

RESOLUTION NO. 3460

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS AMENDING RESOLUTION NO. 3349, DATED APRIL 2, 2013, BY AMENDING THE COMPREHENSIVE POLICY OF GUIDELINES AND CRITERIA FOR ECONOMIC DEVELOPMENT INCENTIVES, IN ACCORDANCE WITH CHAPTER 380 OF THE TEXAS LOCAL GOVERNMENT CODE; CHAPTER 311 OF THE TEXAS TAX CODE; AND CHAPTER 312 OF THE TEXAS PROPERTY TAX CODE.

WHEREAS, additions have been implemented in the Comprehensive Policy of Guidelines and Criteria for Economic Development Incentives, as adopted by Resolution No. 3349, on April 2, 2013; and

WHEREAS, the governing body of the City of Keller, Texas is committed to the promotion of quality development and expansion of its existing business base, and hereby determines it to be in the best interest of the citizens of the City of Keller in order to create business, retain jobs, improve the commercial tax base, and general sales tax revenue; and

WHEREAS, Article 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code provides that a governing body of a municipality may establish and provide for the administration of one (1) or more programs, including the programs for the making of loans and grants of public money and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

WHEREAS, said readoption of the guidelines and criteria for economic development incentives and tax abatement are required by State law prior to the establishment of a reinvestment zone in which said incentives are to be applied; and

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WHEREAS, in accordance with State law, the City Council of the City of Keller, Texas, declared its eligibility to participate in offering tax abatement in accordance with the Property Redevelopment and Tax Abatement Act, as amended, by Resolution No. 787, on November 5, 1996.

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

Section 1: THAT, the above findings are hereby found to be true and correct and are incorporated herein in their entirety.

Section 2: THAT, the City Council of the City of Keller, Texas hereby amends Resolution No. 3349, dated April 2, 2013, by amending the Comprehensive Policy of Guidelines and Criteria for Economic Development Incentives, attached hereto as Exhibit "A", in accordance with Chapter 380 of the Texas Local Government Code; Chapter 311 of the Texas Tax Code; and Chapter 312 of the Texas Property Tax Code.

Section 3: THAT, this resolution was passed on the date shown below by the City Council of the City of Keller, Texas.

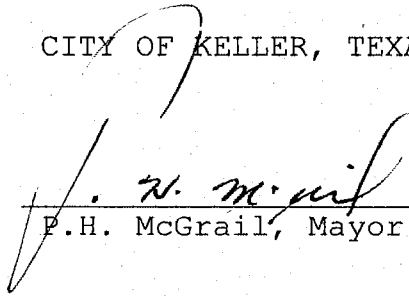
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AND IT IS SO RESOLVED.

Passed by a vote of 6 to 0 on this the 17th day of
December, 2013.

CITY OF KELLER, TEXAS

BY:


F.H. McGrail, Mayor

ATTEST:


Sheila Stephens, City Secretary

Approved as to Form and Legality:

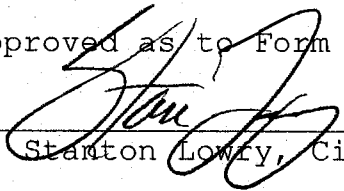

L. Stanton Lowry, City Attorney

Exhibit A



City of Keller, Texas

Comprehensive Policy of Guidelines and Criteria for Economic Development Incentives

The City of Keller (the "City") is committed to the promotion of quality development in all areas of the City and to an ongoing improvement in the quality of life for its citizens. Insofar as these objectives are generally served by the enhancement and expansion of the local economy, the City will, on a case-by-case basis, give consideration to providing incentives as a stimulus for economic development. It is the policy of the City that said consideration will be provided in accordance with the procedures and criteria outlined in this document; however, nothing herein shall imply or suggest that the City is under obligation to provide any incentive to any applicant. All applications shall be considered on a case-by-case basis by the Keller City Council.

As authorized by the Texas Constitution, Chapters 311 (Texas Tax Code), 312 (Texas Tax Code) and 380 (Texas Local Government Code), and other applicable laws, the City has established this incentives policy so as to work in concert with other taxing authorities as part of an overall publicly supported incentive program designed to create economic tax base and job opportunities which bring new economic advantages to and strengthen the current and future economic base of the City.

