



Large Incentive Business Policy December 13, 2024

Section 1.

Introduction & Goals

It is the intent of this policy to provide guidelines and criteria, requirements, and procedures to evaluate and approve any Incentives deemed necessary by the EDC and City for the furtherance of its economic development and community goals. This policy shall include provisions for use of Type B economic development sales tax funds, general funds of the City, and any other resources as approved by the Council. Incentives may be considered for both new facilities and for the expansion or modernization of existing facilities and structures. Nothing herein shall imply or suggest that the City is under any obligation to provide any incentive to any applicant. The Council retains the right to evaluate applications and grant incentives, if any, as deemed appropriate on a case-by-case basis without the necessity of amending any contrary provisions of this Policy. Following are the goals of this Policy:

- 1.1. When in the best interest of the City, provide Incentives to existing businesses that will enhance the commercial viability and sustainability of existing commercial properties in the City;
- 1.2. When in the best interests of the City, provide Incentives to attract desired businesses or developers to invest in the City;
- 1.3. Grow the local economy by attracting and retaining quality businesses and jobs;
- 1.4. Encourage redevelopment of targeted areas in the City;
- 1.5. Encourage appropriate development of available properties in the City;
- 1.6. Increase the sales and use tax revenue base for the City;
- 1.7. Create opportunities to employ residents of the City; and
- 1.8. Ensure that all policies, procedures and any resulting Performance Agreements related to the provision of Incentives to stimulate economic development shall comply with all applicable state statutes.

Section 2.

Definitions

The following definitions shall apply to the terms used in this Policy.

Act: Shall mean the Development Corporation Act, now codified in Chapters 501-505 of the Texas Local Government Code.

Agreement: Shall mean a Performance Agreement as defined herein.

Agreement in Principle (AIP): Shall mean a non-binding draft of performance requirements of a Project and any Incentives to be offered by the EDC and City.

Applicant: Shall mean the Property owner or business occupant signing the Incentives Application.

Application: Shall mean the Incentives Application as maintained by the GBCEDC.

Appraisal District: Shall mean the Henderson County Central Appraisal District.

Base Year Value: Shall mean the assessed value of the Facility on the 1st of January preceding the execution of a Performance Agreement.

Benefits: Any combination of group benefits for health care, dental care, vision care, disability insurance, or life insurance.

Board (GBCEDC): Shall mean the Board of the Gun Barrel City Economic Development Corporation (GBCEDC) of the City.

Chapter 380 Agreement: An agreement authorized by Chapter 380 of the Texas Local Government Code which authorizes municipalities to establish and provide for the administration of programs that promote economic development and stimulate business and commercial activity in the City;

City: The City of Gun Barrel City, Texas. Where “City” is used in this Policy as an action to be taken or an incentive to be offered, City shall include the GBCEDC as authorized or permitted by State Law.

City Employee: Shall mean those under the direction of the City Manager who exercise authority in conducting their duties to the City of Gun Barrel City.

City Manager: Shall mean the chief administrative and executive officer of the City of Gun Barrel City and shall be responsible to the City Council for the administration of all affairs of the City.

Code Violations: Shall be as defined in the City’s adopted building or zoning codes.

Construction Costs: The cost of permits, fees, construction materials, and installation labor. All other associated costs are deemed excluded, including, but not exclusively, the following costs: design, engineering, construction document preparation, bidding, and construction financing.

Council: The City Council of the City.

County: Shall mean Henderson County, Texas.

Desired Business: Shall mean those businesses outlined in the Target Industry list by NAICS codes.

Effective Date: The date this Policy was approved by the Council.

Employee, Full-Time: Shall mean any employee of the company that regularly works a minimum of thirty (30) hours per week.

Employee, Part-Time: Shall mean any employee that regularly works less than thirty (30) hours a week.

Employees, Full-Time Equivalent (FTE): Shall mean the number of employees equivalent to full-time employees, e.g. two part-time employees working 20 hours each is equal to one full-time employee.

Executive Director: Shall mean the Executive Director of the Gun Barrel City Economic Development Corporation.

Expansion: Shall mean the addition of buildings, structures, fixed equipment or machinery for the purpose of increasing production capacity.

Facility: Shall mean the Property, buildings and Improvements.

