

RESOLUTION R-15-3854

**A RESOLUTION REVISING RESOLUTION R-12-3565 ADOPTING
GUIDELINES AND CRITERIA FOR ECONOMIC DEVELOPMENT
INCENTIVES**

WHEREAS, Texas State law provides for a home rule municipality to offer various economic development incentives; and

WHEREAS, the City of Colleyville has made a long term commitment to economic development, and the City seeks to foster a more diversified tax base so that it may deliver sustainable government; and

WHEREAS, the economic viability of the City of Colleyville depends upon the City's ability to retain and foster the expansion of existing businesses, as well as attract new investment through the location of new businesses; and

WHEREAS, the City of Colleyville recognizes it must also enhance its competitiveness with other communities and especially neighboring municipalities; and

WHEREAS, Chapter 312 of the Texas Tax Code requires that each taxing entity who wishes to consider granting economic development incentives must first adopt a set of guidelines and criteria, and the City of Colleyville desires to update Resolution R-12-3550.

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

Sec. 1. THAT the Economic Development Incentive Guidelines and Criteria contained in Exhibit "A" are hereby adopted.

Sec. 2. THAT the City of Colleyville will utilize said Guidelines and Criteria to negotiate and consider economic development incentive programs.

AND IT IS SO RESOLVED.

APPROVED BY A VOTE OF _____ AYES, _____ NAYS AND _____
ABSTENTIONS ON THIS THE 3rd DAY OF MARCH 2015.

ATTEST:

CITY OF COLLEYVILLE

Amy Shelley, TRMC, CMC
City Secretary

David Kelly
Mayor

Exhibit "A"
CITY OF COLLEYVILLE, TEXAS
ECONOMIC DEVELOPMENT INCENTIVE
GUIDELINES AND CRITERIA

Section 1. General Purpose and Objectives

General Purpose

The policy herein is intended as a guide for use in developing economic development incentive packages under the provisions of state law. Notwithstanding the policy herein established, the City Council of the City of Colleyville retains the right to act within the provisions of such act without the necessity of amending the general policy and/or purpose adopted within this set of *Guidelines and Criteria*.

Objectives

The City of Colleyville, Texas, has made a long-term commitment to economic development. The City seeks to foster a more diversified tax base so that it may deliver sustainable government. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City of Colleyville will, on a case-by-case basis, give consideration to providing tax abatements and other forms of economic development incentives as stimulation for economic growth in Colleyville. It is the policy of the City of Colleyville that said consideration will be provided in accordance with the criteria outlined in this document. Nothing herein shall imply or suggest that the City of Colleyville is under any obligation to provide any type of incentive to any applicant.

The City of Colleyville's Economic Development Department is charged with retaining existing businesses, attracting new businesses and marketing Colleyville—with the goal of expanding the City's commercial tax base. In keeping with this overall mission, the City has implemented a three point strategy in order to accomplish these important tasks:

- To identify and assist retail developers, corporate office and medical/physician specialist/laboratory-related facilities to invest and

build new, high quality sales and property tax-generating projects in Colleyville;

- To assist landowners in the sale, development, and redevelopment of potential retail, office and hotel sites to their highest and best use; and
- To recruit new, and retain existing, Colleyville retailers, restaurants, corporate office and medical/physician specialist/laboratory-related facilities and other sales tax and property tax generating businesses compatible with Colleyville's available land, land use plan and demographics.

To achieve this goal, the City wishes to enhance its economic development efforts by developing an incentive policy to promote retention and expansion of existing retailers, restaurants, corporate office and medical/physician specialist/laboratory-related facilities and to attract similar new businesses to Colleyville.

Within the context of these goals, the City of Colleyville will give consideration to providing reasonable incentives as a stimulus for new development and redevelopment on a case-by-case basis. Nothing herein implies or suggests that the City of Colleyville is under any obligation to provide any incentive to an applicant. The City recognizes that only certain businesses are worthy of incentives.

Section 2. Criteria

Any request for a tax abatement or any other type of economic development incentive shall be reviewed by the City Council. Their decision shall be based upon an evaluation of the following criteria, which each applicant will address in narrative form within or on pages attached to the City's Application for Economic Development Incentives:

Employment Impact

- Total number of full time equivalent jobs brought to Colleyville;
- Types of jobs created;
- Total annual payroll.

Fiscal Impact

- Total real and personal property value to be added to the tax roll;
- Anticipated direct sales tax to be generated at one (1) percent of taxable sales;
- Other revenues generated for the City: franchise payments, occupancy taxes, utility revenues, etc.;
- Amount of city infrastructure construction or participation required;
- Projected total annual operating budget of the facility.

