RESOLUTION OF THE DENTON COUNTY COMMISSIONERS COURT

Approving Denton County Economic Incentive Policy Guidelines and Criteria
Denton County Economic Incentive Policy (2024)

The Denton County Commissioners Court, at its regular session on the 17th day of December, 2024, considered the following resolution:

WHEREAS, the Property Redevelopment and Tax Abatement Act, set forth in Chapter 312 of the Texas Tax Code, authorizes counties and other taxing units to grant property tax abatements in accordance with its provisions; and

WHEREAS, pursuant to Section 312.002(a) of the Act, a taxing unit may not enter into a tax abatement agreement or designate an area as a reinvestment zone under the Act unless it has formally elected to become eligible to participate in tax abatement, and has established guidelines and criteria governing tax abatement agreements by the taxing unit; and

WHEREAS, Denton County reaffirms its eligibility and commitment to participate in tax abatements under Chapter 312 and has identified certain areas as eligible for designation as reinvestment zones, pursuant to the guidelines specified in Chapter 312; and

WHEREAS, Texas Local Government Code §381.004, otherwise known Community and Economic Development Programs permits a commissioners court of the county to develop and administer a program: (1) for state or local economic development; (2) for small or disadvantaged business development; (3) to stimulate, encourage, and develop business location and commercial activity in the county; (4) to promote or advertise the county and its vicinity or conduct a solicitation program to attract conventions, visitors, and businesses; (5) to improve the extent to which women and minority businesses are awarded county contracts; (6) to support comprehensive literacy programs for the benefit of county residents; or (7) for the encouragement, promotion, improvement and application of the arts; and

WHEREAS, §381.004 authorizes counties to establish and administer one or more economic development programs to make loans and grants of public monies and provide property tax abatement to businesses that promote economic growth and create jobs; and

WHEREAS, while Denton County is authorized to enter into agreements under §381.004, such agreements shall be utilized as a supplemental economic incentive rather than the primary economic incentive mechanism; and

WHEREAS, on December 20, 2022, the Denton County Commissioners Court adopted the current Denton County Tax Abatement Policy, which sets forth the guidelines and criteria governing tax abatement agreements to be entered into by the County under Chapter 312; and

WHEREAS, Denton County wishes to continue being eligible to participate in tax abatement under the Chapter 312 and, accordingly, to establish guidelines and criteria governing tax abatements by the County for the two-year period commencing December 17, 2024; and

WHEREAS, Denton County further wishes to remain eligible to participate in 381 Agreements under the Act and, accordingly, to establish guidelines and criteria governing such agreements by the County for the two-year period commencing December 17, 2024.

NOW THEREFORE, BE IT RESOLVED by the Commissioners Court of Denton County, Texas that:

Section 1. The foregoing recitals are hereby found to be true and correct findings of Denton County, Texas, and are fully incorporated into the body of this Resolution.

Section 2. Denton County Commissioners Court hereby establishes and adopts **Denton County Economic Incentive Policy (2024),** attached herein as Exhibit A, which Policy: (i) sets forth guidelines and criteria governing tax abatement agreements to be entered into by Denton County under Chapter 312 of the Texas Tax Code, including the establishment of reinvestment zones and an application process in compliance with Chapter 312; (ii) sets forth guidelines and criteria governing Chapter 381 agreements to be entered into by the County; and (iii) shall become effective upon the date of this Resolution's adoption by Commissioners Court.

Section 3. Denton County acknowledges the requirement to review these guidelines every two years to ensure continued eligibility and alignment with Chapter 312 of the Texas Tax Code.

ADOPTED AND APPROVED effective the 17th day of December, 2024.

Andy Eads, County Judge

Absent

Ryan Williams, Commissioner
Precinct 1

Kevin W. Falconer, Commissioner
Precinct 2

Bobbie J. Mitchell, Commissioner
Precinct 3

Dianne Edmondson, Commissioner
Precinct 4

TEXAS COMMISSIONER'S COURT OF DENTON COUNTY

ATTEST:
JULI LUKE, County Clerk and Ex-Officio Clerk
of the Commissioners Court of Denton County

BY: _____

EXHIBIT A

SUBJECT:	**DENTON COUNTY ECONOMIC INCENTIVE POLICY (2024)**
TITLE:	**DENTON COUNTY ECONOMIC INCENTIVE POLICY (2024)**
EFFECTIVE:	**DECEMBER 17, 2024**

I. INTRODUCTION/GENERAL PUPOSE AND REQUIREMENTS

Welcome to Denton County. The Judge and Commissioners look forward to working with you to make your investment in our area a positive experience. We are committed to the promotion of high-quality development in all parts of the county and to an ongoing improvement in the quality of life for its citizens.

