

A G E N D A

A meeting of the Economic Development Commission to be held on *Tuesday, February 9, 2021* at 11:00 a.m. in the City Council Conference Room, 401 South Rogers, Waxahachie, Texas.

Members: Dr. Mackey Morgan, President
Rick Keeler, Vice President
David Hill, Mayor
Mary Lou Shipley, Mayor Pro Tem
Rhyan Phillips

Ex-officio Members: Michael Scott, City Manager
Dr. Bonny Cain, WISD Superintendent
WISD Board Trustee

1. Call to Order
2. **Public Comments:** Persons may address the Board on any issues. This is the appropriate time for citizens to address the Board on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Board may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code.
3. Approve minutes of the Economic Development Commission meeting of September 30, 2020
4. Consideration of a resolution amending the guidelines and criteria (policy) for governing Economic Development Incentives
5. Adjourn

The Economic Development Commission reserves the right to go into Executive Session on any posted item.

This meeting location is wheelchair-accessible. Parking for mobility impaired persons is available. Any request for sign interpretive services must be made forty-eight hours ahead of the meeting. To make arrangements, call the City Secretary at 469-309-4005 or (TDD) 1-800-RELAY TX

Notice of Potential Quorum
One or more members of the Waxahachie City Council may be present at this meeting.
No action will be taken by the City Council at this meeting.

A meeting of the Economic Development Commission was held on Wednesday, September 30, 2020 at 11:30 a.m. in the City Council Conference Room, 401 South Rogers, Waxahachie, Texas.

Members Present: Dr. Mackey Morgan, President
David Hill, Mayor
Mary Lou Shipley, Mayor Pro Tem
Rick Keeler

Member Absent: Rhyan Phillips

Ex-officio Members Present: Michael Scott, City Manager

Ex-officio Members Absent: Dr. Bonny Cain, WISD Superintendent
WISD Board Trustee

Others Present: Albert Lawrence, Assistant City Manager
Lori Cartwright, City Secretary
Warren Kettelman, Senior Economic Development Director
Kassandra Carroll, Economic Development Coordinator

1. Call to Order

President Dr. Mackey Morgan called the meeting to order.

2. Public Comments

None

3. Reorganize the Board

Action:

Mayor Pro Tem Mary Lou Shipley moved to nominate Dr. Mackey Morgan as President. Mr. Rick Keeler seconded, All Ayes.

President Dr. Mackey Morgan moved to nominate Mr. Rick Keeler as Vice President. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

4. Approve minutes of the Economic Development Commission meetings of October 1, 2019 and April 17, 2020

Action:

Vice President Rick Keeler moved to approve the minutes of the Economic Development Commission meetings of October 1, 2019 and April 17, 2020. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

(3)

Assistant City Manager Albert Lawrence updated the Commission on changes from the last legislative update and explained the new requirements for notifications and process of holding public hearings and how to follow the process for a reinvestment zone and tax abatement.

5. Consider tax abatement incentives for Nutrenare-AG for a proposed expansion at their current facility and take any necessary action

Mr. Warren Kettelman, Senior Economic Development Director, reported the planned expansion has a total investment of \$5.1 million and 12 new jobs. He recommended the project receive a City of Waxahachie tax abatement in the amount of 50% real and personal property value for 5 years.

Mr. Kevin Foral, Nutrenare-AG's representative, presented their expansion plan.

Action:

Vice President Rick Keeler moved to recommend to City Council to establish a Reinvestment Zone and approve Tax Abatement incentives to Nutrenare-AG as presented. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

6. Consider tax abatement incentives for Timco Logistics Systems for a proposed expansion at their current facility and take any necessary action

Mr. Kettelman reported the expansion, to include renovations, is valued at \$6,950,000 with 15 new jobs and the relocation of an additional 18 employees. He recommended the project receive a City of Waxahachie tax abatement in the amount of 50% of real property value for 5 years.

Mr. John Dagg, Timco Logistics Systems, presented their expansion plan.

