headquarters
- Average Salary – \$60,000
- Payroll – \$8,000,000
- Real Property – \$10,000,000
- Personal Property – \$1,000,000
- Targeted Site - as identified in City’s long range and master plans
- Annual Taxable Sales & Uses – \$25,000,000

III. CONSIDERATION OF VALUE

The criteria outlined in section II will be used in determining whether a public purpose exists and whether it is in the best interest of the City of Lewisville that an incentive is offered to an applicant. Specific considerations will include the degree to which the project furthers the goals and objectives of the community and its long-range plans, as well as the relative impact of the project. The public benefit or amount of revenue realized by the City and attributable to the project must equal or exceed the value of any incentives granted by the City.

IV. PUBLIC ACCOUNTABILITY, PERFORMANCE MEASURES AND RECAPTURE

Every incentive agreement that the City of Lewisville enters into is considered an investment for the public benefit. Each incentive application is considered with regard to its merit to the community at large, and its potential to create a multiplying economic effect. Generally, any project receiving an incentive under the provisions of this policy shall exceed the minimum requirements of development quality prescribed in the Lewisville Code of Ordinances as determined by a staff evaluation of proposed project designs.

Performance measures will be established based on the project profiles provided. Should an applicant be unsure of projected performance indicators, utilizing conservative estimates with contingency options are encouraged to prevent default. The development quality of the project designs will be included as a compliance measure in an incentive agreement. Each year, compliance reporting must be completed by incentive recipients prior to receipt of incentives.

If a project is not in compliance with performance measures or does not meet its obligations under the incentive agreement, the incentive recipient shall be responsible and is obligated to repay all or a portion of the incentive value.

V. AVAILABLE INCENTIVES

The City of Lewisville may consider providing one or a combination of any of the following economic development incentives:

- A. Development Fee Reduction/Waivers

Reduction or waivers of any city fees associated with the development of the project. This incentive does not include the waiver or reduction of impact fees.

B. Grants

Grants are utilized in accordance with Chapter 380 of the Texas Local Government Code.

Examples of eligible grants include but are not limited to the following:

- Sales tax grant - a grant in an amount equal to a certain percentage of the City of Lewisville's one percent (1%) increment of sales and use taxes generated from the project for a specific timeframe.
- Real property improvements grant - a grant in an amount equal to a certain percentage of ad valorem property taxes paid as a result of the project improvements for a specific timeframe.
- Business personal property grant - a grant in an amount equal to a certain percentage of business personal property taxes paid on the business personal property located at the project for a specific timeframe.
- Local construction purchases grant - a grant in amount equal to a certain percentage of the City of Lewisville's one percent (1%) increment of sales and use tax on eligible construction purchases for the project during construction not to exceed a specific timeframe.

C. Loans

Loans of city funds, as permitted by Chapter 380 of the Texas Local Government Code.

D. Tax Abatements

Tax abatements are utilized to reduce the municipal property tax liability for economically valuable projects and shall comply with Chapter 312 of the Texas Tax Code. Tax abatements are available for both new facilities and structures and for the expansion or modernization of existing facilities and structures. If utilized, tax abatements are subject to a maximum term of ten (10) years and cannot be applied to existing value or the value of land. Projects requesting a tax abatement are evaluated on the increase in the appraised value (after any exemptions have been applied) of the property over the appraised value (after any exemptions have been applied) of the property in the year preceding execution of the tax abatement agreement.

A cost/benefit analysis will be performed to determine the feasibility of the project. Once a determination has been made, a tax abatement may be offered.

VI. **TARGETED INCENTIVES**

In addition to the incentives provided in section V., the City of Lewisville may consider providing one or a combination of any of the following targeted incentives to further the strategic objectives as outlined in the Lewisville 2025 plan:

A. Backfill of Vacant Buildings

Grants for exterior tenant improvements of vacant buildings such as:

- Façade improvements including: painting; lighting, awnings, doors, windows, etc.;
- Signage on storefront and perimeter signage;

- Landscaping; and
- Parking.

Conditions for this incentive include:

1. The building must be vacant and in excess of 20,000 square feet with a minimum 7-year lease; and
 - EXCEPTION: For *restaurant uses* only, the building may be a minimum of 5,000 square feet with a minimum 5-year lease.
2. The incentive is a one-time only grant and there will be a maximum amount that is eligible for funding.

B. “Destination” Retailers/Restaurants

“Destination” retailers/restaurants are retailers/restaurants that (1) do not have a strong presence in other locations in DFW; (2) have the capability to attract customers from outside the area; and (3) fit well into the existing retail/restaurant economy to provide new and different shopping, dining, and/or entertainment experiences.