Taxing jurisdictions in Texas are authorized under Chapters 311 and 312 as well as Section 11.24 of the Texas Property Code to provide tax abatements for historic preservation, housing, and economic development. Furthermore, Texas Local Government Code, Chapter 381 Section 4, authorizes counties to establish and administer economic development programs for various purposes, including job creation, economic growth, and small business support.

Denton County is authorized to work in conjunction with other taxing entities as part of a publicly supported incentive program, with a policy focused on creating job opportunities, attracting new economic advantages, and strengthening the existing economic base of our community. The maximum term for any tax abatement agreement under this policy is ten years, as specified by Chapter 312. Each project must also meet Chapter 312 requirements for eligibility.

Please contact Denton County Economic Development staff for information regarding additional incentive tools, including Chapter 381 Agreements, which provide for loans, grants, or other incentives to businesses that support county economic development objectives.

To meet these objectives, Denton County evaluates projects on a case-by-case basis. Consideration is given not only to the project's investment amount but also to factors such as the number of jobs created, alignment with key industries in the county, and support of current manufacturing and industry development.

The Denton County Economic Incentive Policy was developed to ensure that all tax incentive requests are consistently and thoroughly reviewed, providing incentives and/or assistance to those economic development projects that demonstrate benefits for the county and comply with all statutory requirements.

II. INCENTIVE PROGRAMS

A. Tax Abatement

Tax Abatement may be offered for the value of improvements to real property and/or business personal property. Tax Abatements related to real property may be considered for new construction or the expansion of current facilities. The percentage of taxes agreed for Abatement on real property are only applicable to the taxable value of the

new or expanded improvements. Tax Abatement for business personal property may be considered for projects pursuing the purchase or long-term lease of existing or new facilities. The percentage of taxes agreed for Abatement on business personal property applies to the taxable value of the business personal property added to the facility after the execution of the Tax Abatement Agreement.

In accordance with Chapter 312 of the Texas Tax Code, all tax abatement agreements must designate a reinvestment zone and meet the eligibility requirements set forth in Chapter 312. Additionally, the project must demonstrate that the benefits to the county outweigh any potential loss of tax revenue. The maximum term for any tax abatement under this policy is ten years.

B. Chapter 381 Incentive Program

Under Chapter 381 of the Texas Local Government Code, a county may administer and develop a program to make loans and grants of public money to promote state or local economic development and to stimulate, encourage, and develop business location and commercial activity in the county. Denton County shall consider Chapter 381 Tax Incentives on a case-by-case basis.

Projects seeking Chapter 381 incentives must demonstrate that they support economic development goals, such as job creation/retention, business expansion, or diversification of the local economy. They will be subject to appropriate terms and conditions, including performance metrics for job creation, investment, or other measurable outcomes.

III. GENERAL GUIDELINES & PROCEDURES

The Denton County Commissioners Court establishes the following guidelines and procedures for the consideration of tax incentive applications. These provisions outline the eligibility requirements, application process, and criteria for granting tax incentives. Nothing in this section shall imply or suggest that Denton County is obligated to provide any incentive to any applicant.

A. Application Procedures and Requirements

1. All tax incentive applications must comply with the procedures and criteria outlined in this document. This includes adherence to Section VI for municipality-initiated agreements and Section VII for County-initiated agreements.

2. Tax incentive requests will not be considered if the project is already substantially underway or completed prior to the submission of an application. A project is deemed substantially underway if any of the following actions have occurred:

    - Demolition, site preparation, or the installation of infrastructure has begun.
    - A building permit has been issued for construction not associated with mitigating environmental hazard.

- Construction (including renovations or tenant finish-out) has begun.
- Equipment, inventory, or employees have been relocated to the new site.

