

**CITY OF FORNEY, TEXAS
TAX ABATEMENT GUIDELINES AND CRITERIA**

I. GENERAL PURPOSE AND OBJECTIVES

The City of Forney, Texas (hereinafter referred to as the “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 of the tax base and expansion and diversification of the local economy, the City will, on a case-by-case basis, give consideration to providing tax abatement, pursuant to the Texas Property Redevelopment and Tax Abatement Act, Texas Tax Code, Sections 312.001 through 312.211, as from time to time amended, as a stimulus for economic growth and diversification in the City. Consideration will be given to both new facilities and structures and for the expansion or modernization of existing facilities and structures. Priority consideration will be given to those projects that create greater than twenty (20) new jobs. Proposed abatement agreements will be considered in accordance with the guidelines, criteria, and procedures outlined in this document. Nothing herein shall suggest or imply that the City is under any obligation to provide tax abatement for any amount or value to any applicant. All applicants will be considered on a case-by-case basis.

According to Texas law, the Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code, as amended, the City may grant a tax abatement on the incremental value of a particular property that is improved pursuant to a specific development proposal, which meets the economic goals and objectives of the City. The abatement will apply only to the incremental increase in valuation. The abatement also may apply to tangible personal property located in the reinvestment zone after the execution of an abatement agreement and may include inventory and supplies.

Based on the general purpose and objectives and in compliance with the intent and tenets of the Texas Property Redevelopment and Tax Abatement Act, the City will establish reinvestment zones for economic development purposes. Within the reinvestment zones, there will be permitted tax abatement of the increase in the value of real and tangible personal property. Tax abatement will be offered only within designated reinvestment zones and only to those industries identified in Section II(c)(5), *Eligible Enterprise*, of this policy.

In addition, Section 2264.051 of the Texas Government Code requires the City to provide within the tax abatement application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. Further, the tax abatement agreement will contain a provision specifying the rate and terms of the payment of interest should the business be convicted

of knowingly employing an undocumented worker, in violation of 8 U.S.C. Section 1324a(f).

II. CRITERIA; APPLICATION, INFORMATION TO BE PROVIDED

- (a) Any proposed project must conform to the general guidelines specified below:
 - (1) Any request for tax abatement must involve a development project, excluding land, with a minimum incremental increase in taxable value of Five Hundred Thousand Dollars (\$500,000.00); and
 - (2) The project must have high visibility, image impact or be of a significantly higher level of development quality than that which currently exists in the City; and
 - (3) The project must generate a higher concentration of employment potential than would otherwise be achieved.
 - (4) Minimum of 50% of new jobs created should be filled by persons living within the corporate limits of Forney or within a 5-mile radius of the corporate limits.
- (b) Taxpayers desiring to enter into an abatement agreement with the City may be requested to file an application for tax abatement with the City; provided, however, that with respect to any abatement of one year or less in duration and one percent or less in abatement amount, no application is required. If requested, the application must address the factors listed in Section II(c), below.
- (c) It is understood that much of the information provided will be, out of necessity, estimates only. The applicant should endeavor to provide the most accurate estimates possible based upon available information. The applicant may be requested by the City to describe the logics/methodologies to be utilized and to supply supporting documentation that substantiates the economic feasibility of the overall project and assists in determining the long-term benefit to the City. The applicant, if requested by the City, may be asked to provide the following information and estimated projections to the City.
 - (1) **Employment Impact**

The number of new jobs to be created in the City.
 - (2) **Proposed Improvements**

Identification and description of the kind, number, and location of all proposed improvements to the property, as well as the land area and cost, accompanied by a discussion of the development schedule for the

proposed improvements. The City also may request the square footage of the proposed project.

Identification/description of the infrastructure construction that will be required to serve the proposed project and the cost of that construction.

(3) **Fiscal Impact**

The amount of direct property and sales tax to be generated.

The cost to the City to provide municipal services to the proposed project.

(4) **Community Impact**

Rezoning and platting/replatting that will be required.

Impact on the City.

Impact on local school districts.

Impact on the government of Kaufman County.

Impact on all other taxing entities with jurisdiction over the property subject to the proposed abatement agreement.

Pollutants, if any, to be created by the proposed project.

Previous location, i.e., relocation within the County.

(5) **Eligible Enterprise; Definition**

Any proposed project must be an *Eligible Enterprise*, which term shall be defined to mean a commercial or industrial property, facility or enterprise that shows high promise of creating new jobs and positive economic spill-over effects beneficial to the City.

