

Memorandum



DATE June 4, 2010

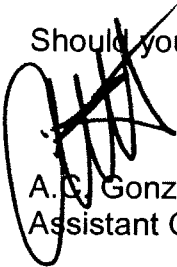
TO Members of the Economic Development Committee: Ron Natinsky (Chair),
Tennell Atkins (Vice Chair), Dwaine Caraway, Jerry R. Allen, Sheffie Kadane,
Linda Koop, Ann Margolin, Steve Salazar

SUBJECT Public/Private Partnership Program

On Monday, June 7, 2010, the Economic Development Committee will be briefed on the Public/Private Partnership Program.

Briefing material is attached.

Should you have any questions, please contact me at (214) 670-3314.



A. C. Gonzalez
Assistant City Manager

C: The Honorable Mayor and Members of the City Council
Mary K. Suhm, City Manager
Deborah Watkins, City Secretary
Tom Perkins, City Attorney
Craig Kinton, City Auditor
Judge C. Victor Lander, Administrative Judge Municipal Court
Ryan S. Evans, First Assistant City Manager
Forest Turner, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Karl Zavitkovsky, Director, Office of Economic Development
Hammond Perot, Assistant Director, Office of Economic Development
Helena Stevens-Thompson, Assistant to the City Manager

Public/Private Partnership Program

**Economic Development
Committee
June 7, 2010**



Purpose

- Review recommended modifications to the City's Public/Private Partnership Program "Guidelines & Criteria."
- Receive final recommendation from the Committee in preparation for adoption of new guidelines on June 23, 2010.

Background

- Staff previously briefed the Economic Development Committee on the Public/Private Partnership Program in November 2009 and February and May 2010. Topics included:
 - Eligibility Criteria
 - Tools
 - Process
 - Project Evaluation Methods
 - Summary of Transactions
 - Suggested Modifications

Background

- Pursuant to Resolution No. 10-0728, approved on March 10th of this year, the City Council extended the current Program “Guidelines & Criteria” through June 30, 2010.
- Chapter 312 of the Tax Code requires adoption of “Guidelines & Criteria” at least every two years in order to offer tax abatement as an economic incentive.

Public/Private Program Review

- The Public/Private Partnership Program is designed to provide City of Dallas economic support to private for-profit projects with an emphasis on targeted geographies for the following purposes:
 - ✓ Increase the commercial tax base
 - ✓ Create and retain quality job opportunities for Dallas residents
 - ✓ Target investment and job growth in Southern Dallas and Enterprise Zones
 - ✓ Foster the attraction and expansion of targeted industries and existing firms
 - ✓ Maintain a competitive position relative to non-city of Dallas sites
 - ✓ Encourage the redevelopment of sites and areas experiencing disinvestment
- The Program Guidelines & Criteria provide a framework for negotiations with businesses/developers on potential projects and are attached as Exhibit A. Downtown residential projects can currently be considered pursuant to a December 2006 program amendment.



Public/Private Program Review

- The program typically supports the following non-residential project types:
 - Business Recruitment/Attraction
 - Business Expansion and Retention
 - Retail Development
 - Commercial Real Estate Development



Public/Private Program Review

- Public/Private Economic Development Tools
 - Tax Abatement – an agreement to forego future real property or business property tax revenue from new investment
 - Development Fee Rebates – a rebate of fees charged in the permitting, inspection and regulation of land and building development
 - Public Infrastructure Participation – offset of capital infrastructure costs such as streets, water and other utilities
 - Right-of-Way Abandonment Fee Rebates/Credits – offset of processing fees for abandonment of City property (not to real estate value)
 - Other Program Tools – State law allows for the creation of programs for grants and/or loans pursuant to Chapter 380 of the Local Government Code, such as our TOD program.
- Eligible projects may be supported by the program through the Public/Private Partnership Fund (PILOT payments from Water Utilities) and proceeds from GO Bond propositions for Economic Development



