

City of Derby

Economic Development Incentive Policy

Purpose

The purpose of this policy is to establish the official policy of the City of Derby for the granting of economic development incentives, including uses in accordance with the provisions of Section 13 of Article 11 of the Constitution of the State of Kansas as required by K.S.A. 1990 Supp. 79-251. The appropriate purpose and use of incentives is to broaden and diversify the tax base, create new job opportunities for the citizens of the City of Derby, and promote the economic growth and welfare of the City of Derby. Economic development incentives are necessary because of the inherent competition between localities for new businesses and jobs. This policy is intended to complement any incentive programs offered by the State of Kansas.

All requests by businesses for local incentives will require a Cost Benefit Analysis (CBA) to be completed prior to consideration by the Derby City Council. A designated agent on behalf of the City will conduct the Cost Benefit Analysis and any fees associated with this application will be the responsibility of the applicant. The CBA will be used initially to determine the viability of the proposed project and must show a positive economic impact upon the City. The ratio of public benefits to public costs should not be less than 1.3 to one.

Eligibility

To be eligible for public incentives of any kind, a business must be engaged in one or more of the following activities:

- *Manufacturing.* Determined by appropriate NAICS (North American Industry Classification System) codes.
- *Service Sector.* Majority of revenues must be derived from transactions originating outside the Wichita MSA.
- *Research and Development.* The conducting of research, development or testing for scientific, medical, food product or industrial purposes.
- *Warehousing and Distribution.* Majority of goods stored/shipped must be destined for end-users located outside the Wichita MSA.
- *Corporate Headquarters.* May include “back office” operations and customer service activities. Majority of revenues must be derived from transactions originating outside the Wichita MSA.
- *Transportation.* Freight or passenger transportation services. Majority of revenue must be derived from interstate commerce/travel.
- *Commercial Redevelopment.* Must address rejuvenation of official redevelopment areas, if any such areas are designated by the governing body.
- *Tourism.* Attractions, facilities and events considered likely to attract at least 30% of attendees from outside the Wichita MSA. Hotel projects subject to guidelines set forth in the City of Derby Policy Statement on Hotel Development.

- *Housing.* Housing developments for seniors and the disabled are of highest priority. Incentives may include tax-exempt IRBs and sales tax exemption, but shall not include property tax abatement. It is the City's intention to encourage development of housing for residents of all ages, abilities and incomes.
- *Medical Services.* Regional medical centers, specialty hospitals and specialized medical facilities considered likely to attract at least 30% of patients from outside of Derby.

A business shall be considered for public incentives only if the average wages paid to its employees are equal to or greater than the average wages for that type of business as determined by 3-digit NAICS codes within the Wichita MSA or greater than the average wage for all jobs in the Wichita MSA when wages are calculated excluding the wages for the transportation equipment manufacturing sector (NAICS sector 336). A business must also be current in its payments of *ad valorem* property taxes to be considered for any public incentives.

No incentive shall be granted if the incentive would create, in the judgment of the governing body, an unfair advantage for one business over another competing business within the City.

Any incentive granted by the City shall be subject to the "but-for" principle, meaning that the incentive must make such a difference in determining the establishment or expansion of the business that the business would not otherwise be established or expanded in the City, if it were not for the availability of the incentive. It is the policy of the governing body that private business should not be subsidized with public funds, the indirect consequences of tax incentives, unless some public good results and the public subsidy can reasonably be expected to make a significant difference in achieving economic growth and the creation of new jobs within the City.

In addition to the above criteria, in making a decision to approve or disapprove an incentive, the City Council will consider the following information:

1. The appraised valuation of the property in relation to the economic benefit to the City of increased employment;
2. The gain in tax revenue which may result from the new or expanded business, including the increase in the property tax base upon the expiration of the exemption;
3. The contribution that the new or expanded business will make towards increased employment and earnings within the community;
4. The number of new jobs created directly by the business in relation to the amount of tax incentives granted;
5. The kinds of jobs created in relation to the types of skills available from the local labor market;
6. The utilization by the business of labor skills and abilities of unemployed persons in the community;

7. The degree to which the business improves the diversification of the economy of the City and its environs;
8. The degree to which the ultimate market for the manufactured products is outside the community; recognizing that outside markets bring in “new money” to the local economy;
9. The potential of the business for future expansion and additional job creation;
10. The beneficial impact the business may have by creating other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing;
11. The beneficial economic impact the business will have on a particular area of the City, including designated enterprise zones and areas of needed revitalization or redevelopment;
12. The compatibility of the location of the business with land use and development plans of the City and the availability of existing infrastructure and essential public services, and the extent to which additional direct or indirect public costs to the City and to other local units of government would be necessary, such as the cost of extension of public services;
13. The extent to which the economic and employment benefits of the tax incentive accrue to the residents and taxpayers of those taxing subdivisions which indirectly “subsidize” the business as a result of the foregone tax revenue.