All incentives requests will be reviewed by the Keller City Council, who will either approve incentives with modifications, as is, or denial. All incentive approvals will be memorialized in an economic development agreement between the City and recipient.

Overview of Incentives

Tax Abatement/Tax Grant

Tax abatements or tax grants may be offered for improvements to real property and/or for business personal property, and do not apply to land. Tax abatements or tax grants for improvements to real property may be offered to an applicant that constructs a new or expanded facility to house the applicable project. The tax abatement or tax grant will apply to the taxable value of the new or expanded improvements. Tax abatements or tax grants for business personal property may be offered to an applicant that purchases or long-term leases existing or new facilities, and will apply to the taxable value or the business personal property added to the facility after the execution of the tax abatement or tax grant agreement.

Sales Tax Rebates

The City collects 2% sales tax on any taxable retail sale made in the city limits and is divided as follows: 1% is allocated to the City's general fund, 0.500% is allocated to the Keller Development Corporation, 0.250% is allocated to street maintenance, and the remaining 0.250% is allocated to the Keller Crime Control Prevention District. An applicant may apply for a rebate all or a portion of the City's (1%) local option sales tax for a maximum of three (3) years collected by the Grantee's business pursuant to the following schedule:

- Annual sales over \$4 million- up to 100% rebate for a maximum of three years.
- Annual sales between \$2 million-\$3,999,999— up to 90% rebate for Year 1, up to 70% for Year 2, and up to 50% for Year 3.
- Annual sales less than \$2 million- up to 50% rebate for Year 1, up to 30% for Year 2, and up to 10% for Year 3.

Note: The City will pay any rebates based upon receipt of actual sales taxes and the confidential sales report received from the State of Texas Comptroller's Office, and shall be solely responsible for determining the amount of the rebate.

Building Permit, Development, Connection and Impact Fees

The City may approve a waiver, deferral, grant or rebate of all or a portion of related fees, including but not necessarily limited to; building permit fees, development fees, connection fees and impact fees.

Cost Participation in Infrastructure

The City may agree to participate in the cost of the extension, construction, or reconstruction of public infrastructure necessary for the development of a project. Participation by the city is considered on a case-by-case basis and shall be limited to infrastructure improvements within municipal right-of-ways or easements.

Hotel/Motel Occupancy Tax

The City is committed to attracting lodging and conference center space to the community. A 6% hotel occupancy tax is levied by the State of Texas and the City levies a 6% hotel occupancy tax, for a total of 12%. These taxes may be used for purposes as allowed by law.

Tax Increment Financing (TIF) or Tax Increment Reinvestment Zone (TIRZ)

- Chapter 311 of the Texas Tax Code allows political subdivisions to create TIF Zones in order to use the increased tax value of land from development toward financing of the public improvements in the reinvestment zone.
- TIF Districts may assist in financing development of unimproved or blighted land by dedicating the real estate property taxes to be generated by the built project to a TIF Fund for payment of the principal and interest on TIF Bonds.
- Under a TIF, the property owner pays taxes on the full value of the property, and the taxing entities pay into the TIF Fund the taxes attributed to the added value of the property due to the new development.
- TIF Bonds may be issued for a maximum of 20 years and may be used to pay for public improvements associated with a development (i.e. parking, infrastructure, land acquisition, utilities, etc).
- A TIF Reinvestment Zone must meet set criteria as defined by law.
- The municipality establishes the TIF Reinvestment Zone and other taxing entities approve agreements to participate in the TIF District and set forth the percentage of tax increment they are willing to dedicate to the TIF Fund, up to a maximum of 100%.
- A TIF Board, consisting of 9 to 15 members, is established with representatives from the participating taxing entities and other representatives as set forth in the state law.

