

**TAX  
PHASE-IN  
ORDINANCE**

AN ORDINANCE

99699

**AUTHORIZING THE CITY MANAGER TO EXECUTE A 10-YEAR, 100% TAX PHASE-IN AGREEMENT WITH DPT LABORATORIES, LTD. ("DPT") TO EXEMPT FROM AD VALOREM TAXATION APPROXIMATELY \$1.3 MILLION IN REAL PROPERTY (LEASEHOLD INTEREST) IMPROVEMENTS, \$2.5 MILLION IN NEW PERSONAL PROPERTY IMPROVEMENTS, AND \$18.8 MILLION IN INVENTORY AND SUPPLIES FOR NEW FACILITIES AT BROOKS CITY-BASE; AND APPROVING AN EXCEPTION TO THE JOINT CITY/COUNTY TAX PHASE-IN GUIDELINES.**

\* \* \* \* \*

**WHEREAS**, DPT Laboratories, LTD. ("DPT") is a privately-owned local pharmaceutical manufacturer founded and located in the City of San Antonio (the "City") in 1938 with additional operations in Fort Worth; Lakewood, New Jersey; Ithaca, New York; and Ahrensburg, Germany; and

**WHEREAS**, DPT currently employs a total of 1,572 people at these locations, 607 of whom are employed in the City with an annual City payroll of \$27.5 million and with an average annual salary of \$45,000; and

**WHEREAS**, the company occupies 420,000 square feet in four facilities downtown at 318 McCullough (DPT headquarters), 200 Josephine, 307 Josephine and 4040 Broadway; and

**WHEREAS**, the company also occupies 210,000 square feet of warehouse and production space in facilities located at 5303 Distribution Drive and 5713 Business Park Drive, as well as 5,000 square feet of leased space at Brooks City-Base utilized for bio-science research with the Air Force; and

**WHEREAS**, the company specializes in the development, manufacture and distribution of cosmetic products for several Fortune 500 pharmaceutical companies and plans to add to its local warehouse operations as well as increase its research and development capacity; and

**WHEREAS**, DPT is currently considering an 18.7 acre site at Brooks City-Base for this project (the "Project"), to include a 228,000 square foot warehouse/laboratory facility and a 30,000 square foot research and development facility; and

**WHEREAS**, an adjacent 20 acres for future expansion that would accommodate additional pharmaceutical manufacturing is also under consideration; and

**WHEREAS**, the Project would relocate 131 existing jobs (including 36 scientists) to the new facilities and add at least 74 new jobs, 49 of which would be for research and development, over the next 10 years; and

**WHEREAS**, a capital investment of \$19.8 million is planned for the facilities that will be owned by the BDA and leased to DPT for 15 years, of which DPT will invest \$5 million in real property improvements, \$2.5 million in new personal property and maintain an annual inventory of \$18.8 million; and

**WHEREAS**, the BDA is investing approximately \$3,629,000 in the Project for land, road improvements, storm water detention and landscaping; and

**WHEREAS**, the City plans to invest \$1.3 million, proposed in the FY 2005 Budget to be funded by a HUD 108 loan, toward road infrastructure at Brooks City-Base that supports this Project; and

**WHEREAS**, the BDA is competing with the city of Schertz as well as DPT's existing sites in Fort Worth and Lakewood, New Jersey in order to keep jobs and operations located in San Antonio; and

**WHEREAS**, DPT is requesting a 100%, 10-year tax abatement on its investment of \$2.5 million in new personal property improvements, \$1.3 million in real property leasehold interest (the annual cost of DPT's lease on the BDA-owned land and facilities) and \$18.8 million in inventory and supplies (of which approximately 90% is expected to be eligible for exemption under the Freeport Exemption program based on the Project site); and

**WHEREAS**, if DPT purchases the real property from the BDA at a later date, or if the BDA were to lose its tax-exempt status or sell the real property to a taxable entity other than DPT, then DPT is also requesting that the real property taxes be abated for any remaining term of an agreement; and

**WHEREAS**, although granting an exemption of the ad valorem taxes on the personal property, based on the level of investment, and the inventory and supplies would require an exception to policy under the Tax Phase-In Guidelines (the "Guidelines"), the Project supports the Strategic Plan for Enhanced Economic Development and the requirements in the Guidelines for real property investment, as a targeted industry, wages and benefits and term of the abatement; and

**WHEREAS**, the City Council finds that approving the tax abatement referenced herein is in the best interest of the City; **NOW THEREFORE:**

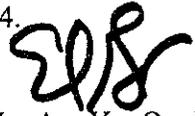
**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Council hereby approves an exception to the Joint City/County Tax Phase-In Guidelines and approves a 100%, ten-year Tax Phase-In Agreement with DPT Laboratories, LTD. to exempt improvements from ad valorem taxation for approximately \$1.3 million in real property leasehold interest, \$2.5 million in new personal property and \$18.8 million in inventory and supplies, as well as the real property improvements for any remaining term of the Agreement if DPT becomes subject to taxes on this property. A copy of the Agreement is attached hereto as Attachment 1.