Community Impact

- The expected effect the project will have on the local housing market;
- The expected environmental impact, if any, created by the project;
- The compatibility of the project with the City's Comprehensive Plan;
- The impact on neighboring businesses and/or property owners;
- The project's location (i.e. is it proposed to be located in a targeted area or an area designated for redevelopment?);
- The project's impact on the cost or provision of Colleyville municipal services;
- The project's type of business enterprise (i.e. is it among the types of businesses targeted for retention within or attraction to Colleyville?).

Competitive Impact

- The effect the project would have on existing businesses in Colleyville;
- A list of the types of products or services to be sold by the applicant which are currently sold by existing Colleyville merchants;
- A list of specific businesses seen as direct competitors to the applicant.

Please note that the City of Colleyville seeks first to retain existing businesses and therefore will consider whether an applicant will compete or potentially displace existing Colleyville businesses.

Section 3. Types of Incentives

It is the policy of the City of Colleyville to customize the provisions of 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 concerns of each applicant while enabling the City of Colleyville to better respond to the changing needs of the community.

Colleyville's goal is to adequately package incentives, with clear parameters, that are tailored to match business needs—as well as to the types of businesses Colleyville prefers. Likewise, Colleyville recognizes how incentives that encourage business growth and development are often unique to the needs of each individual business. The City is therefore open to discuss any particular incentive(s) that may be necessary for a business to ensure its success in Colleyville.

Consideration will be given to providing any type of economic development incentives not prohibited by state or federal law including, but not limited to: tax abatements, in-lieu-of Freeport exemptions, state tax grants and other grants in general, as well as participation in infrastructure and waiver of fees.

These economic development incentives are in addition to an ongoing tax increment financing program offered by the various taxing entities, which is not a part of this incentive program. The provision of incentives will be subject to the procedural and other requirements outlined in this document as well as those mandated by state or federal law, and by other actions of the City of Colleyville. All incentive agreements will be performance-based.

Nothing within these guidelines shall imply or suggest that the City of Colleyville is under any obligation to provide any incentive to any applicant.

Section 4. Value of Incentives

Following an assessment of the response provided to the criteria contained in Section 2, the City Council shall determine whether it is in the best interests of the City of Colleyville that economic development incentives be granted to the applicant. The review process will examine the "value added" terms of the project. Additional consideration, beyond the criteria, will include such items as the 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 Council. Moreover, the City will consider whether the proposed business type is included on the targeted list identified within the three point strategy included in Section 1. above. Preference is given to medical/physician specialist/laboratory-related facilities and corporate office uses.

Tax Abatements:

A Tax Abatement may be offered in two categories:

1. Real Property (not located in the TIF District); and/or
2. Business and Personal Property

Real property abatements may be offered to applicants which will pursue the construction of new or expanded facilities in which to house the applicable project. The abatement may apply only to the value of improvements made.

Business Personal property abatements may be offered to applicants which will pursue the purchase or long-term lease of existing facilities. The abatement will apply to the value of new personal property brought into the taxing jurisdiction.

State law permits municipalities to grant a maximum property tax abatement of 100 percent each year for up to ten (10) years. Once a determination has been made that a tax abatement may be offered, the City will determine the value and term of the abatement according to the following schedule:

Minimum Property	Abatement Duration	Percentage of Abatement Investment Considered by Council
\$2 million*	1 st year	Up to 100%
	2 nd year	Up to 90%
	3 rd year	Up to 80%
\$5 million	1 st year	Up to 80%
	2 nd year	Up to 70%
	3 rd year	Up to 60%
\$10 million+	1 st year	Up to 60%
	2 nd year	Up to 50%
	3 rd year	Up to 40%

*Only medical, physician-specialist or laboratory facilities are eligible for consideration.

Each application for consideration of a tax abatement, whether for Real Property or Business and Personal Property, shall include a \$1,000 tax abatement application fee. The fee shall cover the cost of staff time spent analyzing and evaluating the application's merits.

Grants

The City of Colleyville may agree to extend a grant based on the amount of revenues to be generated by the economic development project to the City of Colleyville for such categories as sales tax, occupancy taxes, utility fees, or similarly related revenues. Chapter 380 of the Texas Local Government Code also permits loans and grants of City funds and use of City staff and City facilities at minimal or no charge. Any such use must be construed as serving a "public purpose". Likewise, any type of loan, grant or waiver requires a contract between the City and the applicant.

Retail Sales Tax Grants

By contract, the City may provide an incentive consisting of an annual grant through a tax rebate, based on a percentage of the sales and use tax received by the City from the sale of taxable items by the applicant. The City is authorized by Section 380.001, Texas Local Government Code, to make such grants.