Public Improvement District

A Public Improvement District is a public financing vehicle (Chapter 372 of the Texas Local Code) that can be used to finance the cost of public infrastructure related to his project. Under a Public Improvement District:

- A Public Improvement District is formed over property that will benefit from public improvement projects to be constructed
- Assessments are levied in a manner that apportions costs according to the benefits received from the public improvements
- Bonds are issued to fund the improvements. Bond proceeds are deposited to a construction fund
- As eligible projects are completed, the proceeds in the construction fund are used to acquire facilities from the developer
- Assessments are paid by the property owners (usually over a period of years, although assessments may be prepaid in full or in part at any time). Assessments transfer along with title to the property. Therefore, end users typically pay the bulk of assessments. This is fitting, as the public improvements benefit the end users' property.

Neighborhood Empowerment Zone

A Neighborhood Empowerment Zone is a tool for cities that would promote at least one of the following: (1) the creation of affordable housing, including manufactured housing, in the zone; (2) an increase in economic development in the zone; (3) an increase in the quality of social services, education, or public safety provided to residents in the zone; or (4) the rehabilitation of affordable housing in the zone. Tax Code § 378.002.

A city may offer the following incentives within a neighborhood empowerment zone: (1) waive building, inspection, or impact fees; (2) enter into sales tax rebate agreements lasting up to ten years; (3) enter into property tax abatement agreements lasting up to ten years; and (4) set baseline performance standards to encourage alternative building materials that address environmental or energy consumption concerns. Tax Code § 378.004.

Fast Track Permitting

At the request of the applicant, permitting time can be shortened if the project needs and justifies the reduced time frame through the Keller Fast Track program.

Old Town Keller Facade Improvement Matching Grant Program

The Old Town Keller Facade Improvement offers matching grants to eligible property owners in Old Town Keller to renovate and enhance building facades. Eligible businesses can receive up to 50% reimbursement of their project up to \$5,000 for their enhancements. This program is a part of the City's ongoing effort to revitalize and promote the Old Town Keller District.

Structure/Building

The City may construct, or provide funding to construct a building or structure needed for the project.

Grants

Cash grants may be available to a business locating in the City.

General Guidelines

I. Criteria for Economic Development Incentives

- A. Must be reasonably expected to increase the appraised value of the property in the amount specified in the agreement after the period of abatement has expired.
- B. Project does not have any negative environmental impacts on the community (e.g.; significant pollution, excessive water usage or hazardous waste).
- C. The degree to which the specified project meets the purposes and objectives of the City, the relative impact of the project will be used to determine the total value and duration of the incentives, tax abatement or tax grant provided to any applicant. In compliance with state law no abatement will be for more than a maximum of 10 years in duration.

II. Objective Criteria

In order for the economic development incentives application to be considered the following must be addressed in written format by the applicant using "City of Keller Application for Economic Development Incentives" attached to this policy as Exhibit B:

- A. Number of new jobs in Keller that will be created by the project.
- B. Average salary detailed by skilled, unskilled and management positions.
- C. Total annual payroll created by the project.
- D. The net tax base valuation (real and personal property) that will be added by the project.
- E. Projected annual sales tax that will be directly generated by the project for a time period of 5 years and 10 years.

III. Subjective Criteria

In addition to the objective criteria for which specific values can be assigned, several additional considerations must be evaluated. Using "City of Keller Application for Economic Development Incentives" attached to this policy as Exhibit B the applicant must respond to the following in written narrative format, with backup documentation:

- A. Explain the types and values of public improvements, if any, which will be made by the applicant.
- B. Explain to what extent the project will complement existing businesses.
- C. If the project poses any negative operational, visual/image, style impacts or additional noise, etc., provide details.
- D. Provide information including at least five years financial and operating history of the company. If company is a start-up provide at least five years of financial information of the sole proprietor and/or any investors and business plan.
- E. The applicant must indicate whether or not they are willing to commit to a definite construction/completion schedule for the project and to define exactly what will be built (i.e.; what will be on the tax roll and when).
- F. State in the application whether the project is a franchise, expansion, relocation/consolidation from elsewhere, or the start-up of a new operation.

IV. Value Of Economic Development Incentive Provided

The objective criteria and subjective criteria outlined in Sections II and III will be used by the City Council in determining whether or not it is in the best interests of the City to provide economic development incentives for a particular project. Specific considerations will include the degree to which the individual project furthers the goals and objectives of the community, as well as the relative impact of the project.