Public/Private Program Review

- In addition to the Public/Private Partnership Program, other programs or tools used to support economic development include:
 - Tax Increment Financing
 - Public/Business Improvement Districts
 - CDBG
 - State and County Programs
 - Municipal Management Districts
 - COD Regional Center
 - New Market Tax Credits/Federal tools

Review of Proposed Amendments

No. 1

- Consolidate infrastructure participation, development fee rebates, ROW abandonment fee rebates/credits, Brownfields site assessments and a new film/tv production component into a revised Business Development Grant Program section
 - Simplifies existing program language and results in no material policy change as these incentives are already (or can be) implemented pursuant to Chapter 380 of the Local Government Code

Review of Proposed Amendments

No. 2

- Currently, the “primary” contractual requirements for receipt of tax abatement are that a company must meet a specific job creation/retention number and make specified capital expenditures on a predefined improvement.
 - Notwithstanding the City Council’s ability to consider modifying the agreement, failure to meet these “primary” contract terms results in loss of the tax abatement benefit and termination of the agreement.
- In addition to jobs and investment as primary considerations for incentives, when able and appropriate, staff also incorporates “secondary” considerations into incentive negotiations.
 - Current “secondary” considerations include a 10% Living Wage bonus, M/WBE participation, resident employment, visitor nights, job fairs, community activities, etc.
- Presently, there is no distinction between “primary” and “secondary” considerations in relation to incentive contracts.
 - Historically, it has been difficult to incorporate “secondary” considerations into contracts because companies are concerned about losing the entirety of their incentive should they not meet a “secondary” consideration.
- In addition to incorporating the primary minimum investment and job requirements, when appropriate staff proposes one of two methods to address the “secondary” factors described above relative to incentive agreements:
 - (1) Incorporate negotiated specific reductions into City Council resolutions and authorized agreements should a company not meet agreed upon terms/goals on a case-by-case basis, or,
 - (2) Incorporate a specific reduction of 25 percent of the negotiated incentives in the program Guidelines and Criteria for failing to meet a secondary factor
- Either of the two proposed changes allows for a clarification of the risk (amount of lost incentive) to companies when agreed upon secondary goals are not met rather than a potential all or nothing situation when a company has met its primary obligations under a contract.

Review of Proposed Amendments

No. 3

- Reduce minimum eligibility in CBD and north Dallas commercial and enterprise zones to 150 jobs or \$10 million investment to facilitate recruitment of companies to fill vacant office space.
 - Office Vacancy Rates in the Central Business District are 29%, the highest in the DFW region (GVA Cawley Office Market Overview – 1st Quarter 2010)
 - Dallas CBD Office Vacancy rate is the highest in the nation, and twice the national CBD average vacancy (Cushman & Wakefield 2Q 2009 Market Beat – US Office Report)
 - Office absorption continues to be slow: the DFW office market posted its fourth consecutive quarter of space losses (Grubb & Ellis Office Trends Reports – 1st Quarter 2010)

Review of Proposed Amendments

No. 4

- Sunset existing program for multi-family residential projects in Central Business District due to lack of activity.

Next Steps

- City Council consideration of new Guidelines & Criteria on June 23, 2010.

Exhibit A



City of Dallas

City of Dallas

Public/Private Partnership Program Guidelines and Criteria for Non-Residential Projects

Office of Economic Development
Dallas City Hall, Room 5CS
Dallas, Texas 75201
Phone: (214) 670-1685
Fax: (214) 670-0158