Grants: Funds provided by the City for a particular Project in accordance with this Policy.

High-Paying Jobs: Shall mean employees who are paid above the Henderson County average wage.

Improvements: Shall mean the new construction, expansion or modernization of buildings, interiors, site work, infrastructure improvements, parking and drives, landscaping, irrigation, lighting and specifically excluding land and/or business personal property.

Incentives: Shall be as defined in Section 5 herein.

Incentive Task Force (Task Force): Shall mean the City Manager or designated representative, GBCEDC Board President or designated representative, GBCEDC Executive Director, and one additional GBCEDC Board Member. The Task Force, based on the particular project, may also have additional City Employees present per the City Manager or others as needed by the Incentive Task Force included as advisory positions.

Major Milestones: Shall mean signification points in development. Milestones include estimated timeline of the following: financing, purchase or option on property, due diligence period, platting, permitting, construction start and end date, and groundbreaking.

Minimum Performance Requirements: Shall be as defined in Section 6 herein.

Modernization: Shall mean the replacement and upgrading of existing facilities which increases the productive input or output, updates the technology, or substantially lowers the unit cost of the operation, and extends the economic life of the facility. This shall not include reconditioning, refurbishing, repairing or completion of deferred maintenance on the facility or its equipment.

New Construction: Shall mean the first-time construction of improvements utilizing newly purchased materials, and specifically excluding any remodeling or renovations undertaken after issuance of the first Certificate of Occupancy.

Payroll: The company's total expenditures for all employees for the month immediately preceding the Application, multiplied by twelve (12).

Performance Agreement: Shall mean a written agreement summarizing the performance requirements of a business or developer and the Incentives to be provided by the City upon fulfillment of those performance requirements (e.g. Tax Abatement Agreement, Chapter 380 Agreement).

Policy: Shall mean this Incentives Policy.

Primary Job: A job that is 1) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets, infusing new dollars into the local economy; and 2) included in an acceptable sector of the North American Industry Classification System (NAICS) as identified in Section 501.002 (12) of the Act.

Prioritized: A process determined by its relative importance determined by the City and/or Incentive Task Force.

Project: The initiative or investment to be provided in accordance with the performance standards of any Performance Agreement providing Incentives. To the extent that any Type B funds are to be used as Incentives, the Project shall meet the definitions provided in the Act.

Project Applicability: Shall be as defined in Section 7 herein.

Property: Shall mean the physical parcel of land for which Incentives are being granted.

Property – Business Personal: Shall mean the tangible and movable items used in the course of business not permanently affixed to, or part of, the real estate. Examples of Business Personal Property (BPP) include furniture, machinery and equipment, computers, vehicles, inventory and supplies.

Property - Real: Shall mean the Property and the Improvements constructed on the Property.

Infrastructure Improvements: Shall mean improvements that upon completion and acceptance shall be owned and maintained by the City or another entity. (e.g. water, sewer, streets, drainage)

Recapture (aka Claw-back): A provision in a Performance Agreement that states how and to what extent any Incentives provided must be paid back to the City if the required performance criteria are not met.

Retention: Shall mean the preservation of existing businesses and jobs; two main goals: to provide assistance with issues that could force a company to fail and subsequently close; and to prevent companies from relocating to a new community.

Tax Abatement: Shall mean the full or partial exemption from paying ad valorem taxes on real property or tangible personal property in accordance with provisions of Chapter 312 of the Texas Tax Code.

Tax Abatement Agreement: Shall mean an agreement to provide Tax Abatement as authorized by Chapter 312 of the Texas Tax Code. It may also be referenced herein as a Performance Agreement.

Section 3. General Eligibility

The following shall establish the minimum eligibility for receiving incentives identified in this Policy.

- 3.1. Properties: Only properties meeting the following requirements at the time an Application is submitted shall be eligible to receive Incentives outlined by this Policy.

