

RESOLUTION NO. 951-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBREY, TEXAS, APPROVING POLICY STATEMENT FOR ECONOMIC DEVELOPMENT INCENTIVES TO ESTABLISH CRITERIA FOR INCENTIVES TO PROMOTE STATE AND LOCAL ECONOMIC DEVELOPMENT AND TO STIMULATE BUSINESS AND COMMERCIAL ACTIVITY; PROVIDING GENERAL PURPOSE AND OBJECTIVES; PROVIDING CRITERIA; PROVIDING VALUE INCENTIVES; PROVIDING AVAILABLE INCENTIVES AND TARGETED INCENTIVES; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR ADOPTION OF THE POLICY SET FORTH IN EXHIBIT "A"; PROVIDING FOR THE REPEAL OF CONFLICTING POLICIES; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the attraction of long-term investment and the establishment of permanent new jobs in the City of Aubrey (the "City") will enhance the economic base of area taxing entities; and

WHEREAS, the City must compete with other communities across the nation currently offering tax inducements and other incentives to attract new commercial development; and

WHEREAS, granting economic development incentives is one of the principle means by which the public sector and the private sector can forge a partnership to promote real economic growth within a community; and

WHEREAS, any economic development incentives offered must be strictly limited in application to those new and existing businesses that bring new wealth to the community in order to avoid reducing the needed tax revenues of area taxing authorities; and

WHEREAS, Chapter 380 of the Texas Local Government Code authorizes municipalities to establish and provide for economic development programs, including programs for making loans and grants of public money and providing personnel and services of the municipality, as an incentive for the development or the redevelopment of property within the municipality; and

WHEREAS, Chapter 312 of the Texas Tax Code authorizes a City to enter into a tax abatement agreement after the adoption of guidelines and criteria that are effective for two (20) years; and

WHEREAS, the City Aubrey desires to repeal existing economic development policies and programs approved by resolution and to adopt an updated program to develop and expand the local economy by promoting and encouraging projects that will enhance the City's economic base, that will stimulate business and commercial activity, and that will diversify and expand job opportunities; and

WHEREAS, on January 25, 2024, at an open public meeting, the City Council of the City of Aubrey held a public hearing on the adoption and reauthorizations of guidelines and criteria for economic development and tax abatement at which members of the public were afforded the opportunity to speak, in accordance with Chapter 312 of the Texas Tax Code; and

WHEREAS, the City Council hereby elects to become eligible to participate in tax abatement and has determined that the adoption of the Policy Statement for Economic Development Incentives as set forth in **Exhibit “A”**, and compliance with the provisions of Chapter 312 of the Tax Code and other applicable State laws relative to economic development incentives, serves the public health, safety and welfare and supports and enhances economic development for both new facilities and structures and for the expansion or modernization of existing facilities and structures within the City;

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

I.
Incorporation of Premises

The facts and recitations contained in the preamble of this Resolution are findings of the City County, are hereby found and declared by the City Council to be true and correct, and are incorporated herein in their entirety.

II.
Adoption of Policy

The Policy Statement for Economic Development Incentives and related economic development program, as described in **Exhibit “A”**, attached hereto and incorporated herein for all purposes, is hereby adopted as the guidelines and criteria for the City of Aubrey to make loans and grants of public money to promote economic development and stimulate business and commercial activity in the City pursuant to Chapter 380 of the *Texas Local Government Code* and to provide tax abatements pursuant to Chapter 312 of the *Teas Tax Code*, and other sections of State law authorizing economic development incentives. The Policy Statement for Economic Development Incentives as set forth in Exhibit “A” shall be effective for a period of two (2) years from the date of adoption.

III.
Conflicting Policies Repealed

The City of Aubrey hereby repeals any and all economic development policies, including without limitation tax abatement policies, that conflict with **Exhibit “A”**, whether adopted by resolution or otherwise.

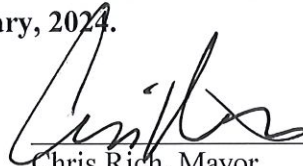
**IV.
Severability**

Should any section, subsection, sentence, clause or phrase of this Resolution or **Exhibit "A"** hereto be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Resolution and **Exhibit "A"** shall remain in full force and effect. Aubrey hereby declares that it would have passed this Resolution adopting **Exhibit "A"**, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences clauses and phrases be declared unconstitutional or invalid.

**V.
Effective Date**

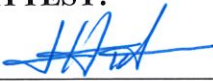
This Resolution shall be effective immediately upon its approval.

PASSED AND APPROVED this 25th day of January, 2024.