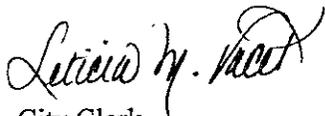
**SECTION 2.** The City Manager or designee is authorized, for a sixty (60) day period from the effective date of this ordinance, to execute an Agreement as approved in Section 1. The final Agreement shall be filed with this Ordinance upon execution.

**SECTION 3.** This ordinance shall be effective on and after the tenth (10th) day after passage hereof.

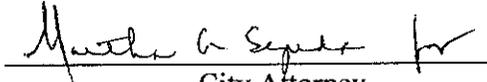
PASSED AND APPROVED this 9th day of September, 2004.

  
M A Y O R  
EDWARD D. GARZA

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

# Agenda Voting Results

**Name:** 26. #99699

**Date:** 09/09/04

**Time:** 06:44:55 PM

**Vote Type:** Multiple selection

**Description:** 26. An Ordinance authorizing the City Manager to execute a 10-year, 100% Tax Phase-In Agreement with DPT Laboratories, LTD. ("DPT") to exempt from ad valorem taxation approximately \$1.3 million in real property (leasehold interest) improvements, \$2.5 million in new personal property improvements, and \$18.8 million in inventory and supplies for new facilities at Brooks City-Base; and approving an exception to the Joint City/County Tax Phase-In Guidelines. [Presented by Ramiro A. Cavazos, Director, Economic Development; J. Rolando Bono, Deputy City Manager]

**Notes:** Motioned: RICHARD PEREZ    Seconded: RON H. SEGOVIA    Notes:

| Voter                   | Group       | Status | Yes | No | Abstain |
|-------------------------|-------------|--------|-----|----|---------|
| ROGER O. FLORES         | DISTRICT 1  |        | x   |    |         |
| JOEL WILLIAMS           | DISTRICT 2  |        | x   |    |         |
| RON H. SEGOVIA          | DISTRICT 3  |        | x   |    |         |
| RICHARD PEREZ           | DISTRICT 4  |        | x   |    |         |
| PATTI RADLE             | DISTRICT 5  |        | x   |    |         |
| ENRIQUE M. BARRERA      | DISTRICT 6  |        | x   |    |         |
| JULIAN CASTRO           | DISTRICT 7  |        | x   |    |         |
| ART A. HALL             | DISTRICT 8  |        | x   |    |         |
| CARROLL SCHUBERT        | DISTRICT 9  |        | x   |    |         |
| CHRISTOPHER "CHIP" HAAS | DISTRICT_10 |        | x   |    |         |
| MAYOR ED GARZA          | MAYOR       |        | x   |    |         |

|                           |             |   |  |          |
|---------------------------|-------------|---|--|----------|
| DO NOT TYPE IN THIS SPACE |             | <b>CITY OF SAN ANTONIO</b><br><br><b>Request For Ordinance/Resolution</b> | For CMO use only   |          |
| Approval                  |             |   | Date Considered  |          |
| Finance                   | Budget      |   | Consent <input type="checkbox"/> Individual <input type="checkbox"/> |          |
| Legal                     | Coordinator | Item No.  |  | Grd. No. |

|   |   |   |
|---|---|---|
| Date:<br>Sept. 3, 2004  | Department:<br>Economic Development       | Contact Person/Phone #:<br>Ramiro A. Cavazos/x78040   |
| Date Council Consideration Requested: Thursday, September 9, 2004 | Deadline for Action:<br>September 9, 2004 | Dept. Head Signature<br> |

The purpose of this item is to consider an ordinance authorizing the City Manager to execute a Tax Phase-In Agreement with DPT Laboratories, LTD. ("DPT") to exempt from ad valorem taxation approximately \$1.3 million in real property (leasehold interest) improvements, \$2.5 million in new personal property, and \$18.8 million in inventory and supplies for operations to be located in new facilities at Brooks City-Base. This Agreement would be for a 10-year term.

Staff recommends approval of this ordinance.

Other Depts., Boards, Committees Involved (please specify):  
City Attorney's Ofc., Public Works, Development Services, Planning, Finance, Police, Fire, and BDA.