- 3.1.1. Within the City: Property must be located within the City’s municipal boundaries unless provisions for annexation into the City are part of the Performance Agreement.
- 3.1.2. Zoning: Property must be zoned for the proposed uses.
- 3.1.3. Taxes: Property shall be in good standing as it relates to taxes due.
- 3.1.4. Liens: Property shall be in good standing as it relates to any liens.
- 3.1.5. Ownership: Property owners must provide sufficient proof of ownership.
- 3.1.6. Code Violations: Property must not have any outstanding code violations with the City.
- 3.1.7. Geographic Areas: The City’s geographic area preferences for providing Incentives are outlined in the City’s Future Land Use Map and Section 4.1.
- 3.2. Businesses: Only businesses meeting the following requirements shall be eligible to receive the Incentives outlined by this Policy.
 - 3.2.1. Taxes: The business shall be in good standing as it relates to taxes due.
 - 3.2.2. Property Owner Approval: Businesses, if not the owner of the property to be occupied, must provide a copy of their lease agreement and support of the Incentives Application from the Property owner prior to City approval of the Application.
- 3.3. Statutory Limitations: It is the intent of the City to comply with all statutory limitations on the use of any Type B sales and use tax funds for Projects as authorized by the Act.

**Section 4.
Priorities**

The City has determined that the following are priorities for the Incentives potentially granted pursuant to this Policy. The evaluation of the merits of any Application shall take into consideration whether or not the Application also meets these priorities.

- 4.1. Geographic Areas: The following are the City’s preferences for providing incentives in geographic areas of the City.
 - 4.1.1. Along major retail corridors.
- 4.2. Businesses: The following are the City’s preferences for providing Incentives to certain types of businesses in the City.
 - 4.2.1. Desired Businesses:
 - A. Adopted Targeted Industries: Advanced manufacturing/industrial, hospitality/tourism, professional office/entrepreneurial, retail/entertainment
 - B. Businesses that generate high-paying jobs
 - C. Businesses that have a limited negative impact on the natural environment

- D. Businesses that meet the desired Future Land Use Plan of the City
- E. Generates sales taxes

Section 5.
Incentives

The following are Incentives that the City, on a case-by-case basis, could consider granting for specific projects depending on the merits of the project. Incentives are available to new facilities and structures and the expansion and modernization of existing facilities and structures. This shall include the redevelopment of existing properties. Any incentives provided pursuant to this Policy shall not reduce the base year value of the facility.

- 5.1. Financial – Sales Tax Grants/Reimbursements: Through approval of a Performance Agreement, the City may provide Grants of all or a portion of the following sales and use taxes. Where the Project is a retail development, for the purposes of evaluating and granting incentives in accordance with this Policy, sales and use taxes shall be measured net of any business relocations occurring within the City. i.e. if a retail business is currently operating in the City, and relocates to the new development, its current sales taxes shall be excluded from the calculation of new sales taxes generated.
 - 5.1.1. General Fund Sales Tax: The sales and use taxes going to the City’s general fund.
 - 5.1.2. Type B Development Corporation Sales Tax: The sales tax going to the City’s Type B Economic Development Corporation Sales Tax funds.
- 5.2. Financial - Fee Reductions/Credits: The City may consider the reduction or credit of all or a portion of the following fees. This shall not include any charges from third parties assisting the City with implementation of services provided by the fees unless so provided in an approved Performance Agreement.
 - 5.2.1. Permit Fee: Any fee related to the review of non-Public Works construction plans and building plans required for the issuance of a building permit.
 - 5.2.2. Plan Review Fee: Any fee related to the review and administrative processing of construction plans for Public Works Improvements.
- 5.3. Financial - Misc.: The City may consider the following miscellaneous financial Incentives.
 - 5.3.1. Equipment Purchase: Funds provided to assist with or provide for the purchase of equipment that increases production for the business.
 - 5.3.2. Lease Guarantee: An Agreement by the City to guarantee any part of a real estate lease for a desired business.
 - 5.3.3. Forgivable Loan: An agreement by the City to provide a loan whose repayment may be forgiven under particular circumstances.