Action:

Vice President Rick Keeler moved to recommend to City Council to establish a Reinvestment Zone and approve Tax Abatement incentives to Timco Logistics Systems as presented. Mayor David Hill seconded, All Ayes.

7. Consider tax abatement incentives for Kinro Texas for a proposed expansion at their current facility and take any necessary action

Mr. Kettelman reported the expansion has a total investment of \$18 million and 151 new jobs. He recommended the project receive a City of Waxahachie tax abatement in the amount of 60% real and personal property value for 7 years.

Mr. Clark Mitchell, Kinro Texas, presented their expansion plan.

Action:

Mayor David Hill moved to recommend to City Council to establish a Reinvestment Zone and approve Tax Abatement incentives to Kinro Texas as presented. Mayor Pro Tem Mary Lou Shipley seconded, All Ayes.

(3)

8. Adjourn

There being no further business, Mr. Rick Keeler moved the meeting adjourned at 12:22 p.m. Mayor David Hill seconded, All Ayes.

Respectfully submitted,

Lori Cartwright
City Secretary

(4)



Memorandum

To: Economic Development Commission

From: Warren Ketteman, Economic Development Director

Thru: Albert Lawrence, Assistant City Manager 

Date: February 15, 2021

Re: Consideration of a resolution amending the guidelines and criteria (policy) for governing Economic Development Incentives

Item Description: Amendments to the policy including the removal of verbiage referencing other taxing entities within Ellis County, amendment of a definition, references to specific City staff and other changes to language to allow for more cohesive procedures and to reflect a new state law.

Staff Recommendation: Adopt ordinance and resolution as presented in item description.

Item Summary:

At this time, staff is recommending the following amendments to the incentives policy:

1. In Section I, removing the verbiage "... or any other taxing entity..."
2. In Section II, amending the definition of "Permanent Employee" to include verbiage for health benefits and wage thresholds. Also changing "full time" to "permanent" in Section III to properly reflect the definition for employees.

3. In Section III(4), including "strategic" with "comprehensive" in reference to an applicant's use being consistent with the City's plans.
4. In Section IV, paragraph #2, including "Any incentives allowable by state and federal laws may be considered." to allow for consideration of new state and federal programs that are now available and may become available in the future.
5. In Section IV(1), changing the word "shall" to "may" to allow for more flexibility.
6. In Section V, paragraph #2, removing "as required by the City Manager".
7. In Section V, removing item #5 which pertains to Ellis County.
8. In Section V, paragraph #4, removing "City Manager" references. Also the inclusion of the "Economic Development Commission" for receipt of an application.
9. In Section V, paragraph #8, adding language to reflect the changes in State Law, specifically Chapter 2270 of the Texas Government Code which requires a company that is under contract or agreement with a local government to agree not to boycott Israel.
10. In Section V, adding a paragraph to provide instruction to applicants of the proper filing of the annual "Application for Property Tax Abatement Exemption" paperwork.
11. In Section VII, changing "at reasonable times" to "during regular business hours" to provide clarity and to be consistent with the language in the Tax Abatement Agreement template.

Fiscal Impact: NA

(4)

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS, ADOPTING A COMPREHENSIVE POLICY OF GUIDELINES AND CRITERIA FOR GOVERNING ECONOMIC DEVELOPMENT INCENTIVES, INCLUDING TAX ABATEMENT AGREEMENTS, WITHIN THE CITY OF WAXAHACHIE AND ITS EXTRATERRITORIAL JURISDICTION.

WHEREAS, the City Council desires to promote economic development within Waxahachie; and

WHEREAS, the provision of certain economic development incentives may encourage prospective businesses and companies to locate in Waxahachie or existing businesses and companies to expand; and

WHEREAS, the establishment of specific guidelines, criteria, and procedures are necessary to insure that tax abatement incentives are given and administered effectively; and

WHEREAS, the adoption of guidelines and criteria are required by State law before an area may be established as a reinvestment zone;

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

Section 1. That the City of Waxahachie hereby establishes certain guidelines and criteria governing economic development incentives, including tax abatement agreements, within the City of Waxahachie and its extraterritorial jurisdiction attached as "Exhibit A", and such guidelines and criteria shall expressly govern all subsequent tax abatement agreements.