Contract signed by other party      Yes     No

**FISCAL DATA (If Applicable)**

|                    |                     |  |
|--------------------|---------------------|--|
| Fund No. _____     | Amt. Expended _____ | Funds/Staffing Budgeted    Yes <input type="checkbox"/> No <input type="checkbox"/> NA |
| Activity No. _____ | SID No. _____       | Positions Currently Authorized   |
| Index Code _____   | Project No. _____   | Impact of future O & M   |
| Object Code 02-116 |                     | If positions added, specify class and no.  |

|                                  |  |
|----------------------------------|--|
| <b>Comments:</b><br><br><br><br> | Coordinator - White<br>Legal - Green<br>Budget - Canary<br>Finance - Pink<br>Originator - Gold |
|                                  |  |
|                                  |  |
|                                  |  |

**CITY OF SAN ANTONIO  
INTERDEPARTMENTAL MEMORANDUM  
ECONOMIC DEVELOPMENT DEPARTMENT**

**TO:** Mayor & City Council

**FROM:** Ramiro A. Cavazos, Director, Economic Development Department

**THROUGH:** Terry M. Brechtel, City Manager

**COPIES:** J. Rolando Bono; Andy Martin; Milo Nitschke; Trey Jacobson; Veronica Zertuche; Ed Davis; File

**SUBJECT:** Tax Phase-In <sup>Agreement with</sup> ~~and Economic Development Incentive Fund (EDIF) Incentives to~~  
Attract DPT Laboratories, LTD. ~~to Brooks City-Base~~

**DATE:** September 9, 2004

**SUMMARY AND RECOMMENDATIONS:**

The purpose of this item is to consider an ordinance authorizing the City Manager to execute a Tax Phase-In Agreement with DPT Laboratories, LTD. ("DPT") to exempt from ad valorem taxation approximately \$1.3 million in real property (leasehold interest) improvements, \$2.5 million in new personal property, and \$18.8 million in inventory and supplies for operations to be located in new facilities at Brooks City-Base. This Agreement would be for a 10-year term.

Staff recommends approval of this ordinance.

**BACKGROUND INFORMATION:**

DPT (Dermatological Products of Texas) is a privately owned local pharmaceutical manufacturer founded in San Antonio in 1938. DPT has operations in San Antonio (607 jobs), Fort Worth (325 jobs), Lakewood, N.J. (560 jobs), Ithaca, N.Y. (40 jobs) and Ahrensburg, Germany (40 jobs). The company specializes in the development, manufacture and distribution of products for several Fortune 500 pharmaceutical companies. In San Antonio, DPT occupies 420,000 square feet in two facilities downtown at 318 McCullough (company headquarters) and at 307 E. Josephine. The company also occupies 210,000 square feet of warehouse space in facilities at Rittiman and I-35, and has leased 5,000 square feet at Brooks City-Base since 2001, conducting bio-science research with the Air Force on the treatment of wounds. DPT's annual payroll in San Antonio is \$27.5 million with an average annual salary of \$45,000. DPT paid \$93,447 in property taxes to the City in 2003.

DPT plans to consolidate their local warehouse operations and to add new research and development capacity. They are currently considering an 18.7 acre site at Brooks for this project which will include a 228,000 square foot warehouse/laboratory facility and a 30,000 square foot research and development facility. DPT will also secure an adjacent 20 acres for future expansion that would accommodate additional pharmaceutical manufacturing. DPT intends to relocate 131 existing jobs (including 36 scientists) to the new facilities and add at least 74 new jobs (49 research and development) over the next 10 years.

The project involves a capital investment of \$19.8 million for the facilities that will be owned by the BDA and leased to DPT for 15 years. This amount includes a DPT cash investment of \$5 million in the project. DPT will invest another \$2.5 million in new personal property and transfer \$2.5 million in existing personal property to Brooks. DPT expects to maintain an annual inventory of \$18.8 million at the Brooks' facilities.

The BDA is investing approximately \$3,629,000 in the project for land, road improvements, storm water detention and landscaping. The City's current proposed investment in the project is \$1.3 million for road infrastructure at Brooks. This amount is currently in the proposed FY 2005 Budget to be funded by a HUD 108 loan.

The BDA is competing with Schertz, TX and DPT's existing sites in Fort Worth, TX and Lakewood, NJ for this project. If DPT does not choose to locate at Brooks, the company will likely consolidate their San Antonio warehouse operations (80 jobs) at Schertz and relocate 51 R&D jobs to Fort Worth and/or Lakewood, N.J. where they have existing capacity.