Execution of a lease, the mitigation of environmental problems, the purchase of land, the completion of an environmental assessment, or the preparation of architectural and engineering plans shall not necessarily be deemed as constituting a project being substantially underway.

B. Ineligible Property and Activities

1. Request for a tax incentive, will not be considered for property that will be used in whole or in part for a sexually oriented business, including but not limited to condoning, legitimizing, or promoting obscene materials, nude or topless modeling or dancing, adult motel operations, escort services, sexual encounter centers, sex phone centers, or any other sexually oriented business activity. Similarly, property receiving an existing tax incentive, for another use cannot convert this property for use as a sexually oriented business or an establishment and still retain the tax incentive.

2. Requests for a tax incentive will not be considered for an applicant with which the County is currently involved in or has within the past thirty-six months been involved in litigation, a pending claim, or unsatisfactory contractual performance, nor to any applicant indebted to the county for ad valorem taxes or other obligations.

C. Submission Requirements

1. The Denton County Tax Incentive Application must be submitted to the appropriate County Representatives. The appropriate County Representatives are defined as the Denton County Economic Development Department and the County Judge and Commissioners Court member in whose precinct the property that is the subject of the incentive application is located.

2. If multiple sites are under consideration, the appropriate County Representative may issue proposed terms for a tax incentive agreement to facilitate site selection. These terms are non-binding and subject to final approval.

3. Denton County reserves the right to request any additional information deemed necessary for evaluating the application.

IV: TAX ABATEMENT POLICY AND PROCEDURES

A. Minimum Standards for Tax Abatement

In accordance with Chapter 312 of the Texas Tax Code, the following minimum standards must be met for Denton County to consider a tax abatement:

1. Project does not have any negative environmental impacts on the community, such as significant pollution or creation of hazardous waste.

2. The project should have a minimum capital investment of one million dollars ($1,000,000) in new construction or property improvements.

3. The project must demonstrate the potential to attract or retain high-quality industrial or business development that supports Denton County's long-term economic growth. This may include the creation of permanent, full-time jobs, the development of key infrastructure, or the attract of additional private investments.

B. Value of Tax Abatement for New Company/Investment Projects

The value of the tax abatement shall be determined in accordance with Chapter 312 of the Texas Tax Code and may be offered as a percentage of the County's ad valorem tax obligation on the taxable value of improvements made as part of the project. For new companies or investment projects, the abatement value will be based on factors including capital investment, job creation metrics, and wage levels, and is subject to approval by the Commissioners Court in a regularly scheduled meeting.

NEW COMPANY/INVESTMENT		
CAPITAL INVESTMENT	NEW FTE OR EQUIVALENT	ABATEMENT AMOUNT
$1,000,000 - $9,9999,999	10 – 50	Not to exceed 20% of the County Ad Valorem Tax Obligation
$10,000,000 - $19,999,999	51 – 100	Not to exceed 25% of the County Ad Valorem Tax Obligation
$20,000,000 - $29,999,999	101 – 150	Not to exceed 30% of the County Ad Valorem Tax Obligation
$30,000,000 - $39,999,999	151 – 200	Not to exceed 35% of the County Ad Valorem Tax Obligation
$40,000,000 - $49,999,999	201 – 250	Not to exceed 40% of the County Ad Valorem Tax Obligation
More than $50,000,000	251 or more	Such percentages of the County Ad Valorem Tax Obligations as may be deemed appropriate by the Commissioners Court of Denton County, Texas

C. Value of Tax Abatement for Modernization and/or Expansion Projects

The value of the tax abatement shall be determined in accordance with the provisions of Chapter 312 of the Texas Tax Code and may be offered as a percentage of the County's ad valorem tax obligation on the taxable value of improvements made as part of the

project. For both new companies and modernization or expansion projects, the abatement value will be based on capital investment or new full-time equivalent (FTE) jobs created. The specific percentage is determined by capital investment, job creation metrics, and wage levels, and is subject to the approval of the Commissioners Court in a regularly scheduled meeting.