Chris Rich, Mayor


ATTEST:



Jenny Hicks, City Secretary



APPROVED AS TO FORM:



Patricia A. Adams, City Attorney

EXHIBIT "A"
POLICY STATEMENT FOR ECONOMIC DEVELOPMENT INCENTIVES



CITY OF AUBREY, TEXAS

POLICY STATEMENT FOR ECONOMIC DEVELOPMENT INCENTIVES

I. GENERAL PURPOSE AND OBJECTIVES

The City of Aubrey is committed to the promotion of job creation and high-quality development in all parts of the city and to an ongoing improvement in the quality of life for its citizens. In so far as these objectives are generally served by the enhancement and expansion of the local economy, the City of Aubrey will, on a case-by-case basis, give consideration to providing incentives as stimulation for economic development in Aubrey and the Municipal Development District. It is the policy of the City of Aubrey that said consideration will be provided in accordance with the procedures and criteria in this document. Nothing herein shall imply or suggest that the City of Aubrey is under any obligation to provide incentives to any applicant. All applicants shall be considered on a case-by-case basis. This policy shall serve as nonexclusive reference material for City staff, City officials, and applicants to use in drafting and comparing alternative economic development incentive applications or proposals.

II. CRITERIA

Any request for incentives shall be evaluated based upon a subjective review of the following criteria that each applicant will be requested to address in narrative as well as an application form to be provided by the City Secretary.

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?

Community Impact

- What effect would the project have on the local housing market?
- What environment 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?

Employment Impact

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

III. VALUE INCENTIVES

The subjective criteria outlined in Section II will be used in determining whether it is in the best interests of the City of Aubrey that an incentive is 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.

IV. AVAILABLE INCENTIVES

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

A. Tax Abatement

The City will consider providing tax abatements for real and/or personal property. Abatement will be conditioned upon improvement being made to the property. A Cost/Benefit Analysis will be performed to determine the feasibility of the project. Once a determination has been made that a tax abatement is an appropriate incentive type for the program at issue, the value and term of the abatement will be considered by reference to the following table:

Tax Abatement for Real and/or Personal Property

<u>Amount of Capital Investment</u>	<u>Years of Abatement</u>	<u>% Abatement</u>
\$ 500,000 - 1,999,999	1-3	10- 50%
\$ 2,000,000 - 4,999,999	1-4	10- 75%
\$ 5,000,000 - 9,999,999	1-5	10- 75%
\$10,000,000 - 19,999,999	1-6	10-100%
\$20,000,000 - 39,999,999	1-7	10-100%
\$40,000,000 - 59,999,999	1-8	10-100%
\$60,000,000 or greater	Not to exceed 10	10-100%

B. Fee Waivers

Reduction or elimination of any city fees associated with the development of the project.

C. Infrastructure Improvements

Provision of, or participation in, the extension of community infrastructure to the project site, including water, wastewater, drainage or road improvements.

D. Loans and Grants

The City may consider providing loans and grants of City funds, may underwrite or guaranty loans and financial obligations, and may acquire, purchase, convey or assign loans and grants and any rights or obligations arising thereunder, as permitted by Section 380.001 of the Texas Local Government Code.

E. Fast Track City Services

A fast track service involving all inspections, permitting and planning activities may be provided. The City’s development coordinator would be assigned to assist with the progress of the project.

V. TARGETED INCENTIVES

Along with Section IV., the City of Aubrey may consider providing one or a combination of any of the following targeted incentives in order to further its strategic objectives:

A. Job Creation

The City may consider an incentive for the creation and maintenance of jobs within the City of Aubrey by offering a grant payment for companies that create or relocate a minimum of 25 full-time jobs. The company must maintain the number of jobs created and/or relocated for at least a 2-year period to receive the total grant payment. Each job eligible for grant payment must pay at least 100% of the average annual wage for Denton County, as determined by the United States Dept. of Labor, Bureau of Labor Statistics.

For each job paying 100-124% of the average annual wage for Denton County, the incentive is \$3,000 per job, payable as \$1,500 each year over a two year period.

For each job paying 125% or more of the average annual wage for Denton County, the incentive is \$5,000 per job, payable as \$2,500 each year over a two year period.

The maximum grant amount cannot exceed 50% of the net new ad valorem and business personal property taxes paid annually to the City of Aubrey as a result of the project.

B. Specialty Retail, Entertainment, and Restaurant

The City may consider providing incentives to “destination” retailers and restaurants that have the capability to attract customers from outside the area and fit well into the existing retail/restaurant economy to provide new and different shopping, dining, and/or entertainment experiences. Local, Regional, and National retailers or restaurants may apply if they meet the above qualifications. This incentive may also be considered for existing “destination” retailers and restaurants that are expanding or relocating if their added square footage is a minimum of 50% larger than their current space.