Section 2. That an ECONOMIC DEVELOPMENT COMMISSION has been established by ordinance of the City of Waxahachie and charged with the duty of reviewing all applications for tax abatement, making recommendations to the City Council, concerning such applications, and initiating amendments to these guidelines and criteria.

Section 3. That such guidelines and criteria shall be effective for two (2) years from February 15, 2021 and may only be amended or repealed by a three-fourths vote of the City Council.

PASSED AND APPROVED this 15th day of February, 2021.

MAYOR

ATTEST:

CITY SECRETARY

CITY OF WAXAHACHIE, TEXAS

POLICY ON ECONOMIC DEVELOPMENT INCENTIVES

I. PURPOSE AND OBJECTIVE

The City of Waxahachie is committed to the promotion of quality development in all parts 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 of Waxahachie will, on a case-by-case basis, give consideration to providing incentives as a stimulation for economic development in Waxahachie. It is the policy of the City of Waxahachie 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 of Waxahachie ~~or any other taxing entity~~ is under obligation to provide any incentive to any applicant. All applicants shall be considered on a case-by-case basis.

II. DEFINITIONS

- (a) Agreement means a contractual agreement between a property owner, a lessee (if applicable) and the City of Waxahachie for the purposes of tax abatement.
- (b) Applicant means one or more owners and, where applicable, lessees of property who request tax abatement in accordance with these guidelines. For example, when real property for which abatement is requested is to be leased to a lessee who will be employing persons at the property, both the owner and the lessee are collectively the applicant.
- (c) Eligible Property means all property eligible for tax abatement under the Property Redevelopment and Tax Abatement Act, including real property located within a Reinvestment and/or Enterprise Zone and tangible personal property which is located within a Reinvestment Zone and/or Enterprise Zone after the effective date of a tax abatement agreement.
- (d) Permanent Employee means an employee who is employed by the applicant to work at least 1,820 or more hours per year with a company provided health benefit plan and paid wages in excess of Ellis County's median wage. The health benefit plan for the employee must be at a reasonable rate and must allow the employee access to the plan for their dependents. The Ellis County median wage will be determined by the most recent release of the American Community Survey available at the time of submission of the Application for Incentives.
- (e) Property Redevelopment and Tax Abatement Act means such act as codified as Chapter 312 of V.T.C.A., Tax Code.
- (f) Reinvestment Zone means an area designated in accordance with the Property Redevelopment and Tax Abatement Act by the City of Waxahachie.

III. CRITERIA FOR ECONOMIC DEVELOPMENT INCENTIVES

The following minimum criteria may be used for consideration of any tax abatement incentives:

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- (1) The proposed development, redevelopment, expansion and/or modernization must add or retain at least ten (10) full-time-permanent employees. If the project involves leased facilities, then either the owner or lessee must meet the job commitment.
- (2) An investment of at least \$2,000,000.00 in new property improvements as assessed on property tax roll is required, and the economic life of the facility or improvements must exceed the abatement period.
- (3) The project meets all relevant zoning requirements.

In addition to the minimum requirements stated above, the following subjective criteria shall be considered prior to granting any economic development incentive:

- (4) Is the project consistent with the comprehensive and strategic plans of the City of Waxahachie?
- (5) What types and cost of public improvements and services (water and sewer main extension, streets and alleys, etc.) will be required of the City? What types and values of public improvements, if any, will be made by the applicant? How will this project affect the Waxahachie Independent School District and Ellis County?
- (6) Notwithstanding any other provision of this policy document, the exemption of real and tangible personal property can be considered for tax abatement only to the extent that its new value exceeds the value for the year in which the agreement is executed. As an example, if existing real property is valued at \$2 million and the personal property is valued at \$3 million, then all improvements (excepting inventory and supplies) over \$5 million could be considered for tax abatement purposes.