| | Minimum Eligibility | Tax Abatement* | Infrastructure Cost Participation | Development Fee Rebates | ROW Abandonment Rebates/Credits |
|--|--|---|---|---|--|
| | <i>Criteria</i> | percentage on <u>added</u> real estate or personal property value | City pays portion of required City infrastructure within ROWs or easements | rebate of fees charged by the City in the regulation of land development | rebate and/or credit of fees charged by City for public right-of-way abandonment |
| SOUTHERN DALLAS ENTERPRISE ZONES and COMMERCIAL ZONE (Non-EZ Sites) | <ul style="list-style-type: none"> projects creating or retaining 25 plus jobs <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> minimum \$1 million investment | <ul style="list-style-type: none"> up to 90% abatement for 10 years on added real estate value <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> up to 50% abatement for 5 years on net new business personal property | <ul style="list-style-type: none"> case-by-case up to 50% maximum over 30% requires City bidding procedures participation shall not exceed 25% of total on site improvement costs | <ul style="list-style-type: none"> case-by-case 100% rebate on not-to-exceed basis payable after Certificate of Occupancy issued | <ul style="list-style-type: none"> 25% rebate credit for special public improvements |
| NORTHERN DALLAS ENTERPRISE ZONES | <ul style="list-style-type: none"> projects creating or retaining 200 plus jobs <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> minimum \$10 million investment | <ul style="list-style-type: none"> up to 50% abatement for 10 years on added real estate value <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> up to 50% abatement for 5 years on net new business personal property | <ul style="list-style-type: none"> case-by-case up to 50% maximum over 30% requires City bidding procedures participation shall not exceed 25% of total on site improvement costs | <ul style="list-style-type: none"> case-by-case 100% rebate on not-to-exceed basis payable after Certificate of Occupancy issued | <ul style="list-style-type: none"> 25% rebate credit for special public improvements |
| NORTHERN DALLAS COMMERCIAL ZONE (Non-EZ Sites) | <ul style="list-style-type: none"> projects creating or retaining 250 jobs <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> minimum \$15 million investment | <ul style="list-style-type: none"> case-by-case | <ul style="list-style-type: none"> not available | <ul style="list-style-type: none"> not available | <ul style="list-style-type: none"> not available |
| CENTRAL BUSINESS DISTRICT | <ul style="list-style-type: none"> projects creating or retaining 250 plus jobs <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> minimum \$25 million investment | <ul style="list-style-type: none"> up to 75% abatement for 5 years on net new business personal property <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> projects in non-TIF District sites require a minimum 750 jobs and \$100M investment for a tax abatement on real property up to 90% for 10 years | <ul style="list-style-type: none"> case-by-case up to 50% maximum over 30% requires City bidding procedures participation shall not exceed 25% of total on site improvement costs | <ul style="list-style-type: none"> case-by-case 100% rebate on not-to-exceed basis payable after Certificate of Occupancy issued | <ul style="list-style-type: none"> rebate not available credit for special public improvements |
| NON-CONFORMING | <ul style="list-style-type: none"> case-by-case | <ul style="list-style-type: none"> negotiable terms | <ul style="list-style-type: none"> negotiable terms | <ul style="list-style-type: none"> negotiable terms | <ul style="list-style-type: none"> negotiable terms |

The information contained herein shall not be construed as implying or suggesting that the City of Dallas is offering or is under any obligation to provide tax abatement or other incentives to any applicant, and all applicants shall be considered on a case-by-case basis. Pawnshops, Sexually Oriented Businesses, Bars, Trucks Stops and Truck Dealerships are excluded from consideration for incentives provided under this program.

- Firms willing to pay at or above Living Wage levels for certain job classifications may be considered for 10% bonus tax abatement.

City of Dallas Public/Private Partnership Program Summary for Non-Residential Projects

City of Dallas Public/Private Programs

It is the purpose of the following programs to provide assistance only for projects where such assistance is necessary to stimulate private investment. Accordingly, these programs are available when agreements between the City and private parties that are not tax-exempt are approved by City Council prior to private investment occurring. Projects seeking economic incentives must provide written assurance that 'but for' the incentives sought, the proposed project would be substantially altered such that the economic returns to the city would be reduced or the project would not otherwise occur in the city. Projects occurring in Southern Dallas and Strategic Investment Areas are provided special consideration.