Sales and use tax means the City's one (1) percent sales and use tax on the sale of taxable items by the applicant at the applicant's business location in the City. 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 (12) calendar month period, with such supporting documentation as may be required by the City.

The grant would be conditioned on the applicant's continued ownership/occupancy of the project site.

The sales tax grants would be paid in annual installments within ninety (90) days of the end of each twelve (12) 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 grant would not include any of the City sales and use tax receipt from the imposition and collection of sales and use tax for taxable items consummated at any 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.

Any sales tax grant payable would be limited to the extent that the City has received sales tax from taxable sales by the applicant. The City would not be required to provide any grant for any twelve (12) calendar month period during the term of the agreement for which the City has not received sales tax revenue from taxable sales by the applicant for such twelve (12) calendar month period.

The City's obligation to pay the sales tax grants in the agreement would additionally be conditioned upon the applicant requesting and providing sales tax documentation from the Office of the Comptroller of the State of Texas.

The City may also condition the incentive upon the creation of employment, construction of improvements, certain development, continued operations for a stated period, or other public consideration. Any incentive agreement shall be written in a legally enforceable contract. The contract shall require the applicant to construct certain improvements or expansions and contain at a minimum the following terms:

1. Generation of a certain level of sales tax;
2. An annual written certification that applicant is in compliance with the agreement;
3. Authority to terminate or modify the agreement if applicant fails to comply with agreement;
4. Minimum term of occupancy or continued operations within the city.
5. Authority/permission for the City to schedule an annual inspection of the business or facility.
6. Annual review of the business entity's financials;
7. Agreement that the applicant will not contest any Tarrant Appraisal District appraisal increases throughout the term of the contract.
8. Claw-back or recapture of any and all rebated grants should the applicant default on any portion of the contract (see Section 5. Recapture below).

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 by the State of Texas, affecting sales tax receipts for a previous twelve (12) calendar month period, the sales tax grant payment for the next twelve (12) month calendar period immediately following such State of Texas approved amendment could be adjusted accordingly provided that the City has received sales tax receipts attributed to such adjustment. As a condition precedent to payment of such adjustment, the applicant should provide the City with a copy of any such amended sales and use tax report or return, and the approved thereof by the State of Texas.

In the event the State of Texas determines that the City erroneously received sales tax receipts, or that the amount of sales and use tax paid to the City exceeds the correct amount of sales and use tax for a previous twelve (12) 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 specifying the amount by which such sales tax grant exceeds the amount to which the applicant was entitled pursuant to such State of Texas determination, repay such amount to the City.

TIF Grants

By contract (as authorized by Chapter 312 of the Texas Local Government Code), the City may provide an incentive consisting of a Tax Increment Financing (TIF) Grant. The Economic Development TIF Grant Program has the purpose of benefiting the City, its residents and property owners.

The objectives of the Economic Development TIF Grant Program are to promote within the TIF: 1) development and diversification of the economy; 2) elimination of unemployment and underemployment; and 3) development and expansion of commerce. These objectives will be achieved by making grants and loans from the tax increment fund of the TIF in an aggregate amount not to exceed the amount of tax increment produced by the City and paid into the TIF fund for activities that benefit the TIF and stimulate business and commercial activity within the TIF.

The City is authorized by TEXAS LOCAL GOVERNMENT CODE §380.001 to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City. The City Council shall make the final determination of all grant award

amounts and awardees. The City Council shall also authorize by resolution any development agreement entered into by the TIF board.

Nothing contained herein shall obligate the TIF Board or the City Council to provide grant awards, as this Economic Development TIF Grant Program does not constitute an entitlement.

Infrastructure Participation and Waiver of Fees

The City of Colleyville may agree to partial or complete cost participation for the extension, construction, or reconstruction of infrastructure necessary for the development of an economic development applicant's project. In addition, the City Council may approve the waiver of fees for, but not limited to, building permit applicants, utility taps and similar fees.

Matching Grants

In accordance with the City Council's strategic initiatives plan, the City of Colleyville will also consider providing matching grants of up to \$30,000 for any and only one of the following types of investments through a public/private, cost-sharing program:

1. Façade improvements—Existing building façade improvements that meet the following criteria:
 - Proposed improvements must exceed City's minimum rating criteria for commercial building designs;
 - Proposed improvements must be reviewed and approved by an Architectural Review Commission.
2. Signage removal and replacement—Assistance with pole sign removal and/or replacement as landscaped monument signs or landmark signs (if applicant meets the City's square footage requirement); signage plan must meet the following criteria:
 - Proposed signage removal and replacement must meet all the current requirements of the City's Land Development Code and be reviewed and approved by an Architectural Review Commission.
3. Joint access easements between adjoining businesses of any type located along Colleyville Boulevard (i.e. toward paving costs associated with construction of new access easements).