IV. TYPES OF INCENTIVES

It is the intent of the City of Waxahachie to customize the offering of economic development incentives on a case-by-case basis. This individualized design of a total incentive package is intended to allow maximum flexibility in addressing the unique concerns of each applicant while enabling the City to better respond to the changing needs of the community. Any incentives allowable by state and federal law may be considered.

The criteria outlined in Section III above will be used to determine whether it is in the best interest of the City of Waxahachie to provide any economic development incentives to a particular applicant. The degree to which the specified project furthers the goals and objectives of the City of Waxahachie and the relative impact of the specified project will be used to determine the total value of the incentives provided. As a general rule, no tax abatement will be provided to any applicant in an amount exceeding the value of the following:

- (a) Where the increased value of the eligible improvements exceeds \$2,000,000 over the value in the year in which the agreement is executed, the amount of the tax abatement ~~shall~~ may not exceed sixty percent (60%) of the taxes assessed and such abatement shall not exceed a term of seven (7) years.
- (b) Where the increased value of the eligible "new business" improvements exceed \$50,000,000 over the value in the year in which the agreement is executed, the amount of the tax abatement may be 100% of the taxes assessed for said eligible improvements for a maximum of two years to allow for construction in progress. To receive a maximum two year, 100% abatement, construction must extend through January 1st of two consecutive years. Tax abatements granted during construction in progress are in addition to any long-term abatements granted.

V. APPLICATION PROCEDURES

Any person, partnership, organization, corporation, or other entity desiring that the City of Waxahachie consider providing tax abatement incentives to encourage location or expanded operations within the city limits or the extraterritorial jurisdiction of Waxahachie shall be required to comply with the following application procedures. However, nothing within these guidelines shall imply or suggest that the City is under any obligation to provide any incentive to any applicant.

Applicant shall file an application form ~~as required by the City Manager~~, which shall include at least the following information:

- (1) A plat showing the precise location of the property and present zoning, all roadways within 300 feet of the site, and all existing zoning and land uses within 300 feet of the site.
- (2) If the property is described by metes and bounds, a complete legal description shall be provided.
- (3) A brief description of the proposed improvements or expansion and its projected costs; the type of business operation proposed; the number and type of jobs created, including information pertaining to anticipated job transfers, the projected date of operation; and the type and value of any economic development incentives requested. Applicant must address issues in Section II (Criteria) of the Policy Statement in letter format.
- (4) The applicant shall provide any other information about the proposed project as may be required by the City.

~~(5) — The owner/proponent shall file a separate application with the County. The County may approve the same tax abatement agreement as the City or it may develop its own agreement. The County may request additional information from that submitted to the City.~~

~~(6) — An application must be on file with the City of Waxahachie and approved by the Waxahachie Economic Development Commission prior to any construction, equipment purchase, or land purchase, for said property to be considered for tax abatement purposes.~~

Once the application has been received, the information submitted will be reviewed ~~by the City Manager~~ for completeness and accuracy. ~~The City Manager will then distribute t~~The application will then be distributed to the appropriate departments for internal review and comments. Following staff review, copies of the complete application package and staff comments will be provided to the Economic Development Commission and subsequently to City Council. The Economic Development Commission will meet to discuss the proposal at a work session prior to making a formal recommendation to the City Council.

At a subsequent regular City Council meeting, the application for any economic development incentive may be considered. If any incentives include tax abatement, then certain public notice and hearings are required as mandated by State law under the Property Redevelopment and Tax Abatement Act and must be followed for the designation of a reinvestment zone and execution of a tax abatement agreement. Prior to final approval, all legal documents to effect such reinvestment zone(s) and tax abatement agreements shall be drafted and approved by the City Attorney.