MODERNIZATION AND/OR EXPANSION		
CAPITAL INVESTMENT	NEW FTE OR EQUIVALENT	ABATEMENT AMOUNT
$1,000,000 - $9,9999,999	10 – 50	Not to exceed 25% of the County Ad Valorem Tax Obligation
$10,000,000 - $19,999,999	51 – 100	Not to exceed 30% of the County Ad Valorem Tax Obligation
$20,000,000 - $29,999,999	101 – 150	Not to exceed 35% of the County Ad Valorem Tax Obligation
$30,000,000 - $39,999,999	151 – 200	Not to exceed 40% of the County Ad Valorem Tax Obligation
$40,000,000 - $49,999,999	201 – 250	Not to exceed 45% of the County Ad Valorem Tax Obligation
More than $50,000,000	251 or more	Such percentages of the County Ad Valorem Tax Obligations as may be deemed appropriate by the Commissioners Court of Denton County, Texas

D. Higher Wage Eligibility

Projects offering wages above the County average are eligible for an incremental incentive of 2% above the base amount for each FTE or equivalent exceeding 10% above the County's average wage. The County's average wage is based on the most recent four quarters reported under Private Ownership – Texas Labor Market Information (TexasLMI).

HIGHER WAGE ELIGIBILITY	
PERCENTAGE OF AVERAGE COUNTY WAGE	INCENTIVE PERCENTAGE
110%	2%
120%	4%
130%	6%
140%	8%
150%	10%

E. Criteria and Guidelines for Tax Abatement

In order to enter into a tax abatement, or other incentive, agreement, the Commissioners Court must find that the terms of the proposed agreement meet Guidelines and Criteria and that:

1. The project will not substantially impair the provision of the jurisdiction's services or negatively impact the tax base.

2. The planned use of the property does not pose a hazard to public health, safety, or morals, aligning with regulatory requirements for safe and lawful use.

3. The project demonstrates a clear potential to generate revenue that outweighs the costs of providing incentives. This includes consideration of increased tax revenue, improved property values, or other quantifiable fiscal benefits to the County.

4. The project will result in a net increase or retention of jobs within the County or add to the County's tax base, contributing to the economic welfare of County residents and businesses.

5. The terms of the agreement must be consistent with Chapter 312 of the Texas Tax Code, ensuring that incentives promote economic development without disadvantaging the County's fiscal standing or public welfare.

V. CHAPTER 381 INCENTIVE PROGRAM

Chapter 381 Incentives will be reviewed by the Commissioners Court to ensure compliance with the Texas Local Government Code and alignment with the County's economic development objectives.

Requests for Chapter 381 incentives will be reviewed on an individual basis by the Commissioners Court to determine alignment with County development goals, community benefits, and compliance with Chapter 381 of the Texas Local Government Code. Projects must demonstrate potential to enhance economic outcomes within the County, supporting overall objectives such as increased employment, a diversified economy, or stronger infrastructure.

VI. MUNICIPALITY-INITIATED AGREEMENTS

The Denton County Commissioners Court recognizes that each municipality within the County has unique visions and goals for economic development. Denton County will endeavor to work collaboratively with other taxing authorities as part of a publicly supported incentive program designed to create job opportunities that bring new economic advantages or strengthen the current economic base of our community. However, the terms of any County tax abatement or incentive agreement remain distinct from those established by a municipality.

A. **Conditions for County Support of Municipality-Initiated Incentives**
When a municipality enters into a tax abatement or incentive agreement, the County will consider supporting a similar incentive agreement if the following conditions are met:

1. Granting the requested tax incentive would not encourage the applicant to move its project from one Denton County municipality to another, unless both municipalities have expressed their approval of the requested tax incentive in writing. However, if the company has already decided to relocate within Denton County, the County may consider granting the incentive to help retain jobs within the community.

2. Granting the requested tax incentive would not provide one Denton County municipality with a competitive advantage over another Denton County municipality seeking the same project.

3. The level of tax incentive requested does not exceed the level of tax incentive granted by the municipality, though the Commissioners Court may, at its discretion, consider and approve a tax incentive that exceeds the municipality's level.

B. **Procedures for Municipality-Initiated Incentives**
Municipality-Initiated tax incentive projects seeking additional support from the County should follow the procedures outlined below:

1. Municipality in which the project is located makes County aware of applicant's request for Municipality tax incentive and invites County comments during negotiation. County makes Municipality aware of concerns/changes prior to final action by Municipality.