By locating at Brooks, DPT would be automatically entitled to the three site-related incentives. First, DPT will not pay property taxes on approximately \$19.8 million in real property (land and facilities), since the BDA, a tax-exempt entity, will own the land and facilities. This will result in a 10-year tax savings of approximately \$4.2 million for DPT. Second, DPT will be eligible for a "Triple Freeport" exemption on its inventory taxes from the City, County and San Antonio ISD. DPT estimates that 90 percent of its \$18.8 million annual inventory should qualify for this tax exemption, saving the company approximately \$507,116 per year. Third, DPT can also take advantage of Federal Empowerment Zone (EZ) tax credits of up to \$3,000 per year for each EZ resident employed at Brooks.

As an additional incentive, DPT is requesting a 100 percent, 10-year tax abatement on \$2.5 million of new personal property, \$1.3 million in real property leasehold interest (annual cost of DPT's lease on land and facilities), and \$18.88 million in inventory and supplies. If DPT, at a later date, purchases the real property from the BDA, or if the BDA were to lose its tax-exempt status, then DPT is also requesting a 100 percent abatement on any future real property taxes (land and facilities) that may occur over the remaining term of the Agreement. While it is unlikely that either of these two scenarios will occur, DPT has requested inclusion of this provision in the Agreement. DPT also estimates that about 90 percent of its \$18.88 million

in annual inventory will be exempt from City property taxes under the Freeport Exemption program. Therefore, the City is effectively abating taxes on only \$1.88 million of DPT's inventory and supplies as reflected in the following table.

**DPT Inventory and Supplies**

| Inventory and Supplies<br>Subject to a Tax Abatement<br>Under this Agreement | Estimated Amount<br>Exempt From<br>City Property Taxes Under the<br>Freeport Exemption Program | Effective Amount<br>Subject to a Tax Abatement<br>Under this Agreement |
|--|--|--|
| \$18,800,000   | \$16,920,000   | \$1,880,000  |

**POLICY ANALYSIS:**

This project supports the Strategic Plan for Enhanced Economic Development and meets requirements in the City's Tax Phase-In Guidelines for a targeted industry, investment in real property (leasehold interest), wages and benefits, and the term of the abatement. To qualify as a Level 1 tax abatement project, a company must invest at least \$1 million in real property or \$10 million in personal property and create at least 25 new jobs. A company is then eligible for a 100 percent abatement of taxes on either the real or the personal property, but not both. Furthermore, the Guidelines do not permit a tax abatement on inventory and supplies.

DPT's expected real property leasehold interest is \$1.3 million which meets the \$1 million threshold. DPT's personal property investment is \$2.5 million and does not meet the minimum threshold of \$10 million. DPT, however, is requesting a tax abatement on both the leasehold interest and its personal property investment, as well as inventory and supplies. Therefore, this project would require an exception to policy to grant a tax abatement on personal property and on inventory and supplies.

A company must also pay all of its new and existing employees at the project location at least \$8.85/hour, and after one year 70 percent must earn at least \$10.70/hour. In addition, the company must provide access to health insurance for its full-time employees and their dependents. All of DPT's new and retained jobs will meet or exceed the City's wage standard. The average annual salary for the retained jobs is \$54,282 and for the new jobs is \$60,892. DPT will also provide its Brooks' employees and their dependents access to a medical and dental insurance plan.

The following table compares the DPT project to the criteria for a Level project under the City and County Joint Tax Phase-In Guidelines.

| Joint Tax Phase-In Criteria<br>(Level I Project)                         |                            | DPT Project at Brooks City-Base  |
|--|----------------------------|----------------------------------|
| A 100% Abatement on Either Real or Personal Property                     | Real Property => \$1M      | \$1,300,000                      |
|  | Personal Property => \$10M | \$2,500,000                      |
| AND<br>Job Creation => 25 New Jobs                                       |                            | 74 New Jobs<br>131 Retained Jobs |
| Benefits Package   |                            | Yes                              |
| 100% of New and Existing Jobs => \$8.50/hr                               |                            | Yes                              |
| 70% of New and Existing Jobs at or above \$10.70/hr (following one-year) |                            | Yes                              |
| 10-Year Term Inside Loop 410   |                            | Yes                              |

**FISCAL IMPACT:**

The following table details the direct financial impact to the City due to the project's investment, the retention of 131 jobs and the creation of 74 new jobs. Over 20 years, the City will collect \$1,338,094 in revenues from personal property, sales taxes from payroll, and CPS revenues. For this project, the City will abate \$250,756 in property taxes, resulting in a net benefit to the City of \$1,087,338 over 20 years.