V. Procedural Guidelines

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

A. Application Steps: To apply for economic development incentives complete “City of Keller Application for Economic Development Incentives” attached to this policy as Exhibit B and available via the City of Keller’s website, www.cityofkeller.com. The application must be submitted to Keller Economic Development Department (the “Department”).

B. Application Review Steps

1. All information submitted as detailed above will be reviewed by the Department for completeness, accuracy and the rationale for projections made. Additional information may be requested as needed.
2. If applicable, the application will be distributed to the appropriate departments for internal review and comments. Additional information may be requested as needed.
3. If necessary copies of the complete application package may be provided to the other appropriate taxing entities.

C. Consideration of the Application

1. After review by the Economic Development Department the application will be reviewed by the appropriate city staff. If needed, this team will meet with the applicant to negotiate final terms of the incentives.
2. Prior to approval of an economic development incentive agreement, the economic incentive request may be scheduled for review by City Council in an executive session meeting. All necessary legal documents will be considered for approval following evaluation of all relevant staff and review team recommendations and reports.
3. For a tax abatement, additional steps, including a public hearing, must be incorporated into the process. These procedures are mandated by State law and are detailed in the Property Redevelopment and Tax Abatement Act.

VI. Execution Of Agreements

Should the City Council determine that it is in the best interests of the City to approve economic development incentives to a particular applicant, a resolution shall be adopted declaring that under the guidelines and criteria established herein, the application is eligible for an economic development incentive in the form of an economic development incentive agreement. The resolution shall further authorize the Mayor to execute a contract with the applicant governing the provision of the incentives.

Any agreement so adopted must include at least the following specific items:

- A. Amount of the incentive
- B. Duration of the incentive
- C. Legal description of the property

Application Procedure

Any person or company requesting that the City provide an economic development incentive shall comply with the following procedure:

1. The applicant will submit a completed application for the requested incentive(s) utilizing the application outline provided by Keller Economic Development Department attached to this policy as Exhibit B, and available at www.cityofkeller.com
2. The applicant will address all applicable criteria set forth in this policy and the application.
3. The applicant will provide a plat, map or survey showing the location of the property and the proposed project.
4. The applicant will provide a legal description of the property; the name, address, phone number, fax number of the owner of the property; the tenants or proposed tenants, if any; and state whether the property is to be owner occupied or leased.
5. The applicant will describe in detail the proposed project and the type of economic development incentive(s) requested.
6. The application will be submitted by either mail to Keller Economic Development Department, PO Box 770, Keller, TX 76244, or deliver to 1100 Bear Creek Parkway, Keller, TX 76248 or via email to the Economic Development Department.
7. Keller Economic Development Department will review the economic development incentive request and may request additional information from the applicant prior to considerations by City Council. Failure to timely submit any additionally requested information will cause the application to be rejected and will be deemed withdrawn by the applicant without further action by the City.
8. The City Council will review the requested incentive request pursuant to this policy and recommendations by City staff.
9. When necessary under this policy the City Council will, at a regular meeting and when allowed by law at a special meeting, consider proposed economic development incentive agreement.
10. Information submitted by the applicant regarding the requested incentive is confidential to the extent allowed by law.

Impact Analysis

The City reserves the right to perform an economic impact analysis for any project to determine the impact the project will have on the City. If deemed necessary this analysis will be made before an incentive is offered to the applicant.

Negotiation Process

The initial contact and preliminary discussions relating to available incentives is to be between the authorized representatives of the applicant and the Keller Economic Development Department

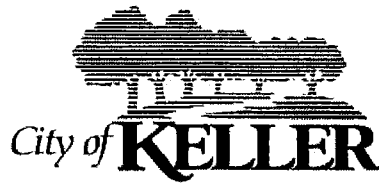
All negotiations for Economic Development Incentives shall be between the authorized representative(s) of the applicant and the Economic Development Department and any City employee as designated by the City Manager.

City Council's decision shall be based upon an evaluation of the criteria that each applicant has addressed in narrative format in their application.

Execution of Agreement

If it is necessary for City Council to take action on the application a resolution shall be adopted declaring that under the guidelines and criteria established herein, the application is eligible for economic development incentives. The resolution shall further authorize the Mayor to execute a contract with the applicant governing the provision of the incentives.