2. The applicant shall submit an application for a County tax incentive to the appropriate 'County Representatives following submission of their application to the municipality.

3. County Representatives shall verify compliance with the County's Policy and provide a recommendation regarding the approval of a County tax incentive agreement.

4. The Commissioners Court typically requires a fully executed agreement between the municipality and the applicant prior to the approval of a County agreement. However, the Court may accept a term sheet from the municipality in lieu of a formal tax incentive agreement. In such cases, the County's incentive shall not be granted nor become effective until the municipality's agreement has been duly approved and executed.

VII. COUNTY-INITIATED AGREEMENTS

For areas within Denton County that are not located within the boundaries of an incorporated municipality, or are within the extraterritorial jurisdiction of a municipality that has deferred authority to the County, or are outside any municipality's extraterritorial jurisdiction, the

Commissioners Court applies the following criteria, as outlined in these guidelines, when considering the creation of a reinvestment zone and the adoption of a County tax incentive agreement, in compliance with Chapters 312 and 381 of the Texas Local Government Code.

A. Conditions for County-Initiated Agreements

In order to be eligible for the designation of a reinvestment zone and receive a tax incentive, the planned improvement:

1. Must be reasonably expected to generate a positive net economic benefit to Denton County over the life of the tax incentive, which includes new sustaining payroll and/or capital improvements. The number and type of new jobs created shall also factor into the decision to grant a tax incentive; and

2. Will not primarily or solely result in the relocation of employment within Denton County, unless the applicant has already determined to relocate and the incentive serves to retain jobs within Denton County limits, or unless such relocation is expressly approved by a super-majority vote of the Commissioners Court.

B. Procedures for County-Initiated Agreements

In addition to the general application requirements found in Section I, County Initiated Tax Incentives will only be awarded when the provisions of Chapters 311, 312, or 381 of the Texas Local Government Code have been met, including the following:

1. Any current or potential owner of taxable property in unincorporated Denton County may request the creation of a reinvestment zone and tax incentive by submitting a written request with the appropriate County Representatives.

2. All applications for the creation of reinvestment zones and tax incentives may be required to include a feasibility study estimating the economic effect of the proposed reinvestment zone and tax incentive on Denton County, other eligible participating jurisdictions, and the applicant, as determined by the County.

3. Upon receiving a completed application for the creation of a reinvestment zone, the appropriate County Representatives notify in writing and provide a copy of the application to the presiding officer of the governing body of each eligible jurisdiction.

4. The Commissioners Court may not adopt a resolution creating a reinvestment zone until it holds a public hearing at which interested parties are entitled to speak and present evidence for or against its designation. Notice of the hearing is clearly identified on the Commissioners Court agenda at least 30 days prior to the hearing, and public notice is published in a general circulation publication at least 30 days prior to the hearing.

VII. ASSIGNMENT

Tax incentive agreements may be assigned to a new owner of the entire property only with the written consent of the Commissioners Court, which consent shall not be unreasonably withheld.

Any assignment requires that the assignee irrevocably and unconditionally assume all duties and obligations of the assignor under the same terms and conditions as set forth in this Policy and the tax incentive agreement, in compliance with Chapters 312 and 381 of the Texas Local Government Code.

VIII. ADMINISTRATION AND EVALUATION

A. Facility Inspections

The County has the right to inspect the facility to determine whether the terms and conditions of the tax incentive agreement are met. Inspections shall be conducted after providing twenty-four (24) hours' notice and in a manner that does not unreasonably interfere with the construction or operation of the facility. All inspections are to be conducted with one or more representatives of the recipient and in accordance with its safety standards.

B. Annual Evaluation

The County shall evaluate each facility receiving a County tax incentive on an annual basis to ensure compliance with this Policy and the tax incentive agreement. On or before April 30th of each year during the life of the County tax incentive agreement, the recipient must complete and file a Tax Incentive Evaluation Report with the appropriate County Representatives. The report must detail and certify the recipient's compliance with the terms of the agreement. Failure to provide the requested information in the Tax Incentive Evaluation Report, or any other requested information, by the prescribed deadline may result in the due and payable status of previously abated taxes and/or the holding of tax rebates.