Tax Abatement

Temporary abatement of either real estate or business personal property taxes for a period not to exceed 10 years. In limited cases, Southern Dallas projects may be considered for a combination of both real and personal property tax abatement when the combined amount does not exceed 90 percent of the City taxes on total new improvement value. Recipient firms provide initial certification of required improvements and annual certification of job requirement. City staff may consider Dallas resident employment, contracting with local and minority and women owned businesses, efforts to exceed minimum environmental regulations, wage rates, community activities, and target industry projects when negotiating this incentive. In support of the City's M/WBE Program, a goal is set that two-thirds of the City's real property tax abatement agreements for new construction include a Fair Share and local contractor component. Real property tax abatement is not available in TIF Districts within the Central Business District (CBD) or in portions of the Downtown Connection TIF District located outside the CBD. All financial incentive terms must begin by January 1 of the second calendar year following City Council authorization.

Infrastructure Cost Participation

Without complying with competitive sealed bidding procedure, the City may participate in the costs of constructing infrastructure improvements at a level not to exceed 30 percent of the total contract price or at a level not to exceed 100 percent of the total cost for any over sizing of improvements required by the City, including, but not limited to increased capacity of the of improvements to future development in the area. Projects wherein City participation exceeds 30 percent of infrastructure costs require compliance with public competitive sealed bidding procedures.

Development Fee Rebates

On a 'case by case' basis the City may approve an economic development grant in the amount of fees charged in the regulation of land development on a not-to-exceed basis. The rebate is payable after a Certificate of Occupancy is issued and contingent upon funding availability.

ROW Abandonment Rebates and Credits

City may approve an economic development grant in the amount of monetary fees charged by the City for abandonment of public right-of-way and contingent upon funding availability. Such rebates are payable after City issues a Certificate of Occupancy; credits are offset against the costs of constructing certain negotiated public improvements which are not otherwise required of the developer.

Business Development Grant Program

Companies considering a relocation/expansion in the city of Dallas may be eligible for a grant in lieu of tax abatement or to defray project costs such as: land purchase, building costs, loan guarantees, training costs, relocation costs, etc. Grants will be considered on a case-by-case basis and are subject funding limitations. Companies will be required to meet eligibility requirements of the Public/Private Partnership Program.

Transit-Oriented Development (TOD) Program

Minimum eligibility for consideration of city incentives through the Public/Private Partnership Program will require a cumulative investment of \$300 million for new mixed-use, commercial, retail and/or residential development in proximity of at least two DART light-rail transit (with one or both in Southern Dallas) stations. TOD projects are eligible for consideration for the full complement of necessary and appropriate incentives available through this program including, but not limited to, tax increment financing, tax abatement, grants and loans, infrastructure cost participation. Residential developments seeking incentives will be required to have a 20 percent affordable housing set aside in North Dallas and mixed-income housing in Southern Dallas. Further, projects must meet the City's established Good Faith Effort guidelines for M/WBE participation.

Economic Development GO Bond Program for Southern Dallas

General Obligation Bond funding may be used as described in this paragraph for private commercial, industrial, retail, residential, and mixed-use development in the Southern area of the city that promotes economic development. Funding may be provided as a catalyst to promote private economic development and may be used for planning, designing, extending, constructing and acquiring land for public streets, utilities and other related infrastructure facilities or uses consistent with this purpose. Funding is also available in support of mixed-use or residential development, for the acquisition of improved and unimproved properties and for the cost of demolition of existing structures. Private developments may be eligible for economic development grants and loans pursuant to Chapter 380 of the Texas Local Government Code. Grants and loans will be considered for infrastructure improvements and/or land acquisition consistent with the scope of funding and other uses described above. Grants or loans will be considered on a 'case by case' basis subject to funding limitations and development agreements approved by City Council, which agreements will contain appropriate conditions, safeguards and benchmarks to ensure that the public purpose of economic development will be carried out. Further it is anticipated that resources and other forms of development assistance from other applicable City economic development programs may be utilized to support this program.

City of Dallas Public/Private Partnership Program

Summary for Non-Residential Projects

Local Government Corporation (LGC) Grant Program

The City of Dallas will consider making grants from its general fund to a LGC, subject to annual appropriation of funds and the approval of the Dallas City Council. These funds will be restricted to the payment of project costs, including the payment of debt service on any bonds issued by the LGC to finance project costs, and the funding of any necessary reserve fund or capitalized interest accounts and the payment of the cost of issuance of bonds.