Compliance

All Economic Development Incentives will be formalized in a written agreement between the City of Derby and the recipient company. The recipient company will be required to meet the following performance criteria:

- Jobs created as agreed upon
- Capital investment in real property as agreed upon
- Compliance with wage requirements
- Compliance with all applicable governmental laws, rules and regulations
- Compliance with any other conditions imposed by the Economic Development Incentive Agreement.

The City of Derby reserves the right to audit a company to assure compliance with the Economic Development Incentive Agreement. The City Council may discontinue any ongoing incentives and require the incentives already received to be repaid in full or in part, as set forth in the Economic Development Incentive Agreement, if the performance criteria are not met.

Project Evaluation

Each project will be evaluated on an individual basis. Changing economic conditions and availability of funds may cause the City of Derby to modify, amend or discontinue any economic development incentive program. Should an incentive program be discontinued,

the City Council will honor any incentive committed to before the discontinuance of the program. Economic development incentives may not be transferred or otherwise conveyed to another party, unless agreed to by the City Council.

Incentive Level Matrices

Economic development incentives available from the City Derby may include (but are not limited to) industrial revenue bonds (IRBs), property tax abatements, sales tax exemptions, forgivable loans and infrastructure improvements. The City Council will determine the amount, terms and conditions of property tax abatements and forgivable loans based on matrices that equate recommended incentive levels with job creation, wage levels and capital investments.

Property Tax Abatement Matrix

The City of Derby is authorized under state law to grant tax abatements on private business property either in connection with the issuance of IRBs or under Article 11 of the state constitution that enables economic development exemptions (EDX) for certain types of businesses. While IRB abatements may be granted for all types of businesses included in the list of eligible businesses, EDX abatements are limited by state law to expanding manufacturing, research and development, and warehousing and distribution businesses that create or retain jobs.

The maximum term of tax abatement on real property improvements under this Policy shall be ten years. The initial term shall be five years, plus an additional five years subject to review and approval of the City Council at the end of the initial term. The recommended percentage of property taxes to be abated shall be based on new job creation and capital investment by the eligible business, as follows:

Job Creation: For the purpose of determining the recommended percentage of tax abatement, the number of new full-time equivalent (FTE) jobs created by the project will be adjusted by a factor based on the relationship between the wages to be paid for the new jobs and the average wage for all jobs in the Wichita MSA. For example, if the area average wage is \$40,000 and the average wage for the created jobs is \$50,000, the factor for adjusting the number of created FTE jobs would be 125%. If the actual number of FTE jobs created is 60, the adjusted number of new FTE jobs used to determine the recommended abatement would be 75.

For the purpose of this Policy, FTE jobs are defined as full-time employees who are paid to work at least 2,080 hours per year, or part-time or temporary employees consolidated to obtain the full-time equivalent of 2,080 hours per year.

The amount of recommended tax abatement based solely on FTE job creation is based on a sliding scale that allows smaller projects to benefit. A property tax abatement may be recommended for each new FTE job as follows: 3% for the first five new FTE jobs, 2% for six to 10 new FTE jobs, 1.5% for 11 to 20 new FTE jobs, 1% for 21 to 50 new FTE

jobs and 0.6% for each new FTE job in excess of 50, up to a maximum tax abatement for job creation of 100%.

Capital Investment: A property tax abatement may be recommended for each \$50,000 of private investment in plant and equipment as follows: Between \$50,000 and \$500,000 – 1.0% (up to 9%); between \$500,000 and \$1 million – 0.75% (up to 7.5%); between \$1 million and \$2 million – 0.5%; (up to 10%) between \$2 million and \$5 million – 0.25% (up to 15%); above \$5 million – 0.10%. The maximum recommended tax abatement for capital investment is 100%.

Location Premium: Businesses in the City of Derby shall be encouraged to locate and/or expand within special redevelopment areas of the City if any such areas are determined by the City Council. To foster such action, businesses may be recommended for an additional tax abatement equal to 20% for locating into special redevelopment areas, as may be determined from time-to-time by separate action of the City Council.

Payments-In-Lieu-of-Taxes (PILOTs): Any business receiving a tax abatement may be required to make payments in lieu of taxes equal to the amount of property tax abated. Said PILOT payments shall be payable to the Sedgwick County Treasurer for proportional distribution to all local taxing jurisdictions which levy taxes on the abated property. A business may also be required to make PILOT payments at any time in the event of non-compliance with the conditions imposed by the economic development incentive agreement, as an alternative to complete cancellation of the tax abatement.

Exceptions

Exceptions to the conditions set forth in this policy may be made by the Derby City Council.