IX. RECAPTURE

The County retains the right to recapture previously abated or refunded taxes if the recipient fails to comply with the terms of this Policy or the tax incentive agreement. In the event of non-compliance, the agreement shall not be in effect for the duration of the non-compliant period. If the recipient's project is not completed as specified in the County tax incentive agreement, the County may modify or cancel the agreement, determining which taxes previously abated or rebated are due. The County has sole discretion in deciding whether to seek full or partial recapture of such taxes.

A. Failure to Commence Operations

The County may terminate the agreement and/or recapture previously abated taxes or rebated funds if the Owner or Lessee fails to commence operation of the facility or provide the applicable product and/or service within the agreed upon time.

B. Relocation of Job-Creating Activity

The County may also terminate the agreement and/or recapture previously abated taxes or rebated funds if the Owner or Lessee relocates job-creating activities outside of the agreed upon location associated with the tax incentive.

X. SUNSET PROVISION

This Policy takes effect upon its adoption by the Commissioners Court. The Commissioners Court reviews this Policy periodically, along with any tax incentive agreements granted and reinvestment zones created under it, to assess its application and effectiveness in achieving its intended goals. The term of this Policy is governed by Texas Tax Code Section 312.002 and Texas Local Government Code Section 381.004, as amended, repealed, or renewed.

XI. DEFINITIONS

A. "Abatement" (or "Tax Abatement") means the full or partial exemption from ad valorem taxes of certain real property and personal property in a reinvestment zone designated 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 incentive agreement.

C. "Applicant" means the firm, party, entity, or organization that would be receiving the incentive if granted.

D. "Base Year Value" means the certified 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.

E. "Economic Life" means the number of years a property improvement is expected to be in service in a facility.

F. "Eligible Jurisdiction" means Denton County and any municipality or other entity located in Denton County that levies ad valorem taxes upon and provides services to property located within the proposed or existing reinvestment zone.

G. "Eligible Property" means the value above the base year value of buildings, structures, fixed machinery and equipment, fixed personal property, site improvements, and any other real and/or business personal property, including office space and related fixed improvements necessary for the operation and administration of the facility.

H. "Expansion" means the addition of buildings, structures, fixed machinery and equipment, and fixed personal property for purposes of increasing production capacity.

I. "Facility" means property improvements completed or in the process of construction, with together comprise an integral whole.

J. "Fixed Machinery" (or "Personal Property") means tangible machinery, equipment, and fixed personal property that is securely placed or fastened and stationary within a building or structure, or which is movable but remains at and is used solely at the project site.

K. **"Full-Time Equivalent Job" (or "FTE")** means a job where an employee works a minimum of thirty-five (35) hours per week, or one thousand eight hundred twenty (1,820) hours per year, for a specified wage and/or salary.

L. **"Ineligible Property"** means property that is fully taxable and not eligible for tax incentives, including land and any property included in the calculation of the base year value as defined.

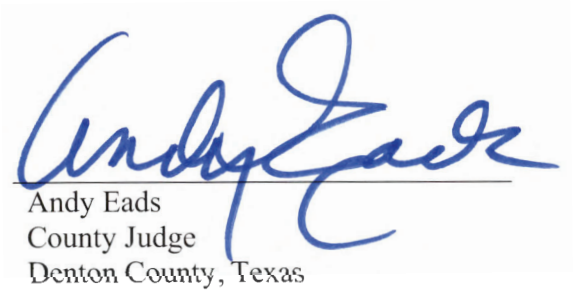
M. **"Modernization"** means the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of the operation. Modernization may result from the construction, alternation, or installation of buildings, structures, fixed machinery, or equipment. It shall not be for the purpose of reconditioning, refurbishing, or repairing.

N. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion or Modernization.

O. **"Owned/Leased Facilities"** means facilities where, if a leased facility is granted a tax incentive, the agreement must be executed with both the lessor and the lessee.

P. **"Reinvestment Zone"** means a geographical area of the County that meets the criteria of Chapters 311 or 312 of the Texas Property Tax Code.

Approved by:
Denton County Commissioners Court



Andy Eads
County Judge
Denton County, Texas

Dated: December 17, 2024