- 5.4. Sales, Lease or Exchange of Land or Buildings: The City recognizes that the sale and conveyance, lease, or exchange of certain property owned by the City may meet the objectives identified in this Policy. In accordance with State Law, the City may consider the sale, lease or exchange of land without the necessity of accepting written bids pursuant to a published notice and at market value to further the objectives identified herein.
 - 5.4.1. Build-to-Suit/Leaseback: An agreement where the City builds a building or Facility to suit the needs of the Applicant in exchange for a commitment from the applicant to lease the facility from the City.
 - 5.4.2. Free/Reduced-Cost Land: Any provision where the City provides free or reduced-cost lands to the Applicant.
 - 5.4.3. Free/Reduced-Cost Building: Any provision where the City provides a free or reduced-cost building to the Applicant.
 - 5.4.4. Land Lease: Any provision where the City leases rights to City-owned land to the Applicant to allow construction of their Facility.
- 5.5. Employment-Related: The City may consider the following employment-related Incentives.
 - 5.5.1. Relocation Assistance: Any provision where the City provides assistance to new employees relocating to residency within the City.
 - 5.5.2. Cash for Employment: Any provision where the City provides for one-time payments to the Business for each new employee of a certain classification established at a new or existing Facility in the City.
 - 5.5.3. Employee Recruitment Assistance: Any provision where the City provides assistance with the recruiting of new employees to a new or existing facility in the City.
 - 5.5.4. Employee Training Assistance: Any provision where the City provides assistance in the training of new employees employed at a new or existing facility in the City.
- 5.6. Infrastructure Assistance: Through approval of a Performance Agreement, the City may consider all or a portion of the following infrastructure assistance incentives.
 - 5.6.1. Water Line Extensions/Upsizing: Participation in all or a portion of the costs of extending or upsizing water distribution lines to the Facility.
 - 5.6.2. Sewer Line Extensions/Upsizing: Participation in all or a portion of the costs of extending or upsizing sanitary sewer lines to the Facility.
 - 5.6.3. Roadway Improvements: Participation in all or a portion of the costs of roadway improvements serving the Facility.
 - 5.6.4. Storm Drainage Improvements: Participation in all or a portion of the costs of storm drainage improvements at or downstream of the Facility.
 - 5.6.5. Utility Extensions (Electric, gas, telecom, etc.): Participation in all or a

portion of the costs of extending utility services to the Facility.

- 5.6.6. Franchise Utility Undergrounding: Participation in all or a portion of the costs of placing franchise utility services underground to the Facility.
- 5.7. Development Cost Participation: The City may consider participation in the following development cost Incentives.
 - 5.7.1. Demolition: Participation in all or a portion of the costs of demolishing existing structures on a property.
 - 5.7.2. Environmental/Archaeological Mitigation: Participation in all or a portion of the costs of mitigating environmental/archaeological issues on a property.
- 5.8. Process Related: The City may consider the following process-related Incentives. In all instances, any prioritized or unique process shall meet all statutory requirements.
 - 5.8.1. Prioritized Permitting Process: Provisions allowing a prioritized review of building and construction plans for the Project.
 - 5.8.2. Prioritized Inspections: Provisions allowing for City inspector(s) to prioritize inspections throughout construction of the Project.
 - A. Exemptions: This shall not include the costs of “call-back” inspections, weekend inspections, or holiday inspections.
 - 5.8.3. Dedicated Inspections: Provisions allowing for City inspector(s) to be dedicated solely or primarily to the Project either at critical times or throughout construction of the Project. This may or may not include a requirement for on-site office space to accommodate the inspector.
 - A. Exemptions: This shall not include the costs of “call-back” inspections, weekend inspections, or holiday inspections.
- 5.9. Economic Development District Establishment: In instances where the Project is of a significant scope and scale, the City may consider the establishment of unique economic development districts (e.g. Tax Increment Reinvestment Zone, Public Improvement District).
- 5.10. Hotel Occupancy Tax: The City may consider the use of Hotel Occupancy Tax pursuant to Chapter 351 of the Texas Tax Code.
- 5.11. Support for State Incentives: The City may consider providing support for the Project in the application and processing of State of Texas incentives.
- 5.12. Support for Federal Incentives: The City may consider providing support for the Project in the application and processing of Federal incentives (Opportunity Zones, New Market Tax Credits, etc.).

Section 6.

Administrative Procedures

The Applicant shall follow the Administrative Procedures noted below to apply for Incentives as

identified herein.

6.1. Pre-Submittal: All Applicants are encouraged to meet with GBCEDC Staff prior to preparation of an Application. Applicants should contact the GBCEDC office to set up a meeting.

6.2. Application Requirements: The submittal of an Application is required prior to any evaluation of the request for Incentives. The Application shall include the following information.