Exhibit B



ECONOMIC DEVELOPMENT Application for Economic Development Incentives

The City of Keller is committed to the attraction, expansion and retention of high-quality projects in all parts of the community that diversify the tax base and enhance the quality of life for all citizens. To that end, the City of Keller will consider economic development incentives on a case-by-case basis in accordance with the Comprehensive Policy of Economic Development Incentives.

I. APPLICANT INFORMATION

- A. Applicant: _____
 - B. Lessee, if applicable: _____
 - C. Company/project name: _____
 - D. Mailing address: _____
 - E. Street address: _____
 - F. Telephone: _____ Fax: _____ E-mail: _____
- Applicant's representative for contact regarding incentive request:
- a. Name and title: _____
 - b. Mailing address: _____
 - c. Street address: _____
 - d. Telephone: _____ Fax: _____ E-mail: _____

II. PROPERTY AND PROJECT DESCRIPTION

A. Address/location/size of property to be considered for economic development incentives:

B. Project description:

C. Description of activities, products, or services produced and/or provided at project location:

D. Proposed total amount of new investment for this project:

- a. Total cost of infrastructure: _____
- b. Construction cost of building: _____
- c. Total square footage of building: _____
- d. Construction cost of other structures on property: _____
- e. Total square footage of other structures on property: _____
- f. Cost of fixed machinery and equipment: _____
- g. Other: _____

(Please add attachments or use reverse side if additional space is needed)

E. Is the project a:

New project: _____ Relocation project: _____ Expansion project: _____

F. Calendar year the full value of the project will be on the tax role:

G. If new business, estimation of property on the tax role in Year 1:

Real property value: \$ _____

Personal property value: \$ _____

Estimation of property on the tax role in Year 5:

Real property value: \$ _____

Personal property value: \$ _____

Estimation of property on the tax role in Year 10:

Real property value: \$ _____

Personal property value: \$ _____

H. Existing business or relocating business:

Real property value at current location: \$ _____

Personal property value at current location: \$ _____

Address of current location: _____

I. Project time horizon:

Projected months of construction time: _____ months

Projected years of building life: _____ years

Projected date of commencement of construction at project site: _____

Projected date of opening: _____

J. Please indicate date for phases, if applicable:

K. Location of other existing company facilities, if any:

L. Projected gross annual revenue by the facility in 5 years: \$ _____

M. Projected gross annual revenue sales subject to City of Keller sales tax in 5 years:
\$ _____

N. Projected gross annual revenue by the facility in 10 years: \$ _____

O. Projected gross annual revenue sales subject to City of Keller sales tax in 10 years:
\$ _____

P. After the facility is open:

(i) Annual operating budget: \$ _____

III. EMPLOYMENT IMPACT AT PROJECT LOCATION

A. New employment in Keller: Full-time: _____ Part-time: _____

Existing employment in Keller: Full-time: _____ Part-time: _____

B. New employment annual payroll in Keller: Full-time: _____

New employment annual payroll in Keller: Part-time: _____

Existing employment annual payroll in Keller: Full-time: _____

Existing employment annual payroll Part-time: _____

If positions are to be phased in, provide figures for each phase year) _____

- C. Provide types of jobs created, detailed by skilled, unskilled and management positions, and average salary levels of each:

VI. VISITOR INSIGHTS

- A. Number of visitors per day to facility: _____
- B. Duration of stay (days): _____

VII. REQUESTED INFORMATION

Submit the following information to be considered for a City of Keller Economic Development Incentive:

- A. Provide a plat, map or survey showing the location of the property and proposed project
- B. Legal description of the property
- C. Name, address and phone number of the owner of the property:

- D. Tenants or proposed tenants, if known:

- E. Will the property be owner occupied or leased: _____

- F. At least five years of financial and operating history of the company. If company is a start-up please provide at least five years of financial information of the sole proprietor, principal investors and/or any partnerships.

- G. City reserves the right to request copy of applicant's business plan as needed.