(6) **Property Description**

The applicant shall provide a complete and accurate legal description of the property at issue.

- (d) The criteria and information outlined in this Section II will be used by City staff to determine whether a recommendation should be made to the City Council that it is in the best interest of the City and other affected taxing entities that tax abatement be offered to a particular applicant. 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 on the community.

- (e) An application for tax abatement should contain all requested information as stated in Subsection II(c) and be submitted to the City of Forney, 101 E. Main, P.O. Box 826, Forney, Texas 75126, Attn: City Manager.

III. GUIDELINES TO DETERMINE VALUE AND TERM OF AGREEMENT

If an applicant qualifies, follows and complies with all statutory and other requirements, and if the City determines that a tax abatement agreement should be entered into with the applicant, the City will determine the value and term of the abatement in accordance with the following guidelines and limitations:

- (a) The rate of tax abatement with respect to any tax abatement agreement may be up to one hundred percent (100%) of the incremental increase in value of real property and may be up to one hundred percent (100%) of the value of tangible personal property eligible for tax abatement under Chapter 312 of the Texas Tax Code, as amended.
- (b) The tax abatement period shall not exceed ten (10) years.
- (c) Any tax abatement granted a project will become effective on January 1 of the year following the issuance of a Certificate of Occupancy (CO) for the new facilities unless otherwise specified in the tax abatement agreement.
- (d) If a project is not completed as specified in the tax abatement agreement, the City has the right to cancel the abatement agreement, and all abated taxes shall become due and payable to the City and all other affected taxing jurisdictions participating in the tax abatement agreement as provided by law, unless otherwise provided in the tax abatement agreement

IV. APPLICATION REVIEW; AGREEMENT TERMS AND CONDITIONS

Any person, partnership, organization, corporation or another entity desiring that the City consider providing tax abatement to encourage the location of operations within the City shall be required to comply with the following procedural guidelines.

- (a) Application Review Steps
 - (1) All information in the application package detailed above will be reviewed by the City staff for completeness and accuracy. Additional information may be requested as needed.
 - (2) The application will be reviewed by the City Manager or his designee and may be distributed to the appropriate City departments for internal review and comments. Additional information may be requested as needed.
 - (3) The City will provide notification to Kaufman County and the Forney Independent School District of the pending request.

- (4) Copies of the complete application package and staff comments will be provided to the City Council.

(b) Consideration of the Application; Term of Tax Abatement Agreement

- (1) The City Council will consider the request for tax abatement at meetings conducted pursuant to the Texas Open Meetings Act and the Texas Property Redevelopment and Tax Abatement Act. Additional information may be requested as needed.
- (2) The City Council may consider a resolution calling a public hearing to consider the establishment of a reinvestment zone.
- (3) The City Council may hold the public hearing and determine whether the creation of the reinvestment zone would contribute to the retention or expansion of primary employment or would attract major investment in the zone and would contribute to the economic development of the City.
- (4) 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 reinvestment zone for tax abatement.
- (5) The City Council may consider adoption of a resolution that approves the terms and conditions of an agreement between the City and the applicant and governs the provision of the tax abatement. At a minimum, the tax abatement agreement shall include the following:
 - (A) General description of the project;
 - (B) Amount of the tax abatement;
 - (C) Duration of the tax abatement;
 - (D) Type, number, and location(s) of the planned improvements;
 - (E) Specific terms and conditions to be met by applicant; and
 - (F) Any applicable provisions required by law.
- (6) The governing bodies of any other applicable taxing units may consider ratification of and participation in the tax abatement agreement between the City and the applicant.
- (7) If a project that is subject to an approved tax abatement agreement ceases to operate or is no longer in conformance with this policy statement, the tax abatement agreement shall not remain in effect for the period of time during which the project is not operating or is not in conformance. The City may negotiate with the recipient of a tax abatement to waive the recapture provisions or may otherwise terminate the agreement.

- (8) The City reserves the right to verify an applicant's creditworthiness prior to granting a tax abatement and to review the financial condition of the project during the term of the abatement. The City also reserves the right for a City representative to inspect the facilities of the applicant during the term of the abatement and to verify the information provided in the tax abatement agreement. Provisions to this effect shall be incorporated into an agreement.

V. TERM

These guidelines and criteria are effective for two (2) years from the date of adoption. During this two (2) year period, the guidelines and criteria may be amended or repealed only by a vote of three-fourths (3/4th) of the members of the City Council of the City of Forney, Texas.