Target Industry Projects

Target Industry projects are generally defined as follows: Brownfields or recycling, information technology, building materials, media, advanced instruments and food processing/distribution. Target Industry projects must be confirmed in advance by the City in order to receive consideration under this designation.

Non-Conforming Projects

Non-Conforming projects are considered on a case by case basis for high impact projects, unique developments and competitive situations where projects may receive competing offers of incentives. These projects require a simple majority vote of City Council in Southern Dallas and a 3/4 vote of City Council in the CBD and in Northern Dallas. High Impact Project - Projects creating/retaining a minimum of 500 jobs with substantial capital investment. In addition, this status may be granted to major projects by Fortune 500, Manufacturers 400 or Global 500 listed firms.

Unique and Special Developments

Projects which have a metro-wide market area, and bring significant outside income into the City's economy and/or non-residential projects located in blighted areas as defined by the reinvestment zone provision in the Property Redevelopment and Tax Abatement Act.

Competitive and Retention Projects

In special cases, companies receiving competing offers of incentives or those currently located in the city of Dallas considering a relocation/expansion are eligible to apply for financial incentives with negotiable terms. Existing firms must expand job base by 25 percent to be eligible for consideration. Incentives may be offered in specific cases to 'match other offers.' Companies may be required to demonstrate competing cities, offers, land/lease costs, taxes at current rates, utility rates, relocation costs, other significant costs and 'gap' to be filled, etc.

Brownfields

Brownfields program may provide no-cost Phase I and Phase II Environmental Site Assessments for eligible properties. To be eligible, each site must: be within City limits and abandoned or underutilized; have a near-term economic redevelopment plan; not be under federal or state enforcement actions or a Resource Conservation and Recovery Act (RCRA)

permitted facility. In addition, the owner and applicant must authorize, in writing, permission to designate the site a Brownfield and applicant or prospective purchaser will consider entering site into the Texas Voluntary Cleanup Program. Brownfield sites are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Other Sources of Financial Assistance

Tax Increment Districts

Special districts funding public improvements (not services) with increased tax revenues resulting from new private development. Tax rates are the same as elsewhere in the City and no added cost to private parties is incurred.

Public Improvement Districts

Special districts created by petition to privately fund public improvements or special supplemental services over and above those provided by City, when such services are supportive of related City investments in capital improvements.

Freeport Exemption

The City offers property tax exemption on eligible goods 'in transit-those to be sent out of state within 175 days from acquisition to be assembled, stored, manufactured, processed or fabricated. Oil and natural gas do not qualify.

Foreign Trade Zone

Allows duty-free importing of foreign-made components into the Zone, where they may be assembled, manufactured, processed or packaged, Duties are charged only when products are subsequently distributed into the U.S. market- if they are shipped to international markets, no duty is levied.

Enterprise Zone Project Designation (State)

For qualified and approved businesses of 100 or more new jobs to the state of Texas, the City may apply to the State to rebate sales and use taxes paid, on a per-job basis. Also available is a reduction on a firm's franchise tax.

Grants and Loans

For qualified and approved businesses, the City will consider special programs for loans and grants to promote local economic development.

To obtain more detail on these programs, or to inquire regarding other assistance, contact: Office of Economic Development, Dallas City Hall, Room 5CS, Dallas, Texas 75201, Phone: (214) 670-1685, Fax: (214) 670-0158