In order to qualify for incentives, “destination” retailers and restaurants may own the property, otherwise they are required to sign a minimum 5-year lease with the property owner. Based on the value of the incentive requested, the City may require the tenant to

sign a lease for a period longer than five (5) years, but not to exceed ten (10) years. Consideration for incentives shall require a return on investment (ROI) for the City; any and all incentives under this provision shall be limited by an ROI of 10:1 (for example, a \$1 million investment, maximum incentive would be \$100,000).

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

1. Matching Grants

The City may reimburse up to 50% of the costs of tenant improvements (including FFE – fixtures, furniture, and equipment).

2. Grease Trap Rebate

The City may consider a rebate equal to fifty percent (50%) of the cost to purchase and install or upgrade an existing grease trap up to a maximum of \$7,500 per project for “destination” restaurants.

These incentives will be evaluated on a case-by-case basis so that the total incentive package may be designed specifically for each project as well as provide maximum flexibility for an incentive package that accommodates the unique needs of each project. The City will require a recapture provision on all incentives granted. These recapture provisions would specify requirements a company must fulfill in order to continue to receive incentives and would specify the process for recapture of incentives should a company be in default of its contract with the City. Nothing herein shall imply or suggest that the City of Aubrey is under any obligation to provide incentives to any applicant.

CITY OF AUBREY
ECONOMIC DEVELOPMENT INCENTIVES
PROCEDURAL GUIDELINES

Any person, organization or corporation desiring that the City of Aubrey consider providing incentives to encourage location or expansion of operations within the city limits of Aubrey or the Municipal Development District shall comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that Aubrey is under any obligation to provide incentives to any applicant.

Preliminary Application Steps

- A. Applicant shall complete the attached Application for Incentives. Included in said application shall be a statement regarding the applicant's desire for consideration of available incentives listed in the Policy Statement for Economic Development Incentives.
- B. Applicant shall address all criteria questions outlined in Section II of the Incentive Policy Statement.
- C. Applicant shall prepare a plat showing the precise location of the property and all roadways within 500 feet of the site.
- D. If the property is described by metes and bounds, a complete legal description shall be provided.
- E. Applicant shall complete all forms and information and submit them to the City Secretary, City of Aubrey, Texas, 107 South Main, Aubrey, TX 76227-5519.

Once an application has been submitted to the City Secretary, it shall be regarded as a matter of public record and will be available for inspection by the public. Any proprietary information included as a part of the application should be so indicated, marked in advance and supplied in such a manner so as to be readily separated from the remainder of the application.

Consideration of the Application

- A. The application will be sent to the Aubrey Municipal Development District Board for review and comments. Additional information may be requested as needed.
- B. The Aubrey Municipal Development District Board will make a recommendation to the City Council regarding the incentive request.
- C. The City Council of Aubrey will consider the application at a regular or called meeting(s). Additional information may be requested as needed.
- D. If a tax abatement is being considered, the City Council of Aubrey may consider a resolution calling a public hearing to consider establishment of a tax reinvestment zone and to determine whether the project is feasible and practical and would be of benefit to the land to be included in the zone and municipality.
- E. If a tax abatement is being considered, the City Council of Aubrey may consider adoption of an ordinance designating the area described in the legal description of the proposed project as a commercial/industrial tax abatement zone.
- F. If a tax abatement is being considered, the City Council of Aubrey may consider adoption of a resolution approving the terms and conditions of a contract between the City and the applicant governing the provision of the tax abatement.
- G. The final decision on any incentive application will rest with the Aubrey City Council.



**APPLICATION FOR INCENTIVES
CITY OF AUBREY, TEXAS**

PROPERTY OWNER: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TELEPHONE NUMBER: _____ FAX NUMBER: _____

PROPERTY OWNER'S REPRESENTATIVE: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TELEPHONE NUMBER: _____ FAX NUMBER: _____

PROPERTY ADDRESS: _____

CITY, STATE, ZIP: _____

PROPERTY LEGAL DESCRIPTION: _____
(Provide Metes and Bounds if available)

DESCRIPTION OF PROPERTY: _____

PROJECTED OCCUPANCY/INITIATION OF OPERATIONS: _____

PROVIDE CORPORATE/DEVELOPMENT HISTORY, RESUME OF KEY INDIVIDUALS OR DEVELOPMENTS RELEVANT WITH PROJECT AND FINANCIAL INFORMATION ON CORPORATION OR KEY STAKEHOLDERS.

Please complete a written narrative response to the questions in Section II of the “Policy Statement for Economic Development Incentives”. Please include any additional information necessary to address the criteria outlined therein.