**City 20-Year Fiscal Impact on DPT Tax Phase-In Project**  
(100%, 10-Year Term for \$2.5M Personal Property, \$1.3M Leasehold Interest and \$1.88M in Inventory)

| Year  | Property Taxes, Sales Taxes and CPS Revenues Collected (note) | Personal Property, Leasehold Interest and Inventory Taxes Abated | Net Benefit |
|-------|---|--|-------------|
| 1-10  | \$724,545   | \$250,756  | \$473,789   |
| 11-20 | \$613,549   | 0  | \$613,549   |
| Total | \$1,338,094   | \$250,756  | \$1,087,338 |

In the event of default, the phase-in contract will allow the City to recapture up to 100 percent of abated taxes from DPT during the 10-year term and on a prorated basis for another 6 years. Recapture provisions apply if DPT relocates its business activities outside the City limits or ceases conducting business activities in the City limits. The City may also terminate the agreement if DPT fails to retain a minimum of 131 jobs and create 74 additional, full-time jobs during the term of the Agreement.

**COORDINATION:**

Economic Development Department staff coordinated with the City Attorney's Office, Public Works, Development Services, Planning, Finance, Police, Fire, and the Brooks Development Authority.

**SUPPLEMENTARY COMMENTS:**

The Discretionary Contracts Disclosure Form is attached.



Ramiro A. Cavazos, Director  
Economic Development Department

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J. Rolando Bono  
Deputy City Manager

Approved:

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Terry M. Brechtel  
City Manager

Attachments

**City of San Antonio  
Discretionary Contracts Disclosure\***

For use of this form, see City of San Antonio Ethics Code, Part D, Sections 1&2  
Attach additional sheets if space provided is not sufficient.  
State "Not Applicable" for questions that do not apply.

\* This form is required to be supplemented in the event there is any change in the information under (1), (2), or (3) below, before the discretionary contract is the subject of council action, and not later than five (5) business days after any change about which information is required to be filed.

**Disclosure of Parties, Owners, and Closely Related Persons**

For the purpose of assisting the City in the enforcement of provisions contained in the City Charter and the code of ethics, an individual or business entity seeking a discretionary contract from the City is required to disclose in connection with a proposal for a discretionary contract:

(1) the identity of any **individual** who would be a party to the discretionary contract;

None

(2) the identity of any **business entity** that would be a party to the discretionary contract: \_\_\_\_\_ and the name of: \_\_\_\_\_  
DPT Laboratories, Ltd.

(A) any individual or business entity that would be a **subcontractor** on the discretionary contract;

None

(B) any individual or business entity that is known to be a **partner, or a parent or subsidiary** business entity, of any individual or business entity who would be a party to the discretionary contract;

DFB Pharmaceuticals, Inc.  
John W. Feik  
H. Paul Dorman  
Anne B. Windfohr  
John Mason  
John L. Marion

(3) the identity of any **lobbyist or public relations firm** employed for purposes relating to the discretionary contract being sought by any individual or business entity who would be a party to the discretionary contract.

None

**Political Contributions**

Any individual or business entity seeking a discretionary contract from the city must disclose in connection with a proposal for a discretionary contract all political contributions totaling one hundred dollars (\$100) or more within the past twenty-four (24) months made directly or indirectly to any current or former member of City Council, any candidate for City Council, any candidate for City Council, or to any political action committee that contributes to City Council elections, by any individual or business entity whose identity must be disclosed under (1), (2) or (3) above. Indirect contributions by an individual include, but are not limited to, contributions made by the individual's spouse, whether statutory or common-law. Indirect contributions by an entity include, but are not limited to, contributions made through the officers, owners, attorneys, or registered lobbyists of the entity.

| To Whom Made:   | Amount: | Date of Contribution: |
|-----------------|---------|-----------------------|
| Roger Flores    | 250.00  | 10/23/2002            |
| Thomas Aguillon | 100.00  | 01/21/2003            |
| Roger Flores    | 250.00  | 05/12/2003            |

<sup>1</sup>A business entity means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, unincorporated association or any other entity recognized by law.

**Disclosures in Proposals**

Any individual or business entity seeking a discretionary contract with thy City shall disclose any known facts which, reasonably understood, raise a question<sup>2</sup> as to whether any city official or employee would violate Section 1 of Part B, Improper Economic Benefit, by participating in official action relating to the discretionary contract.

|   |   |                 |
|---|---|-----------------|
|   |   |                 |
| Signature:<br> | Title: VICE-PRESIDENT FINANCE<br>Company: OPT LABORATORIES, LTD | Date:<br>9/2/04 |

<sup>2</sup>For purposes of this rule, facts are "reasonably understood" to "raise a question" about the appropriateness of official action if a disinterested person would conclude that the facts, if true, require recusal of require careful consideration of whether or not recusal