City of Dallas

Public/Private Partnership Program Guidelines and Criteria for Residential Projects

| | <i>Minimum Eligibility Criteria</i> | <i>Tax Abatement*</i> |
|---------------------------------|--|--|
| | | percentage on <u>added</u> real estate or personal property value |
| CENTRAL BUSINESS DISTRICT | <ul style="list-style-type: none"> • minimum of 75 residential units added and more than four floors, • Minimum of \$15 million in private investment, • located within the CBD downtown freeway loop but outside DC and CC TIF Districts and within CBD downtown freeway loop, • Project not receiving tax abatement must have a minimum of 75 residential units, \$15 Million in private investment, and develop more than four floors, • Both projects are required to have the same developer . | <ul style="list-style-type: none"> • Projects that meet the minimum eligibility criteria can qualify for tax abatement on real property up to 90% for up 10 years on added real estate value <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Economic development grant in lieu of a tax abatement in an amount to be based on this criteria. |

Office of Economic Development
 Dallas City Hall, Room 5CS
 Dallas, Texas 75201
 Phone (214) 670-1685
 Fax: (214) 670-0158

City of Dallas Public/Private Partnership Program Summary for Non-Residential Projects

City of Dallas Public/Private Partnership Program Guidelines and Criteria Summary for Residential Projects

City of Dallas Public/Private Programs

It is the purpose of the following program to provide assistance for projects in the Central Business District (the "CBD") only where such assistance is necessary to stimulate private investment. Accordingly, this program is available when agreements between the City