6.2.1. General Information:

- A. The name of the Project.
- B. The intended use (e.g. Call center, corporate/regional office, professional office, retail, distribution).
- C. If the Project is a relocation, consolidation or expansion of existing facilities, identify the location of the existing facilities and locations of any other existing facilities.
- D. An overview of the company including years in business.
- E. The NAICS Code of the company's business.
- F. A description of the experience and qualifications of the project team.
- G. The type of Project (i.e. retention, expansion, own/lease, new development).

Property Information:

- A. Property address.
- B. Lot/Block/Subdivision name if platted. If not platted, a legal description will be required prior to executing any Agreements.
- C. Appraisal District Property ID numbers.
- D. Current Appraisal District valuations for all parcels.
- E. Acreage.
- F. Current owner and proof of ownership (e.g. deed, appraisal info)

6.2.2. Eligibility of Property: Address the eligibility requirements in Section 3.1.

6.2.3. Eligibility of Business: Address the eligibility requirements in Section 3.2.

6.2.4. Priorities: Address the priorities in Section 4.0.

6.2.5. Project Data:

- A. Business name.
- B. Describe the type of building proposed (e.g. number of stories, style, materials)
- C. Describe the development concept (e.g. single building or campus setting, open space, surface or structured parking)
- D. Describe the extent that any infrastructure component is enhanced or expanded.

- E. Provide timing estimates for major milestones of the Project.
- F. Provide estimates of Project data by phase and date, including but not limited to:
 - i. List the kind, number, use, square footage and location of all the proposed improvements on the property.
 - ii. Total capital investment including acquisitions, Improvements, building costs and equipment.
 - iii. Estimated Appraised Value of all Improvements.
 - iv. Acquisition cost of all Business Personal Property
 - v. Estimated Appraised Value of all Business Personal Property.
 - vi. Estimated Appraised Value of annual inventory.
 - vii. Number, type, quality and wage levels of new Full-Time Equivalent (FTE) employees.
 - viii. FTE growth over the next 10-year period.
 - ix. Estimated New Payroll added.
 - x. Average employees' annual salary/wages/contractual (prevailing wages and benefits).
 - xi. Employees with high-paying jobs.
 - xii. Estimate of the percentage of employees who will reside in Gun Barrel City City Limits.
 - xiii. Benefits provided to employees and who is eligible for Benefits.
 - xiv. Taxable sales from the Facility.
 - xv. Hotel Occupancy Tax generated (if applicable).

6.2.6. Requested Incentives: The Applicant shall itemize the Incentives (Section 5) they are requesting from the City. These are to be prioritized by order of preference by the Applicant.

6.2.7. Required attachments and/or exhibits:

- A. Legal description of the Property.
- B. Proof of ownership, or contract option or offer.
- C. Photos of existing conditions.
- D. Drawings, renderings, plans of the proposed Improvements.
- E. Current ad valorem tax appraised value estimates by the applicable appraisal district showing appraised values for three similar type and size projects within the County.

If Applicant is not the Property owner:

- i. Written approval of the Application from the owner
- ii. Copy of the signed lease agreement

6.2.8. Amendments: The City may amend the form of the Application as needed to evaluate the merits of the requested Incentives more efficiently.

6.3. Review & Evaluation: The following are criteria to review and evaluate the Application.

6.3.1. Incentive Task Force: An Incentive Task Force is established to streamline the process of evaluating projects. The Task Force will evaluate each project for the City of Gun Barrel City and the GBCEDC. The Executive Director of the GBCEDC shall convene a meeting of the Incentive Task Force to review and evaluate the Application and formulate a recommendation to forward to the Board and City Council. The Incentive Task Force has a standing meeting once per month to review applications. A quorum consisting of members of the Task Force must be present to take action in taking a recommendation to the Board or Council.

Site Visit: Prior to formal evaluation of the Application, the Applicant shall allow the City the opportunity to visit the Property to verify its status prior to any Incentives.

Financial Analysis: If deemed necessary, the Executive Director shall analyze the financial aspects of the incentive proposal using an appropriate method (e.g. return on the investment of Incentives in the Project and/or the timing required for new revenues to “break-even” with the cost of the proposed Incentives).