Should the City Council determine that it is in the best interest of the City of Waxahachie to provide tax abatement incentives to a particular applicant, a resolution shall be adopted declaring that under the guidelines and criteria established herein, the application is eligible for tax abatement incentives and that the Mayor is authorized to execute a contract with the application enumerating the type of incentives and governing the conditions applicable to them. Any agreement so adopted must include at least the following specific items.

- (1) Description of the type of incentive to be provided and its duration.

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- (2) Legal description of the property to be designated as a reinvestment zone.
- (3) Detailed information regarding the type, number, location, and costs of planned improvements.
- (4) A statement that actual construction of improvements will begin no more than twelve (12) months from the date tax abatement is approved. In the event of non-compliance with this provision, the application shall be null and void with the right to reapply.
- (5) A statement granting the access to and inspection of the property and proposed improvements by City inspectors and officials to ensure that the improvements or repairs are made according to specifications and conditions of the agreements.
- (6) A statement limiting 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; and
- (7) A statement providing for the recapturing of property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

The agreement will provide for the recapture of all or a portion of property tax revenue lost as a result of the agreement if the owner of the property fails to create all or a portion of the number of new jobs provided by the agreement, if the appraised value of the property subject to the agreement does not attain a value specified in the agreement, or if the owner fails to meet any other performance criteria provided by the agreement, and payment of a penalty or interest, or both, on that recaptured property tax revenue

If a leased facility is granted tax abatement, the agreement shall be executed with the City, the lessor, and the lessee.

In accordance with Chapter 2270 of the Texas Government Code (as amended by Tex. H.B. 793, 86th Leg., R.S. (2019)), the agreement must also contain a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the agreement has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the OWNER is not subject to Chapter 2270 for the reasons stated herein, the signatory executing the Agreement on behalf of the OWNER must verify that the OWNER does not boycott Israel and will not boycott Israel during the term of the agreement.

In addition, Section 2264.051 of the Texas Government Code requires the City to provide within the tax abatement application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. Further, the tax abatement agreement will contain a provision specifying the rate and terms of the payment of interest should the business be convicted of knowingly employing an undocumented worker, in violation of 8 U.S.C. Section 1324a(f).

Once the tax abatement agreement has been established, the property owner must file an "Application for Property Tax Abatement Exemption" form with the Ellis Appraisal District. This form, Form 50-116, is provided by the Texas Comptroller of Public Accounts and can be obtained via their website at www.comptroller.texas.gov.

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VI. COMPLIANCE AUDITS, REVIEWS AND INSPECTIONS

The City shall have the right to conduct reviews, audits and inspections to evaluate the applicant’s performance and compliance with the terms of the tax abatement agreement after the abatement is granted. The City shall also have the right to conduct review, audits and inspections during the application process to verify information in the application and assess project feasibility and benefit. The applicant must agree to provide to the City requested information promptly after request by the City for purposes of these reviews and audits, and agree to give the City the right to inspect the applicant’s operations during regular business hours at reasonable times.

VII. AMENDMENTS TO THESE GUIDELINES AND CRITERIA

The guidelines and criteria adopted herein shall not be amended except by three-fourth (3/4ths) vote of the City Council. Amendments to these guidelines and criteria must be initiated by resolution approved by two-thirds (2/3rds) of the voting members of the Economic Development Commission and thereafter submitted to the City Council.

VIII. EFFECTIVE DATE

These guidelines and criteria adopted herein shall be effective for two (2) years from January 22, 2019, February ____, 2021 unless otherwise repealed in their entirety by a majority three-fourth (3/4ths) vote of the City Council.

PASSED and APPROVED this 22nd ____ day of JanuaryFebruary, 202119.