and private parties that are not tax-exempt are approved by City Council prior to private investment occurring. Projects seeking economic incentives must provide written assurance that "but for" the incentives sought, the proposed project would be substantially altered such that the economic returns to the city would be reduced or the project would not otherwise occur in the city.

Tax Abatement / Grant in Lieu of Tax Abatement

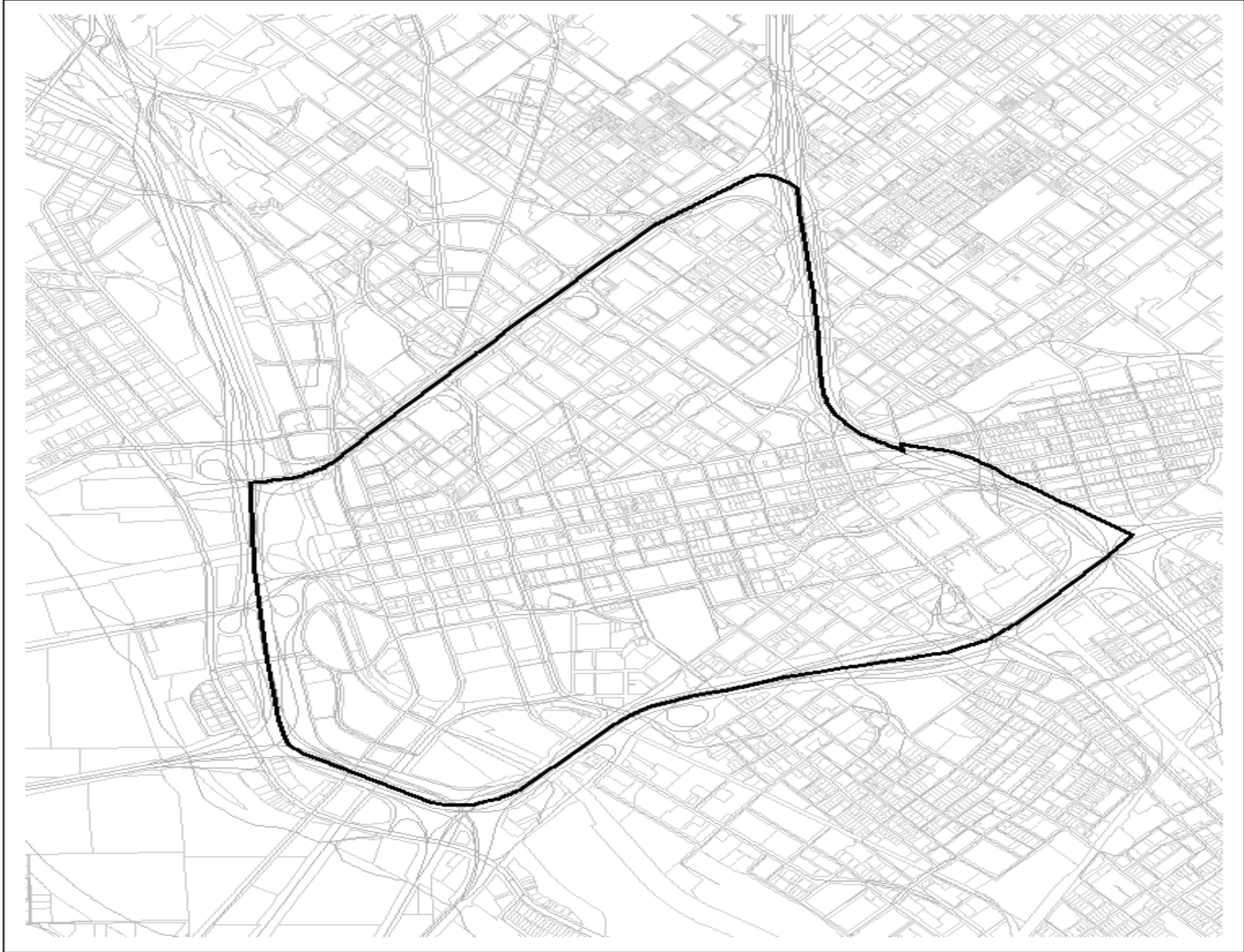
These mechanisms will allow for temporary abatement of real estate property taxes or economic development grants in lieu of tax abatement for an amount not to exceed 90 percent of the City's taxes on the total new improvement value of a property for a period of up to 10 years. To qualify for this type of incentive the project must be a residential project within the Downtown Freeway Loop but outside the Downtown Connection or City Center TIF District during the term of each district. A "Residential Project" receiving tax abatement must be a development or redevelopment that will create a minimum of 75 additional residential units, will have more than four floors and will include a minimum of \$15,000,000 in private investment. The residential development must be developed in conjunction with another development project located within either the Downtown Connection or City Center TIF Districts and within the CBD downtown freeway loop by the same or affiliated developer/owner. The second project not receiving tax abatement must have a minimum of 75 residential units, \$15,000,000 in private investment, and have more than four floors. Catalyst projects that create a minimum of 375 residential units and \$55,000,000 in private investment may have the two project criteria waived.