Consulting Services: To the extent that a consulting service is deemed necessary by the City to aid in their evaluation (e.g. financial impacts/cost-benefit analysis, infrastructure impacts or capabilities), the City may require that the Applicant participate up front in the cost of obtaining these services, which could be a reimbursement dependent on the project with a Performance Agreement.

Considerations: The Task Force shall take into consideration the following goals during their evaluation.

- i. Cost-Benefit: Benefits should exceed costs, even after incentives are granted. Except in extraordinary situations, Gun Barrel City should not be willing to “go upside down” on a deal, meaning that tax revenue must exceed public sector costs.
- ii. Front-Loaded Incentives: Any front-loaded cash incentives should flow through the GBCEDC, with the City and GBCEDC setting policies on returning taxes and/or fees paid by the Applicant upon the execution of a specific set of agreed upon performance measures between the Applicant and each participating jurisdiction.
- iii. 10-Year Maximum: In general, incentive packages should not extend beyond ten (10) years.

- iv. Required Return on Investment (ROI): Any and all Incentives provided shall be limited by an ROI of 10:1 (e.g. a \$1 million investment would have a maximum Incentive of \$100,000).

6.3.2. Review Criteria:

Completeness of Application: Completeness of the Application; including all required documentation.

Application Information: Any information provided in the Application.

Desired Businesses: Does the Application include a high-priority business classification or is it located in a high-priority geographic area?

General Eligibility: Does the Project meet the General Eligibility requirements?

Revenues: What are the net tax revenue benefits to the City, both Ad Valorem and Sales Taxes? What fees will be received with the Project?

Employment: How many people will be employed by the Project? What are the education level requirements for employment? Are the wages to be paid higher than the average in the area? What is the likely employment of City residents?

Impacts: An estimation of the positive and negative impacts that the Project might have.

- i. Cannibalization of Existing Businesses: To what extent does the Project cannibalize the profitability of an existing business?
- ii. Private Investment Catalyst: To what extent does the Project act as a catalyst for future private investment?
- iii. City Services: To what extent does the Project have a positive or negative impact on the Services or infrastructure of the City?
- iv. Impacts from Employees: Property Tax revenues and sales tax revenues generated from employees that reside in the City?

Reliance on Incentives: Is the project reliant upon incentives to locate in Gun Barrel City?

Opportunity Cost: What is the opportunity cost of the incentive (if the GBCEDC uses cash grants, for example, what alternative uses of these funds are foregone by supporting this project?)

Leakage Analysis: How much economic activity will remain in Gun Barrel City compared to what leaks out to the surrounding area?

Service Costs: How much will it cost Gun Barrel City to adequately service the project during its construction and operational phases?

Present Value: What is the total present value of the incentive package?

Unmet Need: Does this project fill an unmet need or market in Gun Barrel

City?

Location in District: Is the project located in an existing TIF/TIRZ or similar tax reinvestment district?

6.4. Preliminary Discussions: Upon receipt of a satisfactory Application, and preparation of a Task Force Recommendation, Staff shall hold preliminary discussions with approving bodies as follows.

6.4.1. Gun Barrel City Economic Development Corporation (GBCEDC): If funds to be used for any Incentive herein are subject to authorization of GBCEDC, the Board shall consider the request for Incentives and make a recommendation to the Council.

6.4.2. Council: The Council shall be briefed on the merits of the preliminary Incentives request and the recommendation of the Board and Incentive Task Force, if any, and advise the City Manager whether or not to proceed with negotiations of an Agreement in Principle.

6.5. Agreement in Principle: The Executive Director shall lead the negotiation and drafting of a non-binding Agreement in Principle (AIP) memorializing in writing the Project's performance requirements and the Incentives to be provided by the City. This shall include the engagement of Project representatives, the Gun Barrel City Economic Development Corporation, City Council and their legal representatives if appropriate. Evolution of changes in the AIP shall be documented via redline/strikeout drafts as progress is made.

6.5.1. Preliminary Approval: The Executive Director shall seek preliminary approval of the AIP from Project representatives, the Board, and City Council prior to preparation of a Performance Agreement.

6.6. Performance Agreement: A Performance Agreement shall be required for all Projects receiving Incentives from the City in accordance with the following.

6.6.1. Preparation: The Executive Director shall work with legal representatives for the City and/ or Board to prepare a Performance Agreement substantially conforming to the provisions of the Agreement in Principle.