4. Tenant improvements for destination restaurants and retailers— Restaurants or retailers interested in applying for a matching grant for tenant improvements must not be presently located in Colleyville or any immediately adjacent city, if new, and not replicated in any adjacent city if existing; moreover, applicants must show that they will attract residents of other, neighboring communities (in addition to Colleyville residents).

Matching grants for this purpose are designed to help stimulate redevelopment and development (i.e. tenant finish out) of spaces to accommodate these types of restaurants and retailers, providing a way to attract diners, shoppers and expenditures from other parts of our region, from even outside the region and to reduce existing leakage within the region. Those associated expenditures become additional revenues to Colleyville's businesses, wages to the employees, and tax receipts to the City.

By definition, a destination restaurant or retailer is a dining or shopping establishment that is unique to the City's primary trade area, as delineated by the Colleyville Merchandising Plan.

As it relates to the idea of "destination" restaurants and retailers, Wikipedia defines a destination restaurant as "one that has a strong enough appeal to draw customers from beyond its community."

Prentice-Hall's On-line Glossary notes that a destination retailer is "A retailer to whom consumers will make a special shopping trip." And BusinessDirectory.com adds that it is a "Popular retailer (catalog, store, or website) from whom customers, attracted by its ambience, price, and/or variety, will make a special effort to buy."

To qualify for matching grant consideration under Matching Grant Program category 3, applicants must illustrate that their proposed restaurant or retail establishment—

- 1) Will be unique to Colleyville's primary retail market;
- 2) Is investing a minimum of twice the amount of sought for interior tenant improvements (qualifying as real property improvements that will remain with the building in a worst case scenario), and exclusive of any equipment or fixtures (i.e. personal property that

could be removed and sold on the secondary market, again in a worst case scenario).

All applications for Matching Grants associated with a new or relocating business venture occupying an existing building must also submit a written business plan for review and comment by the City's SCORE business counseling office.

When considering applications for Matching Grants, highest priority will be given to:

1. Applicants whose property is located on or adjacent to Colleyville Boulevard (SH26). Not all projects submitted for City Council consideration have the same merit; therefore there is no guarantee that a grant will be awarded to each applicant.
2. Applicants that generate or which has signed, contingent leases with a tenant or tenants that generate sales tax revenues.

Please note that City Council will not consider applications for the same address of a previous grant recipient unless the time period of the first grant has expired, all of the original criteria have been met and the property ownership has changed.

As identified by the Architectural Review Commission, projects having the greatest aesthetic impact in the city should likewise be given priority. In evaluating applications, they have recommended that Colleyville focus on and seek the following:

1. Projects that will encourage other restoration or redevelopment in the local proximity.
2. Projects where an immediate renovation will stop serious deterioration of the building's facade.
3. Projects that improve the architectural integrity of the building façade.
4. Projects that demonstrate collaboration with adjacent properties and will help to attract people to Colleyville.
5. Projects that will result in new or increased property values or the generation of either sales or occupancy tax revenues for the City.
6. Projects which are strategically located.
7. Projects that may have a positive impact on existing, adjacent properties.

In addition, proposed projects will be reviewed and based on the merits of individual applications. Individuals contemplating an application to the City's Matching Grant Program should note that general building maintenance is not eligible under this program. All applicants will be considered on a case-by-case basis.

Matching Grant incentives approved for the first three categories will consist of cash payments payable upon successful completion and inspection of all facility improvements or redevelopment, as outlined in an incentive agreement to be entered into between the City and the owner of the facility or facilities to receive the grant. If the City chooses to utilize the Matching Grant program for one of the first three categories of improvements, the City may elect to make a grant in an amount up to 50% of the cost of improvement, not to exceed \$30,000 per improvement, with a minimum business investment of \$15,000.

Matching Grant incentives approved for the fourth category will be paid out, likewise as outlined in an incentive agreement to be entered into between the City and the owner of the facility or facilities to receive the grant, in two equal payments within the first two years of operation (i.e. one half after improvements have been inspected and the business opens its doors and the other one half after completion of one year of operation).