Local, regional, and national retailers/restaurants may apply if they meet the above definition of a “destination” retailer/restaurant. Existing “destination” retailers/restaurants that are expanding or relocating may apply if their added square footage is a minimum of fifty percent (50%) larger than their current space. Developers and building owners leasing space to “destination” retailers/restaurants may also apply.

In order to qualify, the applicant must (1) either own the property or have a minimum 5-year lease with the property owner; except that a lease for a period longer than five years may be required based on the value of the incentive requested; and (2) provide a return on investment of at least 10:1 (for example, a \$1 million investment, maximum incentive would be \$100,000).

Incentives that may be considered for a “destination” retailer/restaurant are as follows:

1. Rent Assistance Grant

A grant to assist with rent payments for up to 12 months for “destination” retailers/restaurants that locate within one of the following targeted sites:

- a. I-35 Corridor; or
- b. Business 121 Corridor (Business 121 from Valley Ridge Blvd to Corporate Drive).

2. Sales Tax Grants

A grant in amount equal to a certain percentage of the City of Lewisville’s one percent (1%) increment of the sales and use tax generated from the project for up to five (5) years.

C. Old Town District

Specialized incentives are available for businesses located in Lewisville's Old Town district.

Old Town District incentives are administered on a cost reimbursement basis and are subject, unless otherwise stipulated by agreement, to a one-year performance window in which all work and payments must be completed. Projects involving aesthetic, architectural or design stipulations will be subject to limitations on alterations, maintenance and subsequent changes to elements covered by the provisions of the agreement. Review and approval by the Lewisville Economic Development Department will be required under such circumstances.

Old Town District incentives are as follows:

1. Tenant and/or Façade Improvement Grants

- a. A grant up to fifty percent (50%) of the costs of tenant and/or façade improvements (including brick repair, signage, awnings, windows, fixtures, signage, landscaping, and lighting).
- b. A maximum of forty thousand dollars (\$40,000) total per project.
- c. A grant will not be issued to the same location if a grant was awarded within the previous seven (7) years.
- d. The project must be complete within twelve (12) months of the fully executed agreement.

2. Redevelopment Assistance

Assistance with low or no interest loans, grants, brownfield assessments, relocation assistance of non-conforming uses to areas outside of the Old Town district that permit that use, and demolition of structures.

To be considered for this incentive, the project must be of the highest caliber in the sole opinion of the city and applications shall address the following factors:

- a. Size and location of the proposed project site;
- b. Proposed project plan;
- c. Proposed financing plan;
- d. Degree to which the project conforms with the Lewisville 2025 plan;
- e. Degree to which the project promotes any applicable master planning initiatives sponsored by the City; and
- f. Market and financial feasibility for the project.

3. Sales Tax Grants

A grant in an amount equal to a certain percentage of the City of Lewisville's one percent (1%) increment of sales and use tax generated from the project for up to five (5) years.

Old Town District incentives available only to "destination" retailers/ restaurants include as follows:

- 1. Grease Trap Grant
A grant equal to fifty percent (50%) of the cost to purchase and install or upgrade an existing grease trap up to a maximum of seven thousand five hundred dollars (\$7,500) per project.
- 2. Rent Assistance Grant
A grant to assist with rent payments for up to twelve (12) months with a minimum five (5) year lease at the property.

D. Public-Private Master Planned Developments & Focus Area Projects
Projects that are initiated in conjunction with any City of Lewisville Master Plan may be considered for incentives.

E. Speculative Projects
Projects that are built on a speculative basis but will suit future use by tenants typically exhibiting high indicators in the fiscal, community, or employment impacts provided in Section II, may apply for a speculative incentive.

The maximum amount of a speculative incentive is fifty percent (50%) of real and personal property for a period of five (5) years.

Renegotiation of such incentive shall only be considered if a single tenant purchases or leases for occupancy more than ninety percent (90%) of the facility or will maintain a personal property or inventory value of fifteen million dollars (\$15,000,000) or will maintain annual taxable sales and uses over twenty-five million dollars (\$25,000,000). In such instance, a renegotiated incentive agreement will be made with the tenant.

In any instance, the extension or negotiation of incentives to a tenant shall be subject to approval by the City.

VII. NEIGHBORHOOD EMPOWERMENT ZONES

A Neighborhood Empowerment Zone (NEZ) is a designated area within a municipality that is created to promote one or more of the following:

- affordable housing;
- economic development;
- an increase in the quality of social services, education, or public safety; or
- the rehabilitation of affordable housing in the NEZ.

The City of Lewisville’s NEZ Incentive Program is available for all NEZs designated by the Lewisville City Council.

VIII. GENERAL PROVISIONS

The City of Lewisville reserves the right to change, modify, amend, revoke or rescind all or part of this policy in the future.