Non-conforming projects within the Central Business District are considered on a case by case basis and may be approved by a super majority (three-fourths) vote from the voting members of City Council.


Any developer receiving incentives for a residential project must verify the completion of the required improvements to City Staff and complete all contingencies outlined in the agreement. In support of the City's Good Faith Effort Program, a goal is set that two-thirds of the City's real property tax abatement agreements or economic development grants in lieu of tax abatement agreements include a Fair Share and local contractor component. In addition, all residential projects approved for tax abatement or such economic development grants will be subject to a ten percent affordable housing set-aside requirement. All Residential Project incentives are provided at the City's discretion and are subject to City Council approval.

For residential development projects that are rental-occupied, the tax abatement agreements will outline all required contingencies that must be met before tax abatements may be granted each year. The agreement may only be entered into with the developer/owner of the project.

For residential development projects that are owner-occupied, the economic development grant agreements will outline all required contingencies that must be met before grant payments will be made each year. An agreement may be entered into with the developer/owner of the project. In addition, economic development grant amounts will be determined as of January 31st of every year the agreement is active based on applicable tax payments made.

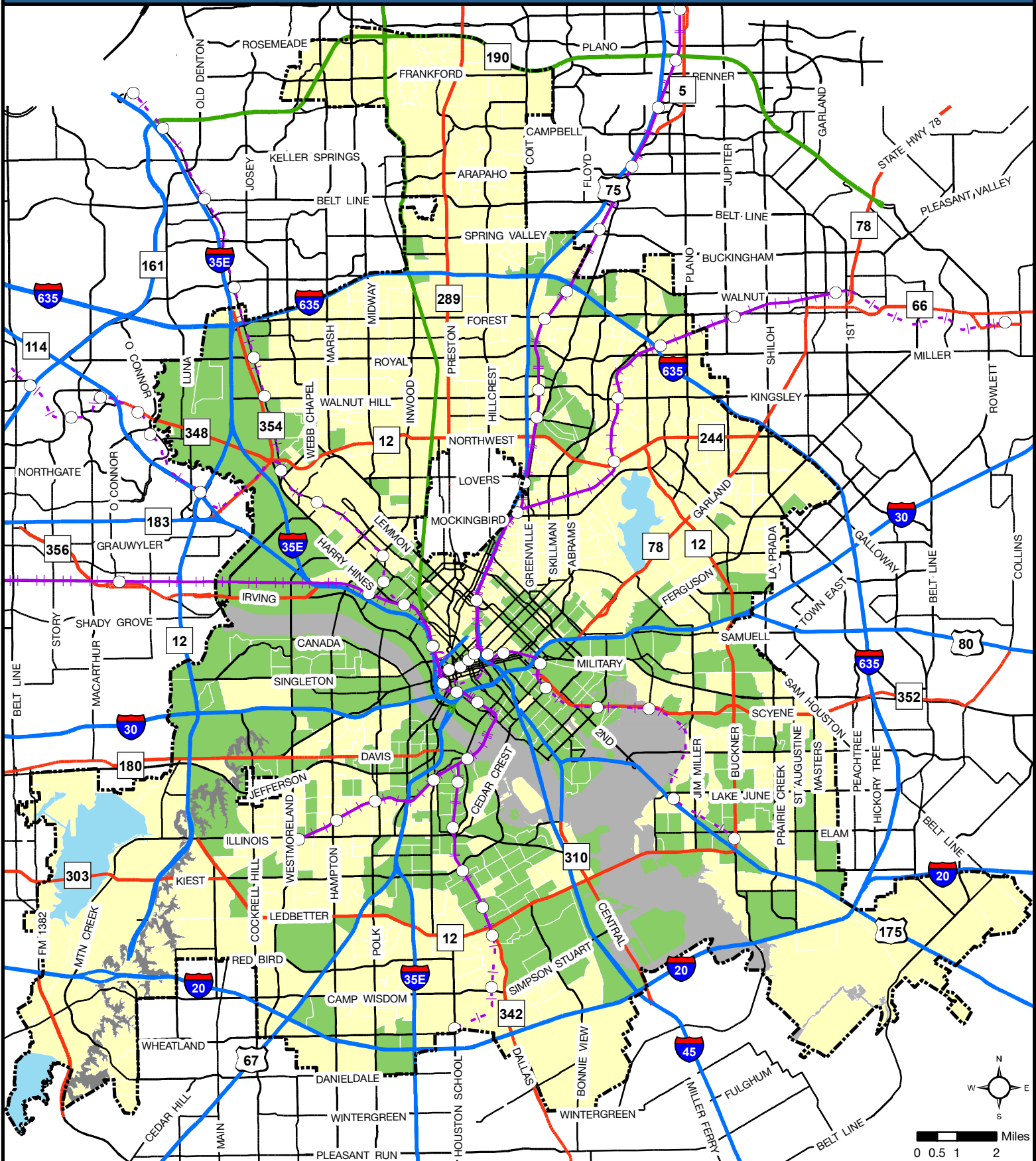


**Public/ Private
Partnership Program -
Residential Projects**

 Central Business District
Inside the Freeway Loop



City of Dallas: Enterprise Zones



**DALLAS
ECONOMIC
DEVELOPMENT**

Research & Information Division
214.670.1685
dallas-ecodev.org

Created 12.3.2009, Last Updated 12.18.2009 - EntZone.TCG

Legend

- Enterprise Zones
- City of Dallas
- DART Rail Station
- DART Rail Lines
- DART Rail Line Extensions
- Arterial
- Highway
- Tollway
- Freeway
- Escarpment
- Flood Plain
- Lake

Source: Population Data - SRC DemographicsNow, 2009; Rail Lines - DART, 2009; Roads & Boundaries - City of Dallas, 2009