Allied Agency Engagement: Though not a party to any City Performance Agreement, the Executive Director shall engage and keep informed any allied agencies (County, School District) contemplating their own incentives for the Project.

6.6.2. Tax Abatement Minimum Requirements: Any Performance Agreement including Tax Abatement shall include the following at a minimum:

Improvements: List the kind, number and location of all the proposed improvements on the Property.

Base Year Value: Provide that the Agreement does not include any reduction in Base Year Values.

Access: Provide access to and authorize inspection of the property by City

employees to ensure that the improvements or repairs are made according to the specifications and conditions in the Agreement.

Uses: Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.

Recapture Provisions: Provide for the recapture of property tax revenue lost or any Incentives provided as a result of the Agreement if the owner of the Property fails to make the improvements or repairs as provided by the Agreement.

Term: Describe the duration of the Agreement.

Certification: Require the owner of the Property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the Agreement.

Cancellation/Modification: Provide that the City may cancel or modify the Agreement if the property owner fails to comply with the Agreement.

Texas Direct Payment Permit: Qualified consumers may give a direct payment blanket exemption certificate in lieu of the taxes imposed by the Tax Code, Chapter 151, for taxable items which they purchase of at least \$800,000 for their own use and which items will not be resold in any manner.

6.6.3. Responsiveness: The offer of Incentives by any Performance Agreement shall expire ninety (90) days from the date it is provided to the Applicant unless extended in writing by the City. The expiration of any offered Performance Agreement shall not preclude continued negotiations toward the development of an alternative Agreement.

6.6.4. Approvals: Evaluation and any subsequent approval shall be on a case-by-case basis pursuant to the introductory paragraph of Section 1 herein. All Performance Agreements, including any Tax Abatement Agreement, shall follow and comply with all statutory requirements for notice, hearings and readings where applicable. The following shall be required for approval of Incentives.

Board Recommendation/Approval: If funds to be used for any Incentive herein are subject to authorization of the GBCEDC, the Board shall consider the request from the Incentive Task Force for Incentives and make a recommendation to the Council.

Council: The Council shall make the final decision regarding the merits of the Application and the appropriate Incentives to be provided, if any.

6.6.5. Compliance Reporting: All Performance Agreements shall include requirements for reporting compliance with the provisions of the Agreement prior to disbursement of incentive funds. GBCEDC shall

manage all Performance Agreement reporting compliance and notify the City of any funds they need to provide.

Section 7.

Applicant/Owner Certifications

The following Applicant/Owner Certifications shall be included in the submitted Application.

- 7.1. **Application Accuracy:** The information provided in this Application, and all that may have been affixed hereto, is true and correct, and that the City may rely on all of the information contained herein, and all that may have been affixed hereto, as being true and correct.
- 7.2. **Performance Agreement:** I (we) acknowledge that a Performance Agreement will have to be executed prior to receiving any Incentives. Further, I (we) acknowledge the Performance Agreement will contain all state law requirements, including, capital investment to be made; jobs created or retained; penalty for non-performance, including repayment of the monies provided including an appropriate interest rate. I (we) acknowledge this Performance Agreement may include any deed of trust, corporate guaranty or individual guaranty verifying collateral as a primary or principal obligation from the guarantor as determined by the City to be appropriate security for the incentive being provided.
- 7.3. **Discretionary Rights:** I (we) acknowledge that the City has the absolute right of discretion in deciding whether or not to approve any Incentive relative to this Application, whether or not such discretion is deemed arbitrary or without basis in fact.

Section 8.

General Provisions

- 8.1. **Flexibility:** The terms and conditions of this Policy are to be considered guidelines during deliberation and evaluation. The City reserves the right to modify the terms and conditions herein at any time, including for any pending application, and may approve a Tax Abatement Agreement or Performance Agreement and the Incentives related thereto, on terms and conditions contrary to the guidelines of this Policy.
- 8.2. **Section or Other Headings:** Section or other headings contained in this Policy are for reference purposes only and shall not affect in any way the meaning or interpretation of this Policy.
- 8.3. **Severability:** In the event that any provision of this Policy is illegal, invalid, or unenforceable under present or future laws, the remainder of this Policy shall not be affected thereby.

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