MAYOR

ATTEST:

CITY SECRETARY

CITY OF WAXAHACHIE, TEXAS

POLICY ON ECONOMIC DEVELOPMENT INCENTIVES

I. PURPOSE AND OBJECTIVE

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II. DEFINITIONS

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- (c) Eligible Property means all property eligible for tax abatement under the Property Redevelopment and Tax Abatement Act, including real property located within a Reinvestment and/or Enterprise Zone and tangible personal property which is located within a Reinvestment Zone and/or Enterprise Zone after the effective date of a tax abatement agreement.
- (d) Permanent Employee means an employee who is employed by the applicant to work at least 1,820 or more hours per year with a company provided health benefit plan and paid wages in excess of Ellis County's median wage. The health benefit plan for the employee must be at a reasonable rate and must allow the employee access to the plan for their dependents. The Ellis County median wage will be determined by the most recent release of the American Community Survey available at the time of submission of the Application for Incentives.
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- (2) An investment of at least \$2,000,000.00 in new property improvements as assessed on property tax roll is required, and the economic life of the facility or improvements must exceed the abatement period.
- (3) The project meets all relevant zoning requirements.

In addition to the minimum requirements stated above, the following subjective criteria shall be considered prior to granting any economic development incentive:

- (4) Is the project consistent with the comprehensive and strategic plans of the City of Waxahachie?
- (5) What types and cost of public improvements and services (water and sewer main extension, streets and alleys, etc.) will be required of the City? What types and values of public improvements, if any, will be made by the applicant? How will this project affect the Waxahachie Independent School District and Ellis County?
- (6) Notwithstanding any other provision of this policy document, the exemption of real and tangible personal property can be considered for tax abatement only to the extent that its new value exceeds the value for the year in which the agreement is executed. As an example, if existing real property is valued at \$2 million and the personal property is valued at \$3 million, then all improvements (excepting inventory and supplies) over \$5 million could be considered for tax abatement purposes.

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The criteria outlined in Section III above will be used to determine whether it is in the best interest of the City of Waxahachie to provide any economic development incentives to a particular applicant. The degree to which the specified project furthers the goals and objectives of the City of Waxahachie and the relative impact of the specified project will be used to determine the total value of the incentives provided. As a general rule, no tax abatement will be provided to any applicant in an amount exceeding the value of the following:

- (a) Where the increased value of the eligible improvements exceeds \$2,000,000 over the value in the year in which the agreement is executed, the amount of the tax abatement may not exceed sixty percent (60%) of the taxes assessed and such abatement shall not exceed a term of seven (7) years.
- (b) Where the increased value of the eligible "new business" improvements exceed \$50,000,000 over the value in the year in which the agreement is executed, the amount of the tax abatement may be 100% of the taxes assessed for said eligible improvements for a maximum of two years to allow for construction in progress. To receive a maximum two year, 100% abatement, construction must

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extend through January 1st of two consecutive years. Tax abatements granted during construction in progress are in addition to any long-term abatements granted.

V. APPLICATION PROCEDURES

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Applicant shall file an application form, which shall include at least the following information:

- (1) A plat showing the precise location of the property and present zoning, all roadways within 300 feet of the site, and all existing zoning and land uses within 300 feet of the site.
- (2) If the property is described by metes and bounds, a complete legal description shall be provided.
- (3) A brief description of the proposed improvements or expansion and its projected costs; the type of business operation proposed; the number and type of jobs created, including information pertaining to anticipated job transfers, the projected date of operation; and the type and value of any economic development incentives requested. Applicant must address issues in Section II (Criteria) of the Policy Statement in letter format.
- (4) The applicant shall provide any other information about the proposed project as may be required by the City.

An application must be on file with the City of Waxahachie and approved by the Waxahachie Economic Development Commission prior to any construction, equipment purchase, or land purchase, for said property to be considered for tax abatement purposes.

Once the application has been received, the information submitted will be reviewed for completeness and accuracy. The application will then be distributed to the appropriate departments for internal review and comments. Following staff review, copies of the complete application package and staff comments will be provided to the Economic Development Commission and subsequently to City Council. The Economic Development Commission will meet to discuss the proposal at a work session prior to making a formal recommendation to the City Council.

At a subsequent regular City Council meeting, the application for any economic development incentive may be considered. If any incentives include tax abatement, then certain public notice and hearings are required as mandated by State law under the Property Redevelopment and Tax Abatement Act and must be followed for the designation of a reinvestment zone and execution of a tax abatement agreement. Prior to final approval, all legal documents to effect such reinvestment zone(s) and tax abatement agreements shall be drafted and approved by the City Attorney.