VIII. INCENTIVE REQUEST Tax Abatement/Tax Grant

- A. Applicant is requesting what percentage, if any, of the City of Keller's portion of the real property tax collected: _____ (enter a range from 1% to 100%)
- B. Number of years applicant is requesting: _____
(not to exceed ten years)
- C. Applicant is requesting what percentage, if any, of the City of Keller's portion of the personal property tax collected: _____ (enter a range from 1% to 100%)
- D. Number of years applicant is requesting: _____
(not to exceed ten years)

 Sales Tax Rebate If requesting a sales tax rebate, please circle which projection below fits your project

(Only applies to 1% of sales tax that is allocated to the City's general fund.)

- A. Project's Annual sales are projected at over \$4 million.
Project qualifies for up to a 100% rebate for a maximum of three years.
- B. Project's Annual sales are projected between \$2 million and \$3,999,999.
Project qualifies for up to a 90% rebate for Year 1, up to 70% for Year 2 and up to 50% for Year 3.
- C. Project's Annual sales are projected to be less than \$2 million.
Project qualifies for up to a 50% rebate for Year 1, up to 30% for Year 2 and up to 10% for Year 3.

 Waiver of Building Permits, Development Permits and Connection Fees

- A. Applicant is requesting what percentage, if any, to be waived for building permits, development permits and connection fees: _____
(enter a range from 1% to 100%)
- B. Water meter size for proposed project: _____
- C. Irrigation meter size for proposed project: _____

Reimbursement of City of Keller Impact Fees

The City of Keller collects both City of Keller and City of Fort Worth water impact fees. The City of Fort Worth's water impact fees are not eligible for reimbursement. The City of Keller's water impact fees may be considered for reimbursement.

- A. Applicant is requesting what percentage, if any, to be reimbursed for roadway impact fees: _____ (enter a range from 1% to 100%)
- B. Applicant is requesting what percentage, if any, to be reimbursed for water impact fees: _____ (enter a range from 1% to 100%)
- C. Applicant is requesting what percentage, if any, to be reimbursed for sewer impact fees: _____ (enter a range from 1% to 100%)

City Participation in Infrastructure

City participation will only be considered for the extension, construction or reconstruction of public infrastructure.

- A. Applicant is requesting the following infrastructure to be considered:

- B. What is the projected dollar amount of infrastructure to be considered:

- C. Applicant is requesting what percentage, if any, for the City to participate in: _____ (enter a range from 1% to 100%)

Hotel/Motel Occupancy Tax

- A. Applicant is requesting what percentage, if any, of the City's 6% hotel occupancy tax: _____ (enter a range from 1% to 100%)

- B. Number of years applicant is requesting: _____

- C. If granted, applicant would do the following with the 6% portion of the tax:

Fast Track Permitting

A. Applicant is requesting fast track permitting for the following reasons:

Structure/Building

A. Applicant is requesting the City to either construct or provide funding for a building/structure. Please provide estimated building/structure cost, square footage and if the applicant is requesting the City to build or help with funding along with an explanation of request.

Grants

A. Applicant is requesting a grant from the City. Please provide the amount requested, along with an explanation how the grant will be utilized.

Other Requests

A. Please provide any other incentive request the applicant would like the City to consider.

Timeline

Once an application is submitted City staff will review for completeness and may request additional information. If deemed appropriate, City staff will begin initial negotiations with applicant. City Council may review an economic incentive request during executive session at a City Council meeting. City Council meetings are held the first and third Tuesday of every month. City Council may review an economic incentive requests at multiple meetings and applicants are requested to allow applicable time in their business plan for staff and City Council review of the incentive request.

Upon receipt of a completed application, the City of Keller may require other information as may be deemed appropriate for evaluating the economic development incentive request. The City of Keller will work closely with the applicant to expedite the application.

I certify the information contained in this application (including all attachments) to be true and correct to the best of my knowledge. I further certify that I have read the "Keller Comprehensive Policy of Economic Development Incentives" and agree to comply with the guidelines and criteria stated therein.

Signature Title

Printed Name Date

Please return the completed application and attachments to:

**City of Keller
Economic Development Department
P.O. Box 770
Keller, TX 76244**

For assistance, contact:

**Keller Economic Development
817-743-4020**

Received by: _____
Title: _____
Date received: _____