Forgivable Loans

The City of Colleyville will consider providing destination restaurants or retailers (again, ones that have "a strong enough appeal to draw customers from beyond" our community or "to whom consumers will make a special shopping trip") with forgivable loans of up to an amount negotiated by the City Council, in which the restaurant or retailer is forgiven a portion of its loan for each year it is open and operates. Any loan approved under this program shall be forgiven 20% each year for up to 5 years. Thus for example, if City Council approves a forgivable loan amount of \$100,000, it is to be forgiven in annual increments of 20% or \$20,000, beginning one year after the issuance of a certificate of occupancy. The entire loan amount may be recaptured by the City, should the restaurant or retailer suspend operations at any time within 5 years following the issuance of a certificate of occupancy.

Non-Cash Incentives

The City of Colleyville will also consider providing non-cash incentives (primarily procedural in nature) for stimulation of development and redevelopment. Such incentives include:

1. Signage and intersection improvements already funded within the CIP;
2. Fast-track planning, plans review and permitting, as staff work level allows;
3. Dedicated inspections;
4. Corporate relocation assistance for employees and their families;
5. Employee recruitment and training, as funded through State of Texas grant programs and Tarrant County College;
6. Possible access to community bank lending through the City's CDARS program;
7. Recreational opportunities;
8. Business promotion and assistance;
9. Assistance with demolition of existing structures for redevelopment and new investment.

Public Improvement Districts

The City of Colleyville is also willing to consider the creation of Public Improvement Districts (PIDs). Public Improvement Districts may be created by a municipality at the request or with the consent of property owners. PIDs allow for the levy of voluntary assessments and the issuance of tax exempt bonds. Funds collected through PIDs and any associated bonds may be used for capital improvement projects and maintenance within the geographic area.

Section 5. Recapture

All incentive agreements shall include a provision allowing City staff access to the applicant's business and/or facilities for an annual inspection, so the City may monitor and enforce accountability. In the event a business receiving incentives from the City of Colleyville fails to perform under the agreement executed between the City and the business, the incentive obligation on the part of the City will be void. Any incentive paid to the business up to the point of failure shall be returned to the City of Colleyville in full. All incentive agreements will be negotiated and executed to include claw-back provisions.

Section 6. Procedural Guidelines

Any person, organization or corporation desiring that the City of Colleyville consider providing economic development incentives to encourage location or expansion of operations with the city limits of Colleyville shall be required to comply with the following procedural guidelines. Nothing within these guidelines shall imply or suggest that Colleyville is under any obligation to provide incentives of any amount or value to any applicant.

Preliminary Application Steps

1. Applicant shall complete an "Application for Economic Development Incentive" as provided by the City.
2. Applicant shall address all criteria questions outlined in Section 2. above directly on the application form and in letter format, if additional explanation and information are necessary.
3. Applicant shall prepare a plat showing the precise location of the property, all roadways within 200 feet of the site, and all existing land uses and zoning within 200 feet of the site. If the property is described by metes and bounds, then the applicant shall also provide a complete legal description.
4. Applicant shall present the application to the Director of Economic Development and obtain his/her signature that the package is complete before formal submission to the City.

Applicant shall complete all forms and information detailed in items 1 through 3 above and submit them to the Director of Economic Development, City of Colleyville, 100 Main Street, Colleyville, Texas 76034.

Application Review Steps

1. All information in the application package detailed above will be reviewed for completeness and accuracy. Additional information may be requested as needed.
2. The application will be distributed to the appropriate City departments for internal review and comments. Additional information may be requested as needed.
3. Copies of the complete application package and staff comments will be provided to the City Council.
4. In light of the proprietary nature of this data, all information included within the application shall remain confidential unless and until formal action is taken to establish an incentive agreement.

Consideration of the Application

The City Council will consider the application at a regular or called meeting(s). State law stipulates that incentives need to be endorsed by a local governing body. Therefore, additional information may be requested as needed.

The City Council of Colleyville may consider a resolution calling a public hearing to consider establishment of a tax reinvestment or redevelopment zone or other zone designation as deemed appropriate.

The Colleyville City Council shall hold a public hearing and determine whether the project is "feasible and practical" and whether it "would be of benefit to the land to be included in the zone and to the municipality."

The City Council of Colleyville may consider adoption of an ordinance or resolution, as deemed appropriate, designating the area described in the legal description of the proposed project.

The City Council 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 economic development incentives.

If the City Council chooses to grant a tax abatement, the City must designate an area as a reinvestment zone. Any City designating a reinvestment zone must make two findings:

1. Proposed improvements are feasible and practical and would benefit the zone; and
2. The zone meets one of the eligible criteria for reinvestment zones. The City's criterion include 1) whether the proposed project within the zone is likely to contribute to the retention or expansion of primary employment or 2) to attract investment within the zone.