Should the City Council determine that it is in the best interest of the City of Waxahachie to provide tax abatement incentives to a particular applicant, a resolution shall be adopted declaring that under the guidelines and criteria established herein, the application is eligible for tax abatement incentives and that the Mayor is authorized to execute a contract with the application enumerating the type of incentives and governing the conditions applicable to them. Any agreement so adopted must include at least the following specific items.

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- (1) Description of the type of incentive to be provided and its duration.
- (2) Legal description of the property to be designated as a reinvestment zone.
- (3) Detailed information regarding the type, number, location, and costs of planned improvements.
- (4) A statement that actual construction of improvements will begin no more than twelve (12) months from the date tax abatement is approved. In the event of non-compliance with this provision, the application shall be null and void with the right to reapply.
- (5) A statement granting the access to and inspection of the property and proposed improvements by City inspectors and officials to ensure that the improvements or repairs are made according to specifications and conditions of the agreements.
- (6) A statement limiting 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; and
- (7) A statement providing for the recapturing of property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided by the agreement.

The agreement will provide for the recapture of all or a portion of property tax revenue lost as a result of the agreement if the owner of the property fails to create all or a portion of the number of new jobs provided by the agreement, if the appraised value of the property subject to the agreement does not attain a value specified in the agreement, or if the owner fails to meet any other performance criteria provided by the agreement, and payment of a penalty or interest, or both, on that recaptured property tax revenue

If a leased facility is granted tax abatement, the agreement shall be executed with the City, the lessor, and the lessee.

In accordance with Chapter 2270 of the Texas Government Code (as amended by Tex. H.B. 793, 86th Leg., R.S. (2019)), the agreement must also contain a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) the agreement has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the OWNER is not subject to Chapter 2270 for the reasons stated herein, the signatory executing the Agreement on behalf of the OWNER must verify that the OWNER does not boycott Israel and will not boycott Israel during the term of the agreement.

In addition, Section 2264.051 of the Texas Government Code requires the City to provide within the tax abatement application a statement certifying that the business, or a branch, division, or department of the business, does not and will not knowingly employ an undocumented worker. Further, the tax abatement agreement will contain a provision specifying the rate and terms of the payment of interest should the business be convicted of knowingly employing an undocumented worker, in violation of 8 U.S.C. Section 1324a(f).

Once the tax abatement agreement has been established, the property owner must file an "Application for Property Tax Abatement Exemption" form with the Ellis Appraisal District. This form, Form 50-116, is provided by the Texas Comptroller of Public Accounts and can be obtained via their website at www.comptroller.texas.gov.

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VI. COMPLIANCE AUDITS, REVIEWS AND INSPECTIONS

The City shall have the right to conduct reviews, audits and inspections to evaluate the applicant's performance and compliance with the terms of the tax abatement agreement after the abatement is granted. The City shall also have the right to conduct review, audits and inspections during the application process to verify information in the application and assess project feasibility and benefit. The applicant must agree to provide to the City requested information promptly after request by the City for purposes of these reviews and audits, and agree to give the City the right to inspect the applicant's operations during regular business hours.

VII. AMENDMENTS TO THESE GUIDELINES AND CRITERIA

The guidelines and criteria adopted herein shall not be amended except by three-fourth (3/4ths) vote of the City Council. Amendments to these guidelines and criteria must be initiated by resolution approved by two-thirds (2/3rds) of the voting members of the Economic Development Commission and thereafter submitted to the City Council.

VIII. EFFECTIVE DATE

These guidelines and criteria adopted herein shall be effective for two (2) years from February ____, 2021 unless otherwise repealed in their entirety by three-fourth (3/4ths) vote of the City Council.

PASSED and APPROVED this ____ day of February, 2021.

MAYOR

ATTEST:

CITY SECRETARY